

## **FY 2009 ECR Policy Report to OMB-CEQ**

On November 28, 2005, the Director of the Office of Management and Budget (OMB), and the Chairman of the President's Council on Environmental Quality (CEQ) issued a policy memorandum on environmental conflict resolution (ECR).

The memorandum requires annual reporting by departments and agencies to OMB and CEQ on progress made each year. This joint policy statement directs agencies to increase the effective use and their institutional capacity for ECR and collaborative problem solving.

ECR is defined in Section 2 of the memorandum as:

*“third-party assisted conflict resolution and collaborative problem solving in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and land use. The term “ECR” encompasses a range of assisted negotiation processes and applications. These processes directly engage affected interests and agency decision makers in conflict resolution and collaborative problem solving. Multi-issue, multi-party environmental disputes or controversies often take place in high conflict and low trust settings, where the assistance of impartial facilitators or mediators can be instrumental to reaching agreement and resolution. Such disputes range broadly from administrative adjudicatory disputes, to civil judicial disputes, policy/rule disputes, intra- and interagency disputes, as well as disputes with non-federal persons/entities. ECR processes can be applied during a policy development or planning process, or in the context of rulemaking, administrative decision making, enforcement, or litigation and can include conflicts between federal, state, local, tribal, public interest organizations, citizens groups and business and industry where a federal agency has ultimate responsibility for decision-making.*

*While ECR refers specifically to collaborative processes aided by third-party neutrals, there is a broad array of partnerships, cooperative arrangements, and unassisted negotiations that federal agencies enter into with non-federal entities to manage and implement agency programs and activities. The Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving presented in Attachment A (of the OMB/CEQ ECR Policy Memo) and this policy apply generally to ECR and collaborative problem solving. This policy recognizes the importance and value of the appropriate use of all types of ADR and collaborative problem solving.”*

The report format below is provided for the fourth year of reporting in accordance with this memo for activities in FY 2009.

The report deadline is January 15, 2010.

We understand that collecting this information may be challenging; however, after compiling previous reports, the departments and agencies can collect this data to the best of their abilities. The 2009 report, along with previous reports, will establish a useful baseline for your department or agency, and collect some information that can be aggregated across agencies. Departments should submit a single report that includes ECR information from the agencies and other entities within the department. The information in your report will become part of an analysis of all FY 2009 ECR reports. You may be contacted for the purpose of clarifying information in your report. For your reference, copies of prior year synthesis reports are available at [www.ecr.gov](http://www.ecr.gov).

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Date this report is being submitted:	<u>January 2010</u>

## Section 1: Capacity and Progress

1. Describe steps taken by your department/agency to build programmatic/institutional capacity for ECR in 2009, including progress made since 2008. If no steps were taken, please indicate why not.

[Please refer to the mechanisms and strategies presented in Section 5 of the OMB-CEQ ECR Policy Memo, including but not restricted to any efforts to a) integrate ECR objectives into agency mission statements, Government Performance and Results Act goals, and strategic planning; b) assure that your agency's infrastructure supports ECR; c) invest in support or programs; and d) focus on accountable performance and achievement. You are encouraged to attach policy statements, plans and other relevant documents.]

The Forest Service continues to build programmatic and institutional capacity in ECR and collaboration. Examples include:

- On-going use of new business rules that help the Agency measure the performance and accountability associated with goals and targets. With these new rules, the Agency can now fully capture accomplishments related to the benefits of combined programmatic support, as well as collaboration and partnerships.
- Continuation of national collaboration training, web-based and in-person training associated with general collaboration and specific practices as they relate to the National Forest Management Act Planning Rule.
- Re-design of on-line resources to incorporate electronic tools and resources associated with ECR and collaboration (e-Collaboration effort).
- Development of peer-learning sessions to improve partnership and collaboration skill sets. These sessions incorporate web-based and conference call learning platforms through the National Forest Foundation.
- Hosting of Collaborative Forest Planning Workshops, which integrate collaboration research on forest plan revisions, collaborative experiences of Forest Service staff and community members. The workshop helps forests and their community partners "organize" their collaborative efforts. (National in organization, implemented locally on Inyo National Forest)

Regionally and locally, the Forest Service continues to take steps to build programmatic and institutional ECR and collaborative capacity. The Forest provided several examples (provided in the Agency supplement to this report: Tables 5.1 – 5.5).

