

Environmental Collaboration and Conflict Resolution
Quarterly Forum Agenda
CEQ Conference Room
722 Jackson Place, Washington, DC
Call-in number: 1-866-434-5269 access code: 5064683

Tuesday, February 23, 2016
11:00 AM – 12:00 PM

Opening

Ted Boling (CEQ) welcomed participants and thanked them for coming. Mike Hickey (OMB) and Peter Williams (USIECR) greeted participants. Stephanie Kavanaugh (USIECR) reviewed the agenda and noted that future forums would return to 90 minutes. Meeting participants are listed at the end of the summary.

General Updates from CEQ

Ted Boling shared that he was back at CEQ after five and a half years away at DOI. He had previously been at CEQ for 10 years from 2000-2010. He noted that he had worked extensively with Horst Greczmiel and Dinah Bear at CEQ. He reflected on the value of ECCR in the federal government and that he has followed this closely over the years. He is looking forward to working with the ECCR Forum going forward. He also updated everyone that his current major task at CEQ is the Fixing America's Surface Transportation Act implementation and major infrastructure projects. OMB and CEQ will be working on guidance for the implementation of this.

ECCR Updates from Agencies

DOE

- Actively involved in preventing litigation at several sites relating to the clean-up of those sites. In both cases they are interfacing with tribal nations who have filed a notice of intent to sue. DOJ is also involved. Advocating for ECCR and ADR will be part of the process. Because the matter is in a quasi-state of litigation, DOE can't talk about it much, and has delayed submission of their ECCR report in hopes that some information on it can be included.
- Upcoming training on ECCR, NEPA and a range of topics targeted for environmental attorneys. Will take on July 20, 2016. CLE credits will be available. If interested, please send Steve Miller an email < STEVEN.MILLER@hq.doe.gov > All are welcome and will be a virtual meeting.

USACE

- Providing service to the Jacksonville District on Everglades work in dealing with biological opinions with FWS. USIECR is providing facilitation for this.
- Over the next few months will roll out our levee safety action plan. Post Katrina have looked at levees within the federal program and have assessed them in terms of levee safety, risk, and vulnerabilities. Will be talking with the owners and communities near those levees and USACE Institute for Water Resources will be supporting the risk communication and public engagement aspect of those communications.

Forest Service

- Continue to provide both coaching and training to national forests and grasslands that are beginning forest plan revisions. Have a standard course called “Leaders as Conveners”. Also have a collaboration cadre for coaching that works with internal staff and external partners.
- Have revised the manual and handbook on tribal relations and that will be published within the next couple weeks in the federal register. Also working to develop a nationwide and agency-wide training on Sacred Sites.
- Have a new GIS tool called Tribal Connect. Can view federal public lands or sites and add layers to the map of tribal trust lands and another layer of lands ceded by tribes to the government prior to 1900. You can access the tool online here:
<http://usfs.maps.arcgis.com/apps/webappviewer/index.html?id=fe311f69cb1d43558227d73bc34f3a32>

FERC

- Deb Osborne shared FERC Interest in bridging work of FERC and CEQ on larger ECCR goals related to infrastructure.
- Deb also shared that, as the head of ADR committee for the Energy Bar Association, she was developing an event on mediation in administrative regulatory programs and the courts that would be on April 12, 2016. Amy Wind, head of the DC circuit court mediation program, will speak, as well as Claudia Bernard of the 9th circuit court in CA who has worked on energy cases and partnered on ADR work.
- In addition, Deb mentioned that the upcoming ACR EPP conference, she will serve on a panel on mediation managing the needs of agencies.

DOT

- Completed annual ECCR report and looking to have internal discussions on how staff approach and use ECCR. Some use it more than others, some don’t use it at all, and it would be helpful to understand this.

NOAA

- Shared a highlight from their annual report. Have had success in facilitation for a joint ESA task force. A notice was published yesterday in the federal registry from the joint task force on Revised Interagency Cooperative Policy Regarding the Role of State Agencies in Endangered Species Act Activities. States also have been pleased with this process and it reinforces the partnership of states and agencies working together during the ESA process.

