

Quarterly ECR Forum
White House Conference Center
7262 Jackson Place
March 24, 2010

DRAFT
MEETING SUMMARY

Participants

Mark Schaefer, U.S. Institute for Environmental Conflict Resolution
David Sanborn, U.S. Department of Defense
Paul Sullivan, U.S. Department of the Navy
Hal Cardwell, U.S. Army Corps of Engineers
Maria Placht, U.S. Army Corps of Engineers
Bill Bresnick, Department of Homeland Security
Catherine Johnson, U.S. Department of Veterans Affairs
Deb Dalton, U.S. Environmental Protection Agency
Deborah Osborne, Federal Energy Regulatory Commission
Jim Payne, U.S. Department of Justice
Kathy Binder, U.S. Department of Energy
Leila Afeal, National Aeronautics and Space Administration
Pat Collins, U.S. Air Force
Patricia Orr, U.S. Institute for Environmental Conflict Resolution
Rich Kuhlman, U.S. Environmental Protection Agency
Shayla Simmons, U.S. Department of the Interior
Steven Miller, U.S. Department of Energy
Terry Bowers, U.S. Department of Defense
Will Hall, U.S. Environmental Protection Agency
Suzanne Orenstein, U.S. Institute for Environmental Conflict Resolution
Sara Kemme, U.S. Department of Veterans Affairs
Anna Abbey, U.S. Environmental Protection Agency
Elizabeth Blaug, Federal Energy Regulatory Commission
Mallory Huggins, Federal Energy Regulatory Commission
Josh Hurwitz, Federal Energy Regulatory Commission
Fred Clark, U.S. Forest Service
Amy Coyle, U.S. Department of Transportation
Kathleen Callister, National Aeronautics and Space Administration
Phil McCauley, U.S. Department of Energy
Jonathan Sry, U.S. Department of Energy
Saman Hussain, U.S. Department of the Interior
Susan Goodwin, U.S. Department of the Interior
Mathew Higdon, Council on Environmental Quality
Mary Ann Naber, Federal Highway Administration
Ronda Soloman, Council on Environmental Quality

Welcome - Mark Schaefer, Director, U.S. Institute for Environmental Conflict Resolution

Mark welcomed the group and introductions were made and the agenda reviewed.

Preliminary highlights from the FY09 ECR department and agency reports, and an update on the FY10 ECR report template

Patricia Orr and Dave Emmerson presented preliminary highlights from department and agency FY09 ECR reports.

- ECR was used to address more than 400 environmental conflicts and challenges in the federal government (with ECR defined per the memorandum as third-party assistance).
- Sixteen department and agency reports have been submitted to-date or are in the process of being finalized, covering 27 bureaus, centers, offices and sub-agencies.
- ECR was used to address mission critical issues including: hydropower management; base realignment and closure (BRAC); tribal consultation; ecosystem restoration, species recovery and conservation, fire management, and flood risk management.
- Agencies also identified new priority areas where ECR can be beneficial. These included renewable energy and climate change.
- The departments and agencies making considerable use of ECR include the Environmental Protection Agency, Departments of Defense, Department of the Interior, and the Department of Agriculture (Forest Service). Other agencies including the National Oceanic and Atmospheric Administration, the Nuclear Regulatory Commission, the Federal Energy Regulatory Commission, and the Department of Energy also apply ECR and other collaborative approaches to address environmental conflicts and challenges. Cross-agency providers of ECR within the federal government include the Department of Justice and the U.S. Institute for Environmental Conflict Resolution.
- Agencies reported a wide spectrum of benefits from the use of ECR, including litigation and regulatory costs avoided, expedited progress on projects, workable shared solutions, cost-effective outcomes, and improved relationships among stakeholders. In financial terms alone, this work has significant ramifications for the federal government through potential cost-efficiencies in the millions of dollars.
- Examples of mission critical on-the-ground outcomes from ECR activities include: “providing alternative energy access to an improved energy grid...to carry Kansas wind power to out-of-state markets” (FERC); “improved flood control and roadway and recreation capacity for the City of Dallas” (DoD); “restoration of thousands of acres of wetlands” (NOAA); “elimination or reduction of OHV use [on BLM lands in California] due to unacceptably high cancer risk posed by asbestos-containing serpentine soils” (DOI).
- In the coming weeks, an Executive Summary (See Appendix A) for the analysis of the reports along with all reports submitted to OMB and CEQ, will be posted on the Policy Forum website (<http://ecr.gov/Resources/FederalECRPolicy/AnnualECRReport.aspx>).