**NOTE:** The term 'ECR' is not used extensively above. It is understood that the term 'collaboration' as used above includes the evaluation of the situation to determine if ECR is appropriate or the use of collaboration without the use of a third party neutral will meet the needs of the situation.

## Section 2: Challenges

2. Indicate the extent to which each of the items below present challenges or barriers that your department/agency has encountered in advancing the appropriate and effective use of ECR.

	Extent of challenge/barrier		
	Major	Minor	Not a challenge/barrier
	<b>Check <u>only</u> one</b>		
a) Lack of staff expertise to participate in ECR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Lack of staff availability to engage in ECR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Lack of party capacity to engage in ECR	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Limited or no funds for facilitators and mediators	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Lack of travel costs for your own or other federal agency staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Lack of travel costs for non-federal parties	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Reluctance of federal decision makers to support or participate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Reluctance of other federal agencies to participate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Reluctance of other non-federal parties to participate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Contracting barriers/inefficiencies	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
k) Lack of resources for staff capacity building	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
l) Lack of personnel incentives	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
m) Lack of budget incentives	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
n) Lack of access to qualified mediators and facilitators	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o) Perception of time and resource intensive nature of ECR	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
p) Uncertainty about whether to engage in ECR	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
q) Uncertainty about the net benefits of ECR	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
r) Other(s) (please specify): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
s) No barriers (please explain): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Section 3: ECR Use

3. Describe the level of ECR use within your department/agency in FY 2009 by completing the table below. [Please refer to the definition of ECR from the OMB-CEQ memo as presented on page one of this template. An ECR “case or project” is an instance of neutral third party involvement to assist parties in reaching agreement or resolving a dispute for a particular matter. In order not to double count processes, please select one category per case for decision making forums and for ECR applications.]

	Cases or projects in progress <sup>1</sup>	Completed Cases or projects <sup>2</sup>	Total FY 2009 ECR Cases <sup>3</sup>	Decision making forum that was addressing the issues when ECR was initiated:				Of the total FY 2009 ECR cases indicate how many your agency/department	
				Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other (specify)	Sponsored <sup>4</sup>	Participated in but did not sponsor <sup>5</sup>
<i>Context for ECR Applications:</i>									
Policy development	<u>3</u>	<u>0</u>	<u>3</u>	<u>2</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>2</u>	<u>1</u>
Planning	<u>35</u>	<u>17</u>	<u>52</u>	<u>36</u>	<u>10</u>	<u>6</u>	<u>0</u>	<u>43</u>	<u>9</u>
Siting and construction	<u>0</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>
Rulemaking	<u>0</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>
License and permit issuance	<u>2</u>	<u>2</u>	<u>4</u>	<u>3</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>3</u>	<u>1</u>
Compliance and enforcement action	<u>1</u>	<u>1</u>	<u>2</u>	<u>0</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>1</u>
Implementation/monitoring agreements	<u>3</u>	<u>0</u>	<u>3</u>	<u>1</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>2</u>
Other (specify): _____	<u>3</u>	<u>0</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>2</u>	<u>0</u>	<u>1</u>	<u>2</u>
<b>TOTAL</b>	<b><u>47</u></b>	<b><u>22</u></b>	<b><u>69</u></b>	<b><u>44</u></b>	<b><u>14</u></b>	<b><u>10</u></b>		<b><u>53</u></b>	<b><u>16</u></b>
	(the sum should equal)			(the sum of the Decision Making Forums)				(the sum should equal Total FY 2009 ECR Cases)	

<sup>1</sup> A “case in progress” is an ECR case in which neutral third party involvement began prior to or during FY 2009 and did not end during FY 2009.

<sup>2</sup> A “completed case” means that neutral third party involvement in a particular matter ended during FY 2009. The end of neutral third party involvement does not necessarily mean that the parties have concluded their collaboration/negotiation/dispute resolution process, that all issues are resolved, or that agreement has been reached.

<sup>3</sup> “Cases in progress” and “completed cases” add up to “Total FY2009 ECR Cases”.