EPA

- David Moore just joined EPA in David Batson’s previous position.
- Have a case since October related to CWA 404g (the ability of states and tribes to assume wetlands responsibilities). Have a FACA committee subcommittee on issues of what waters might be assumable for states and tribes versus what is in USACE purview. Have had 2 meetings since October with a range of stakeholders at the table. Expected to continue and have a hired facilitator. Important way of sorting out authority issues on waters.

BLM

- Skye Sieber reported that she is currently acting as the program lead (formally held by Matt McGee). They hope to have this position advertised soon.
- (1) BLM/CADR published their Strategic Plan for Collaborative Action and dispute resolution. It stems from input by BLM employees across the nation, and provides a framework for moving ahead and evaluating the program on an annual basis. The plan is available here: <http://www.ntc.blm.gov/krc/uploads/880/BLMCADRStrategy.pdf>
- BLM is in midst of revising land use planning regulation, known as Planning 2.0 (revised planning rule). It has been revised to improve BLM's ability to respond to environmental and social change. It provides meaningful opportunities for engagement and improves their ability to address landscape scale approaches. It also includes new public involvement opportunities and a pre-NEPA assessment phase, as well as advocating for sharing preliminary draft alternatives. This will be published in federal register on Thursday February 25.

OMB

- Mike Hickey from OMB welcomed Ted Boling back. He reflected that it is always great to hear how agencies are implementing ECCR and working together to make the whole effort positive and continue to grow. He also echoed Ted Boling's earlier comments that OMB is also working on the FAST act implementation.

DOJ

- In the very preliminary stages of planning an ADR event for their attorneys and may be reaching out soon to some forum members for ideas on potential speakers. Hope to have a panel with some of our attorneys and outside mediators and discuss complex environmental litigation. Purpose of event is to remind attorneys on how to use ADR and the benefits. Ideas on speakers are most welcome.

NRC

- Working on developing a tribal policy statement. Currently responding to public comment received on the draft and hope to have a final version by early next year. Also developing a training program for managers and staff that work with tribes. Will be something available through their video training system.

USIECR

- Debra Drecksel has retired and Stephanie Kavanaugh is now the Acting Director of the DC office.
- Working to redesign their Native American Alaska Native (NAAN) program. Also reworking our training program while still delivering trainings this year.
- Have had a lot of re-staffing in the last 9-12 months with many new Senior Program Managers and Senior Program Associates.
- Also have a position in DC office that they are working to fill. The announcement closed Jan 29 and applications are being reviewed.
- Will be working to update the ECCR contact list and please sign the sheet or email your information (name, title, agency, and email) to Stephanie and Peter.

Discussion Topic: Value Proposition for ECCR Forum

Stephanie framed the discussion by sharing that USIECR, CEQ, and OMB want to make sure participants are having their needs met through the ECCR policy form. She encouraged folks to share how the Forum is valuable for them and their agency and what potential improvements might help.

Ted Boling also added that he hoped to hear how to improve things going forward and could offer fresh ears and a fresh start to help make the Forum as valuable as possible.