- A discussion of how to distribute the FY09 synthesis report will be on the agenda for the June ECR forum.
- The report template for FY 2010 was distributed for review and comment. The plan is to keep the FY10 template largely consistent with prior year templates so that trends can be assessed over a five year period. Comments on the report template are requested by April 15. The goal is to distribute the final FY10 template to departments and agencies by April 30.
- A five-year overview of ECR across the federal government is planned. Preliminary work on the five-year overview will begin as the FY10 reporting cycle progresses. The five-year overview will be compiled with the assistance of the U.S. Institute, DOI CADR staff, and other forum participants available to assist with this effort.

Slides presented by Dave Emmerson and Patricia Orr

**Environmental Collaboration and Conflict
Resolution in the Federal Government**

Preliminary Synthesis of Federal Departments' and Agencies'
FY 2009 ECR Reports to OMB and CEQ

**ECR Policy Forum
March 24, 2010**

Index

Joint OMB/CEQ Memo on ECR



The Challenge

Past, current and future Administrations face the *challenge of balancing competing public interests and federal agency responsibilities*.

The Goal

Minimize the costs of conflict (protracted and costly litigation, poor working relationships, project delays) and
Maximize the benefits of collaboration (shared informed solutions, timely project progression, constructive working relationships)

The Guidance

- Develop strategies to *prevent and reduce environmental conflicts*, and
- Generate opportunities for *constructive collaborative problem -solving* when appropriate.

[Index](#)

FY09 Participating Departments & Agencies

- Department of Defense (DoD)
 - Department of the Navy (DON)
 - U.S. Air Force (USAF)
 - U.S. Army Corps of Engineers (USACE)
 - U.S. Army Legal Services Agency (USALSA)
- Department of Energy (DOE)
- Department of Homeland Security (DHS)
- Department of the Interior (DOI)
 - Includes nine bureaus and services: FWS, BIA, BIE, NPS, MMS, OSM, USGS, BOR and CADR
- Department of Justice (DOJ)
- Department of Transportation (DOT)
- Department of Veterans Affairs (VA)
- National Oceanic and Atmospheric Administration (NOAA)
- National Indian Gaming Commission (NIGC)
- U.S.D.A. Forest Service (USFS)
- Environmental Protection Agency (EPA)
- Federal Energy Regulatory Commission (FERC)
- General Services Administration (GSA)
- National Aeronautics and Space Administration (NASA)
- Nuclear Regulatory Commission (NRC)
- U.S. Institute for Environmental Conflict Resolution (USIECR)

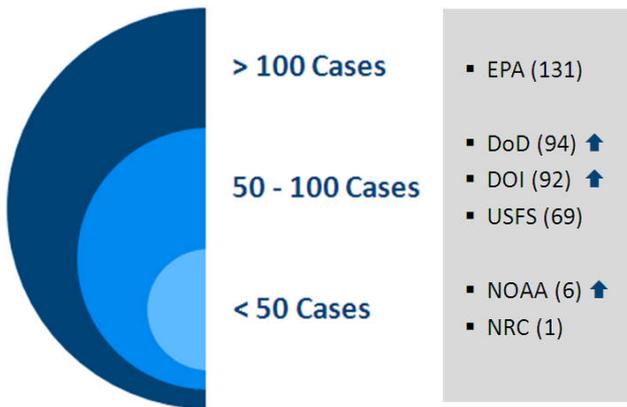
[Index](#)

FY2009 Preliminary Summary

- ECR was used to address more than **400** environmental conflicts and challenges involving the federal government
- FY09 level of use generally consistent with FY08
- Agencies making considerable use of ECR include **EPA**, **DoD**, **DOI** and **USDA FS**.
- Other significant efforts to make government more collaborative and participatory are documented in reports from DOE, FERC, EPA, and others.