<sup>4</sup> Sponsored - to be a sponsor of an ECR case means that an agency is contributing financial or in-kind resources (e.g., a staff mediator's time) to provide the neutral third party's services for that case. More than one sponsor is possible for a given ECR case.

<sup>5</sup> Participated, but did not sponsor - an agency did not provide resources for the neutral third party's services for a given ECR case, but was either a party to the case or participated in some other significant way (e.g., as a technical expert advising the parties).

	Total FY 2009 ECR Cases)		should equal Total FY 2009 ECR Cases)	
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4. Is your department/agency using ECR in any of the substantive priority areas you listed in your prior year ECR Reports? Indicate if use has increased in these areas since they were first identified in your ECR report. Please also list any additional priority areas identified by your department/agency during FY 2009, and indicate if ECR is being used in any of these areas. Note: An overview of substantive program areas identified by departments/agencies in FY 2008 can be found in the FY 2008 synthesis report.

List of priority areas identified in your department/agency prior year ECR Reports	Check if using ECR	Check if use has increased in these areas
Protracted and costly environmental litigation.	<b>X</b>	<b>X</b>
Unnecessarily lengthy project and resource planning processes (planning delays).	<b>X</b>	<b>X</b>
Costly delays in implementing needed environmental protection measures.	<b>X</b>	<b>X</b>
Forgone public and private investments when decisions are not timely or appealed (administrative appeals).	<b>X</b>	<b>X</b>
Lower quality outcomes when environmental plans and decisions are not informed by all available information and perspectives.	<b>X</b>	<b>X</b>
Lost opportunities when environmental plans and decisions are not informed by all available information and perspectives.	<b>X</b>	<b>X</b>
Deep-seated antagonism and hostility repeatedly reinforced between stakeholders by unattended conflicts.	<b>X</b>	<b>X</b>
_____	<input type="checkbox"/>	<input type="checkbox"/>
List of additional priority areas identified by your department/agency in FY 2009	Check if using ECR	
_____	<input type="checkbox"/>	

_____	<input type="checkbox"/>
_____	<input type="checkbox"/>
_____	<input type="checkbox"/>

Please use an additional sheet if needed.

5. It is important to develop ways to demonstrate that ECR is effective and in order for ECR to propagate through the government, we need to be able to point to concrete benefits; consequently, we ask what other methods and measures are you developing in your department/agency to track the use and outcomes (performance and cost savings) of ECR as directed in Section 4 (b) of the ECR memo, which states: *Given possible savings in improved outcomes and reduced costs of administrative appeals and litigation, agency leadership should recognize and support needed upfront investments in collaborative processes and conflict resolution and demonstrate those savings and in performance and accountability measures to maintain a budget neutral environment* and Section 4 (g) which states: *Federal agencies should report at least every year to the Director of OMB and the Chairman of CEQ on their progress in the use of ECR and other collaborative problem solving approaches and on their progress in tracking cost savings and performance outcomes. Agencies are encouraged to work toward systematic collection of relevant information that can be useful in on-going information exchange across departments?* [You are encouraged to attach examples or additional data] See Appendix A for a list of all responses)

For the past four years, the Forest Service has contacted each national forest unit to query their use of ECR and collaboration. This year, the Washington Office utilized established regional contacts and an on-line survey instrument to increase accountability, response rates, and visibility of on-going ECR efforts regionally. Through these inquiries, individual forests and regions are reminded of the value of ECR. These inquiries also provide valuable information to the Washington Office towards improvement of information exchange and tool development, as they relate to ECR.

Whereas most forests simply stated that they used “end of year reporting” and “the regular budget process” to measure the benefits of ECR usage, two concrete examples of tracking the use and outcomes of ECR were offered by individual forests.

- One forest stated that although they were “not tracking specific costs,” they felt that “the decline in appeals and litigation is definitely one way of measuring if conflict resolution and collaboration techniques are working.” They also asserted that they had “only one lawsuit this year and that was on a grazing allotment management plan.”
- Another forest reported that “ECR was very effective in allowing us to lay the ground work for a very contentious issue. With the help of ECR we were able to follow a process that lead us to a reasoned proposal,” and that their “process and success were documented.” They also contend that the concrete measure of success gained from the use of ECR, is that “there was a lawsuit regarding this case/process and the Judge issued a partial summary judgment in the Forest Service’s favor.”