- Pat Collins shared that she finds it helpful to hear what other agencies are doing and learn from them to see if there are things her agency can either tag on to or use as similar techniques.
 - Bill Bresnick agreed with this and added that it helps folks make use of ECCR across Department of Homeland Security.
- Steve Miller noted that just the fact that there is an ECCR policy forum helps to enhance recognition of ECCR and demonstrate its importance through these meetings.
- Will Hall shared that it has been a great forum for collaborative work over the years, such as working on the annual reports and the report template. The forum presents a unique relationship that agencies do not often have with CEQ or OMB. Future opportunities to work on interagency issues would be great. He reflected that there is a lot of untapped potential in this group to help resolve things here before they become bigger problems.
- Debra Osborne shared that this provides a place of support for what ADR practitioners do. She felt it would be better for her to create more space for the passion of ADR and less emphasis in the administrative bureaucracy part of ADR. She also added that the group might want to consider going back to the quarterly forum instead of just three times a year to allow for more time on this.
- Julie Kaplan noted that learning about trainings or resources being developed is really helpful to share with folks at her agency.
- Myles Flint reflected that hearing what others are doing is really interesting and may impact some of the cases in his office. Resources and trainings also helpful.
- Hal Cardwell echoed what others shared and added that connections on specific topics and seeing where his agency should be involved was helpful. He added that the topical discussions, such as collaborative technology, building communities of practice, etc. are great and that it would be great to use this forum as a way to work together on specific issues.
- Joe Carbone agreed hearing what others are doing enriches the community of practice across agencies. He also liked the idea of doing work together across agencies on ECR. He also agreed that less emphasis on the administrative aspects, such as the report, and more opportunities to promote the passion around ECCR would be great.
- Skye Sieber shared that she sees this as an opportunity moving forward to foster and develop a community of practice. BLM a year ago started hosting a quarterly webinar series where they would take a case study project and highlight what went well and what could be better. She shared that she would love to see something like that here and would invite participation from other agencies, especially where they could be partners in sharing those lessons learned.

Ted Boling brought the discussion to a close in noting his appreciation of the rich dialogue and learning from one another. He added that they would take this forward into the next meeting.

Peter Williams also added that he found the discussion helpful and saw a lot of common threads, especially around an interest in downplaying the reporting piece and focusing on the passion of ECCR.

He added that the ECCR forum always struck him not only as an opportunity for current and ongoing efforts and lessons learned, but also an early warning opportunity to hear from the agency level about what seems to be on the horizon that should perhaps be discussed by a broader group. He remarked that the forum would perhaps be an opportunity to look out, look around, and look back, a forward looking opportunity along with looking back and reflecting on the current state.

Plan for Next Meeting: (June 7 or 14)

- Participants agreed the next forum should be on June 14 given that the Association for Conflict Resolution Environment and Public Policy section is on June 7 and 8, 2016.
- Stephanie Kavanaugh raise the question of whether the Forum should at least touch on the latest reports. Participates shared a number of reflections in response:
 - It could be useful to step back and consider the objectives for the report. Should the objectives change, perhaps something more modern or contemporary is needed today.
 - It's unclear whether the report is having an impact right now just in being on a website. Perhaps Facebook or another technology could provide a platform for blasting the news of the report and helping forum members share a quick and exciting post from CEQ.
 - USACE IWR takes the best cases of ECCR from their report and puts them it in their newsletter, as well as highlights them in their community of practice.
 - Others noted that although they do some of this internally, it would also be helpful if it comes from CEQ.
 - It was also noted that although the report focuses on 3rd party facilitators, as the forum moves forward they shouldn't lose sight of the many ways to resolve conflicts and promote a range of tools.
 - This year's report will be 10 years' worth of collecting data. What are we seeing? Is there a trend? Could it be worthwhile to produce a 10 year report looking back at all the data? There was a 5 year report.

As a next step, it was agreed that this would be an agenda topic and that rather than going over the details of the report, the forum would instead have a deeper discussion about the value of the report and what the value could be. The forum could also consider perhaps a more innovative approach to disseminating the content.

Meeting Attendees:

In person:

Hal Cardwell (USACE)
Steve Miller (DOE)
Ted Boling (CEQ)
Stephanie Kavanaugh (USIECR)
Lauren Nutter (USIECR)
Peter Williams (USIECR)
Michael Drummond (CEQ)
Skye Sieber (BLM)
Will Hall (EPA)
Mike Hickey (OMB)
Dave Moore (EPA)
Caroline Park (NOAA)
Julie Kaplan (DOT)
Deborah Osborne (FERC)
Joe Carbone (Forest Service)
Kerry Rogers (CEQ)
Holden Keijer (DOE)
Alexander Kass (FERC)

On phone:

Peter Williams (USIECR)
Fred Clark (Forest Service)
Pat Collins (Air Force)
Katherine Johnson (VA)
Brandon West (Army)
Patricia McKenna (DOJ)
Joan Olmstead (NRC)
Myles Flint (DOJ)
Bill Bresnecik (DHS)