Index

FY09 Level of Use by Agency



Note: **USIECR** and **DOJ** numbers are not reflected above to avoid double counting.

Index

FY2009 Preliminary Summary *Continued*

- Government-wide provider **DOJ** reported steady state numbers similar to FY08, and **USIECR** reported a significant increase in cases for FY09
- New priority areas where ECR is being applied include **climate change** & **renewable energy** projects
- ECR is increasingly recognized as a **proactive management tool** to minimize known or anticipated conflict (e.g., with ECR being used to developing a common scientific understanding, etc.)

[Index](#)

Minimizing the costs of conflict...



Appeals and litigation
Regulatory costs
Project delays
Poorly informed decisions
Damage to relationships
Lost opportunities

Workable shared solutions
Timely project progression
Cost-effective solutions
Common scientific understanding
Informed solutions
Productive working relationships
Buy-in and commitment to solutions
Opportunities for improvement



...Maximizing the benefits of collaboration

[Index](#)

Barriers to ECR

Perception of the time and resource intensive nature

Lack of staff expertise

Lack of staff availability

Lack of resources (travel funds for feds and non feds, funds for mediators)

Reluctance of non federal partners to engage

Next Steps

- Post the FY09 executive summary
- Post individual agency reports (same as FY08)
- Draft the FY09 summary report
- Discuss distribution strategy for the FY09 report
- Distribute the FY10 report template by April 30

[Index](#)

Updates on the 40th Anniversary of the National Environmental Policy Act, and ECR2010

40th Anniversary of NEPA

On behalf of Horst Greczmiel, Mark Schaefer noted that in conjunction with NEPA's 40th Anniversary Celebration, CEQ has published three draft NEPA guidance documents for review and comment. Mark noted that the draft guidance documents and instructions for submitting comments are available at www.nepa.gov. Mark provided a brief overview of each of the guidance documents (see below) and encouraged forum participants to submit input to CEQ.

Draft Guidance on the Consideration of Greenhouse Gases - CEQ is releasing draft guidance for public comment on when and how Federal agencies must consider greenhouse gas emissions and climate change in their proposed actions. CEQ has been asked to provide guidance on this subject informally by Federal agencies and formally by a petition under the Administrative Procedure Act. The draft guidance explains how Federal agencies should analyze the environmental impacts of greenhouse gas emissions and climate change when they describe the environmental impacts of a proposed action under NEPA. It provides practical tools for agency reporting, including a presumptive threshold of 25,000 metric tons of carbon dioxide equivalent emissions from the proposed action to trigger a quantitative analysis, and instructs agencies how to assess the effects of climate change on the proposed action and their design. The draft guidance does not apply to land and resource management actions and does not propose to regulate greenhouse gases. CEQ is receiving public comment on this guidance for 90 days.

Draft Guidance Clarifying Appropriateness of “Findings of No Significant Impact” and Specifying When There is a Need to Monitor Environmental Mitigation Commitments - Many Federal actions receive an environmental review, known as an Environmental Assessment. In those instances, NEPA compliance is usually completed with a “Finding of No Significant Impact” (FONSI) on the environment, thus a more detailed Environmental Impact Statement is not required. The draft guidance clarifies that the environmental impacts of a proposed action may be mitigated to the point when the agency may make a FONSI determination. When the FONSI depends on successful mitigation, however, such mitigation requirements should be made public and be accompanied by monitoring and reporting. The draft guidance also applies to monitoring and reporting of mitigation commitments agencies make in an EIS and Record of Decision. CEQ has released this draft guidance for 90 days of public comment.

Revised Draft Guidance Clarifying Use of Categorical Exclusions - Many Federal actions do not have significant effects on the environment. When these actions fall into broad categories of activities, agencies may apply a “categorical exclusion” from further NEPA review. This draft guidance clarifies the rules for categorical exclusions and ensures that there is a concise public record when agencies apply them. While CEQ previously has sought public comments on this matter, this guidance provides additional clarifications, so we are seeking additional public comment for 45 days.