Several forests were able to point to the effective use of ECR on their forests and its various concrete benefits. One forest was pleased to report that when ECR is used, “issues are identified early in the NEPA process and addressed through project development.” Another forest felt that ECR was very effective when used to “survey members of the public who have participated about their perceptions and how likely they are to support, appeal, resent, or trust agency decisions.”

6. Describe other significant efforts your agency has taken in FY 2009 to anticipate, prevent, better manage, or resolve environmental issues and conflicts that do not fit within the Policy Memo's definition of ECR as presented on the first page of this template. (See Appendix B for a list of all responses)

Establishing agency credibility with the public is paramount in managing environmental issues and conflicts. The NEPA and administrative appeal process provides opportunities to work with the public and help them gain understanding as to why we are proposing a certain action. In these instances both ECR and collaboration are of great importance to the Forest Service.

Following this year's survey, the majority of forests assert that "active collaboration with all stake holders, in all aspects of National Forest management" has helped them to anticipate, better manage and resolve environmental issues and conflicts. Other significant efforts to resolve environmental conflicts included the creation of collaboration focus groups and forest plan steering committees.

Most forests also emphasized the indispensable advantage of involving the public early and often in a meaningful way. Quite a few forests are actively involved in local Natural Resource and Land Council Groups, as well as Provincial Advisory Committees (PACs), Resource Advisory Committees (RACs), Stewardship Groups and Stewardship projects. Other efforts mentioned included "inviting local agencies to be Cooperating Agencies for Travel Management," informal appeal resolution, and transparency in Project development. Finally, the dispute resolution skills of forest personnel and having a partnership coordinator on staff were two significant efforts that were mentioned that helped forests to better manage environmental conflicts.

Specific examples of on-going efforts, broken out by discipline and/or type include:

#### **General Collaboration**

- Development of collaborative groups. Collaborative efforts between agency line officers and partners continue to be used and have been effective in project design, development and implementation. These groups include the involvement of all stake holders interested in National Forest management—developing real relationships with key interests in our management/decision making.
  - *Clearwater Basin Collaborative* -The purpose of this Collaborative is to provide recommendations for actions concerning the use and management of Clearwater and Nez Perce National Forests within the Clearwater Basin of Idaho. The vision behind the Collaborative is to enhance and protect the ecological and economic health of our forests, rivers and communities within the Clearwater Basin by working collaboratively across a diversity of interests.
  - *North Central Idaho Resource Advisory Committee* - The North Central Idaho Resource Advisory Committee was originally chartered in 2001 by the US Department of Agriculture under the Federal Advisory Committee Act. The local committee is comprised of fifteen voting members and three replacement members representing the county, outdoor recreation, commercial timber industry, environmental organizations, school officials and local elected officials. A total of \$1.9 million was approved for 2009 projects through this RAC.
  - *Travel Planning (Designated Routes and Area for Motor Vehicle Use)* - The Nez Perce Forest is currently completing its environmental analysis for its

Travel Plan. They are consulting with federal agencies (US Fish and Wildlife Service, NOAA-Fisheries), state agencies (State Historic Preservation Office) and the Nez Perce Tribe. The consultation must be completed before any decision can be signed.