Enhanced Public Tools for Reporting on NEPA Activities - Technology has greatly enhanced the government’s transparency and accountability and these tools have improved the quality of governmental decision-making, including decisions made following a NEPA analysis. CEQ has updated its public webpage, www.nepa.gov, and is providing a wide range of information about

NEPA through this portal. CEQ continues to upgrade this site to include the status of reviews of agency NEPA guidance, Recovery Act NEPA reporting, and real-time NEPA review status. These upgrades are designed to improve public participation and the quality of Federal agency administration of NEPA.

ECR2010 Update

Mark Schaefer reminded forum participants that registration is now open for the sixth national ECR Conference, “ECR2010: Environmental Collaboration and Conflict Resolution - Evolving to Meet New Opportunities”. This national conference will be held on May 25-27, 2010, at Loews Ventana Canyon in Tucson, Arizona.

The conference program will include plenary discussions, pre-conference trainings, ECR technology exhibits, panel and roundtable sessions, open space discussion forums, post-conference field trips, and other events including the Association for Conflict Resolution, Environmental and Public Policy Section mid-year meeting.

The ECR2010 program will be organized around three tracks:

- Policy Challenges of the Next Decade and the Role of ECR
- Engaging Federal-Tribal-State-Local Governments
- New Tools & Technology and their Application to the Field of ECR

Subject areas will include energy, climate change, water and river basin management, national forest and park management, as well as cross-cutting topics areas including the National Environmental Policy Act (NEPA), the Federal Advisory Committee Act (FACA), the Negotiated Rulemaking Act, and much more.

An ECR Technology Fair will be held in conjunction with the conference opening reception. The Technology Fair will consist of a series of concurrent 20-minute demonstrations and interactive presentations showcasing the most innovative applications of technology within ECR processes. There will be an opportunity for networking and discussion between and after exhibitor presentations. The Technology Fair will also be an opportunity to learn more about the ECR technology-enhanced projects nominated for the U.S. Institute’s first Technology and ECR Award.

Former EPA Administrator Bill Ruckelshaus will engage senior government officials in an opening plenary discussion on national environmental challenges, 40 years of NEPA, and ECR opportunities.

More than 30 panel and roundtable sessions will include moderators and presenters from multiple federal departments and agencies, as well as representatives from state, tribal and local governments, ECR practitioners, environmental advocates, NGO’s, community-based groups, science and technical experts, academics and others.

Patricia Orr noted that special thanks are also due to ECR2010 sponsors for their help making this conference possible. They include the U.S. Department of the Interior, U.S. Environmental Protection Agency, U.S.D.A Forest Service, U.S. Department of Transportation Federal Highway Administration, and the Udall Center for Studies in Public Policy at the University of Arizona.

The President's Memorandum on Tribal Consultation - Open forum discussion on agency responses and exploration of interagency coordination opportunities

Mark Schaefer provided an overview on the President's Tribal Consultation Memorandum.

President Obama committed his Administration to "...regular and meaningful consultation and collaboration with tribal officials in policy decisions..." that have a tribal impact. As such, President Obama directed Federal agencies to:

1. Within 90 days of November 5, 2009: Conduct tribal consultation in the development of an agency "...plan of action the agency will take to implement the policies and directives of Executive Order 13175." The agency plan of action is to be submitted to the Director of the Office of Management and Budget (OMB). Deadline: February 3, 2010.
2. Within 270 days of November 5, 2009: Agency heads are "...to submit to the Director of OMB, and annually thereafter, a progress report on the status of each action included in its plan, together with any proposed updates to its plan." Deadline: August 2, 2010.
3. Federal agencies are to designate "...an appropriate official to coordinate the implementation of the plan and preparation of progress reports."
 - a. The Assistant to the President for Domestic Policy and the Director of OMB "...shall review agency plans and subsequent reports for consistency with policies and directives of Executive Order 13175."

The Director of the OMB, in coordination with the Assistant to the President on Domestic Policy "...shall submit to [President Obama by November 5, 2011] a report on the implementation of Executive Order 13175 [across all executive agencies] based on the review of agency plans and progress reports.

Patricia Orr indicated that a brief review of tribal consultation plans suggests three different approaches undertaken by departments and agencies. The three approaches included:

- Comment and input,
- Updating existing policies, and
- Reliance on existing policies

Mark distributed a reference document with web links to department and agency tribal consultation plans (See Appendix B). Mark then opened the floor to forum participants and invited updates on department and agency plans and the role of ECR in those plans.

An overview of agency updates includes:

Department of Energy

- DOE provides annual training in ECR with a section devoted to tribal issues. This year's training was conducted in consultation with the U.S. Institute.
- DOE participated in the development of an interagency online training on tribal issues
- DOE is developing a compendium of matters to address with tribes and has asked departments to integrate tribes into their work on those issues.

USDA Forest Service

- USFS helped produce the report submitted by USDA
- FS conducted a listening session on November 4, before the President's memo was issued
- FS met with leaders of tribes and received testimony from 30-40 tribes. FS also joined consultations of other agencies
- There were many common themes across tribes and agencies —need efficiency to address consultation fatigue
- The USDA Plan calls for:
 - new and stronger policy for tribal consultation at USDA
 - definition of terms in Executive Order, e.g.: accountability system---what is it?
 - Building conflict resolution into consultation policy
- FS and NPS are conducting trainings on tribal law, e.g., for tribal Natural Resource law officers

Department of Defense

- DOD's tribal consultation policy was written 10 years ago in consultation with NCAI. It set up a tribal Steering Committee to consult with DOD, comprised of 18 members. The Steering Committee worked with DOD on the recent policy development. The Steering Committee meets every 5 years to review the effectiveness of the consultation policy.
- Agencies could coordinate tribal consultations in topical groupings that could include: Programs (e.g. HIS), Services (e.g. transportation), Regulations (e.g. EPA) and Land Management (DOD, USACE, DOI)
- DOD has developed the capacity to receive comments via a web tool on its consultation plan, and has received written comments
- One challenge is how to measure success for both the older policy and the new consultation plan. Is success compliance with laws?
- DOD's plan submitted in February suggested:
 - Increasing cultural and historic training, as well as in intercultural-interactive communication exercises. They are planning ½ day trainings for all commanding officers and a three-day training for all active officers
 - Offering a DOD ECR course for installations similar to prior year efforts
 - More outreach through regional and national tribal conferences and impromptu listening sessions with tribal leaders.
- DOD would like to explore partnering opportunities with other land management agencies in these impromptu listening sessions

Environmental Protection Agency

- EPA has a tribal consultation committee chaired by the Deputy Administrator. It is reviewing that mechanism
- EPA has been exploring the issue of Public Apologies through a training program it provides in its regions, and this may be an element of ECR with tribes
- EPA would welcome exploring if USIECR could coordinate interagency collaboration on tribal consultation plans and implementation.

Federal Energy Regulatory Commission

- FERC is working on trainings related to the cultural resources

Department of Justice

- DOJ's plan submitted in February focused more on criminal law enforcement, grants, and other tribal justice issues.
- DOJ has a mechanism for department-wide interface with Tribes and is planning for a Tribal Nations Leadership Council. Tracy Toulou is the head of DOJ's Tribal Justice Department,

Department of the Interior

- DOI has developed an internal group on Tribal Consultation
- DOI is developing an inter-governmental team to work across bureaus on an agency-wide tribal consultation policy
- DOI is currently reviewing 700 comments received from tribes on its proposed plan. Accountability a big issue in the comments they have received.
- CADR is supporting the agency-wide process.
 - highlighting ECR principles in the consultations
- DOI wants to coordinate with DOD, USFS and others regarding coordination across land management agencies, especially on training and consultations
- DOI is working with USIECR on a government-to-government training in August 2010. Other agencies are welcome and encouraged to participate.

Department of Transportation

- The DOT plan calls for
 - increased outreach and support for staff doing outreach
 - centralizing resources and information, for example through one DOT-wide website for tribes
 - more intra-agency coordination
 - more emphasis on direct G-to-G contacts, instead of relying on transportation grant applicants to do the tribal contact and consultation
 - DOT has been working with an Interagency WG on Tribal Affairs

Mark Schaefer engaged forum participants in a discussion regarding opportunities for interagency collaboration going forward. Ideas for collaboration expressed at meeting included:

- Interagency collaboration related to consultations, impromptu listening sessions, and outreach at conferences
- Interagency collaboration on accountability, how to measure success
- Resource sharing and coordination regarding training programs for staff
- Convene this group to continue discussion of coordination, especially around ECR provisions in plans and other aspects of ECR
- Bring together all specialists working on tribal components of ECR for discussion
- Bring ECR information to Interagency Group on Tribal Affairs

Agency-to-Agency ECR Initiatives and Other Agency ECR Highlights

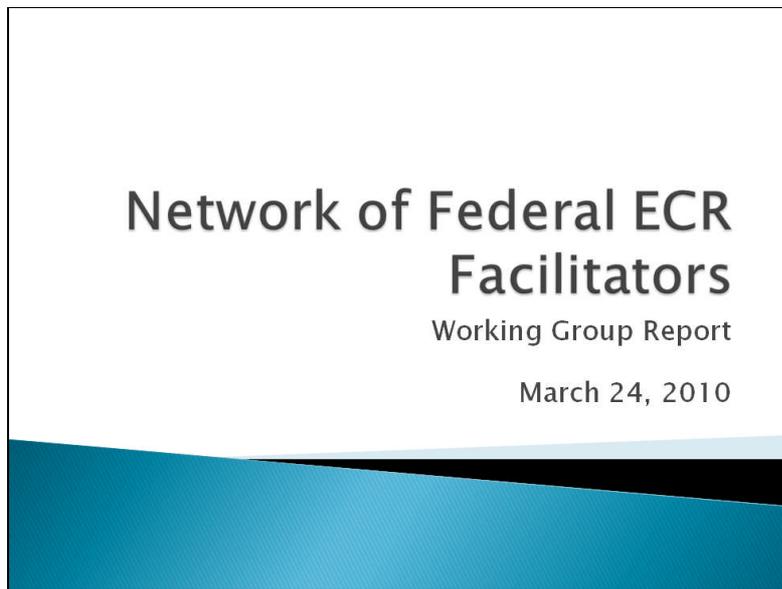
Given time constraints, Mark Schaefer and Rick Kuhlman agreed to defer the discussion of agency-to-agency ECR initiatives to the June forum.

Jim Payne (DOJ) noted the 100th Anniversary of the Environment and Natural Resources Division. DOJ's 100th Anniversary website can be accessed via <http://www.justice.gov/enrd/Anniversary/>.

Deborah Osborne (FERC) noted FERC's 10 year celebration of effective dispute resolution. A ten year edition of FERC ADR News is available at: <http://www.ferc.gov/legal/adr/news/anniversary-2010.pdf>

Network of Federal ECR Facilitators

Debbie Dalton (EPA) and Suzanne Orenstein (USIECR) briefed the forum participants on a new interagency initiative to create a network of federal ECR facilitators. Debbie and Suzanne invited forum participants to provide feedback on the value of the initiative and welcomed additional members to join the planning group.



Working Group Members

- ▶ Hal Cardwell, Army Corps of Engineers, IWR
- ▶ Deborah Dalton, US EPA
- ▶ Susan Goodwin, Dept. of Interior, CADR
- ▶ Patricia Orr, US Institute for Environmental Conflict Resolution

- ▶ Staff: Suzanne Orenstein, US IECR; Seth Cohen, ACOE, IWR

Purposes for a Network of Federal ECR Facilitators

- ▶ Provide skilled federal employees for short term internal and cross-agency facilitation efforts
- ▶ Create a mechanism for agencies to share facilitation staff when agency neutrality, funding, timing, area expertise, or other considerations make cross-agency sharing advantageous
- ▶ Develop a community of practice among agency facilitators and grow the number of individuals in an agency that have ECR skills and knowledge
- ▶ Develop general agreement on standards and criteria for those who serve as volunteer facilitators across agencies

Options for Organizing

1. Each agency develops its own list of volunteer facilitators, and shares it with other agencies.
2. Develop one list of all agency ECR providers that all agencies draw on
3. Develop agreement across agencies regarding the standards and qualifications for federal employee ECR providers
4. Develop a roster similar to the USIECR Roster of ECR Practitioners, and fund the management of that roster

Issues to Work Through

- ▶ Mediation, facilitation, or both
- ▶ Agreeing on standard qualifications
- ▶ Limited time commitments from volunteers working on “collateral duty” basis
- ▶ Staff support for managing roster

Next Steps

1. Assess level of interest from federal agencies
2. Gather information about existing standards for shared neutrals programs
3. Recruit additional working group members at this meeting
4. Begin to work on standard qualifications
5. Assess resources available for various roster management options.

Appendix A. Environmental Conflict Resolution in the Federal Government in FY 2009

Overview from FY 2009 ECR Reports
Submitted by Federal Departments and Agencies
Pursuant to the OMB/CEQ ECR Memorandum of November 28, 2005

On November 28, 2005, the Office of Management and Budget (OMB) and the President's Council on Environmental Quality (CEQ) issued a joint policy memorandum on environmental conflict resolution (ECR Memorandum). The Memorandum directs federal agencies to increase the effective use of ECR and their institutional capacity for collaborative problem solving.

The impetus for the ECR Memorandum was the increasing recognition of environmental governance challenges such as protracted and costly environmental litigation, unnecessarily lengthy resource planning processes, costly delays in implementing needed environmental protection measures, and conflict between stakeholders involved in environmental conflict. To address these challenges, change from “business as usual” was needed in the federal government.

The ECR Memorandum works to achieve these goals by building on existing authorities and guidance including:

- Administrative Dispute Resolution Act of 1996;
- Regulatory Negotiation Act of 1996;
- Contract Disputes Act of 1978, as amended;
- Alternative Dispute Resolution Act of 1998;
- Environmental Policy and Conflict Resolution Act of 1998 (P.L. 105-156);
- Executive Order 12988, “Civil Justice Reform” (February 5, 1996);
- Presidential Memorandum, “Designation of Interagency Committee to Facilitate and Encourage Use of Alternative Means of Dispute Resolution and Negotiated Rulemaking” (May 1, 1998);
- Environmental Policy and Conflict Resolution Advancement Act of 2003 (P.L. 108-160); and
- Executive Order 13352, “Facilitation of Cooperative Conservation” (August 4, 2004).

The ECR Memorandum focuses on third-party assisted conflict resolution in the context of environmental and natural resources issues. The Memorandum also recognizes the value of a broad array of partnerships, cooperative arrangements, and unassisted negotiations that federal agencies enter into with non-federal entities to implement agency programs and activities.

The following is a summary overview of the ECR work in federal government for FY2009.

- ECR was used to address more than 400 environmental conflicts and challenges in the federal government.
- ECR was used to address mission critical issues including: hydropower management; base realignment and closure (BRAC); tribal consultation; ecosystem restoration, species recovery and conservation, fire management, and flood risk management.
- Agencies also identified new priority areas where ECR can be beneficial. These included renewable energy and climate change.

- The departments and agencies making considerable use of ECR include the Environmental Protection Agency, Departments of Defense, Department of the Interior, and the Department of Agriculture (Forest Service). Other agencies including the National Oceanic and Atmospheric Administration, the Nuclear Regulatory Commission, the Federal Energy Regulatory Commission, and the Department of Energy also apply ECR and other collaborative approaches to address environmental conflicts and challenges. Cross-agency providers of ECR within the federal government include the Department of Justice and the U.S. Institute for Environmental Conflict Resolution.
- Agencies reported a wide spectrum of benefits from the use of ECR, including litigation and regulatory costs avoided, expedited progress on projects, workable shared solutions, cost-effective outcomes, and improved relationships among stakeholders. In financial terms alone, this work has significant ramifications for the federal government through potential cost-efficiencies in the millions of dollars.
- Examples of mission critical on-the-ground outcomes from ECR activities include: “providing alternative energy access to an improved energy grid...to carry Kansas wind power to out-of-state markets” (FERC); “improved flood control and roadway and recreation capacity for the City of Dallas” (DoD); “restoration of thousands of acres of wetlands” (NOAA); “elimination or reduction of OHV use [on BLM lands in California] due to unacceptably high cancer risk posed by asbestos-containing serpentine soils” (DOI).

For more information on the ECR Policy Memorandum including copies of federal department and agency reports visit: <http://ecr.gov/Resources/FederalECRPolicy/AnnualECRReport.aspx>.

Department of Defense (DoD)
 Department of Energy (DOE)
 Department of Homeland Security (DHS) - (FY09 Report Pending)
 Department of the Interior (DOI)
 Department of Justice (DOJ)
 Department of Transportation (DOT) - (FY09 Report Pending)
 Department of Veterans Affairs (VA)
 National Oceanic and Atmospheric Administration (NOAA)
 U.S.D.A. Forest Service (USFS)
 Environmental Protection Agency (EPA)
 Federal Energy Regulatory Commission (FERC)
 General Services Administration (GSA)
 National Aeronautics and Space Administration (NASA)
 National Indian Gaming Commission (NIGC)
 Nuclear Regulatory Commission (NRC)
 The U.S. Institute for Environmental Conflict Resolution (USIECR)

Appendix B. Executive Departments and Links to Agency Plans of Action

President Obama's Memorandum on Tribal Consultation

<http://www.whitehouse.gov/the-press-office/memorandum-tribal-consultation-signed-president>

Department of Agriculture

http://www.usda.gov/documents/Tribal_Leaders.pdf

Department of Commerce

(Not yet posted on agency website)

Department of Defense

http://www.spa.usace.army.mil/NALEMP/Consultation_Jan2010.pdf

Department of Education

<http://www2.ed.gov/about/reports/annual/tribalplan-2010.pdf>

Department of Energy

(Not yet posted on agency website)

Environmental Protection Agency

<http://www.epa.gov/tribal/consultation/>

Department of Health and Human Services

http://www.ncai.org/fileadmin/governance/DHS_Sebelius_Letter_12_15_2009.pdf

http://www.ncai.org/fileadmin/governance/DTLL_HHS_12th_ATBCS_Regional.pdf

Department of Homeland Security

http://www.dhs.gov/xlibrary/assets/dhs_tribal_consultation_coordination_policy_plan_implementing_eo_13175.pdf

Department of Housing and Urban Development

<http://www.hud.gov/offices/pih/ih/codetalk/onap/nponap/docs/2010tcm-invite.pdf>

http://www.ncai.org/fileadmin/governance/HUD_ONAP_Area_Office_Consultation_Sessions.pdf

Department of the Interior

<http://doi.gov/news/pressreleases/upload/DOIConsultationActionPlan.pdf>

Department of Justice

<http://www.justice.gov/opa/documents/exec13175-consultation-policy.pdf>

Department of Labor

<http://www.dol.gov/opa/media/press/opa/opa20091528.htm>

Department of State

(Not yet posted to agency webpage)

Department of the Treasury

http://www.ncai.org/fileadmin/governance/Treasury_Wolin_01_13_2010.pdf

Department of Transportation

<http://www.fhwa.dot.gov/tribal/consultation.htm>

Department of Veterans Affairs

http://www.ncai.org/fileadmin/governance/VA_DTL_Letter.pdf

Udall Foundation

<http://www.udall.gov/NewsAnnouncements/NewsAnnouncements.aspx>

Related Resources:

National Congress of American Indians – Tribal Consultation

<http://www.ncai.org/Consultations-with-Tribal-Gove.449.0.html>