- *Collaborative Planning Processes*- The Lolo National Forest continues to develop partnerships within its community for all of its medium and larger scale NEPA projects. In addition to the Lolo Restoration Committee, the Forest has a broad base of partners including Wildlands CPR, Trout Unlimited, Rocky Mountain Elk Foundation, Clark Fork Coalition, the Wilderness Society and other conservation groups. Community interest groups, including the Mineral/Sanders County Stakeholders groups, Trail Riders OHV Group, RACs, continue to be actively engaged in projects across the Forest.
- *Stewardship Projects*- The Olympic National Forest has been involved with three stewardship projects, which have brought diverse groups together to work collaboratively and resolve resource concerns. They have also been involved with coordination efforts related to research associated with forest management practices.
- Participation in workshops sponsored by the National Collaboration Cadre to develop Collaborative Action Plans for Forest Plan revisions.
- Continued commitment to resolve objections under the Healthy Forest Restoration Act (HFRA). Using ECR skills, Forest leadership and staff are able to explore common interests and develop workable agreements with objectors.
  - There are two existing collaboration groups on one forest that are very involved in HFRA and the "Bigger Look" project. Collaboration on HFRA projects have resulted in 100% informal resolutions on objections. Due to the success of collaboration on HFRA issues, the Forest is hopeful collaboration can be used for other, non HFRA projects such as range projects.
- Meeting with individuals and groups who have challenged projects—visiting project areas and discussing management options.
  - While these meetings have resulted in some good conversations that help anticipate and manage conflicts and appeals, they have not always prevented or resolved them because the groups and individuals have been very clear that the only acceptable resolution for them is for us to stop managing a substantial portion of our suitable land base. This would result in not implementing key aspects of the Forest Plan and therefore not meeting commitments to the public.
  - Another forest has encouraged collaborative engagement by interested parties, including those with disparate viewpoints and desires. In litigious scenarios, they have been able to garner support through intervener status by outside groups and have been successful in settlement negotiations in litigation.
- Collaboration with environmental groups and State and other Federal agencies in development of projects and addressing resource management issues that involve more than one governing agency.
- Working with local community groups on FireSafe Councils - Rangers collaborate extensively with a variety of publics during both project development and implementation. These line officers maintain good communication with both local environmental and commodity use groups.
  - As a result, appeals have been successfully resolved through informal meetings. These collaborative efforts have negated the need to secure out service conflict resolution expertise.

### **Focus Groups**

- One forest established a focus group to represent different public access interests and worked with the group to develop input for travel management on its district. The focus group represented diverse interests for motorized and non-motorized use.
- Another forest used a focus group to deal with heritage resource management and habitat restoration. An interagency group reached resolution through focused presentation, additional data, and discussions. These collaborative efforts have avoided the need for external third party conflict resolution.

### **Forest Plan Steering Committee**

- Through Forest Plan implementation, the Bighorn National Forest continues to use its Forest Plan Steering Committee to monitor the progress of projects. Members include county and other governmental parties, with the public invited to all meetings. Projects are reviewed and discussed, including successes and strategies to continue moving toward desired conditions.

### **Involving the Public Early**

- One forest has had success in engaging federal and state partners and public stakeholders in "left-side" analysis and collaborative planning initiatives.
  - Reaching out to others "early and often" in and throughout project planning, implementation and monitoring is becoming second nature to planners and resource specialists on this forest (practicing early involvement for 5-years).
- Two forests provided feedback on the success they have had implementing business strategies towards early collaborative engagement early project planning, including: program formulation, proposal development and refinement prior to NEPA scoping.
  - The idea is to minimize unnecessary controversy in the program of work. Not all controversy can be eliminated, but the Forest has been able to be more creative and flexible in accommodating stakeholder interests early in the process than at later stages.
  - Every effort is made to reach all interested parties that may have a stake in a project. Contact is maintained in various ways, including face-to-face-meetings, phone calls, etc. to keep the dialogue going.
  - One forest received compliments during its travel plan process for keeping folks informed and engaged. While everyone didn't agree with the final decision, 100% of folks said they felt like they were listened to and appreciated that engagement.
- Projects that have potential for appeal are identified early and efforts are made during planning to involve the public and avoid as many conflicts as possible.
  - This early work involves coordination and communication with conservation groups, other federal agencies and permittees early in the process trying to avoid conflicts.
- On some major projects, forests have essentially "institutionalized" an informal policy of early interaction with a diversity of interest groups before initiating the NEPA process. This early interaction helps define areas of conflict and/or common ground, and levels of interest in specific areas or resources. This is very helpful before developing a formal project proposal.

### **Having an Engaged Public**

- The Midewin National Tallgrass Prairie has an extensive volunteer program and many volunteer projects that involve implementation of environmental restoration and recreation projects. Having an engaged public helps to identify and address issues as they arise.

### **Public Involvement Emphasis**

- Several forests are making a point to hold public meetings to explain what is going on with projects and associated analyses. Open communication and education of/and with the public helps with levels of understanding and support.
  - This has proved increasingly important in major planning projects, including Travel Management and Forest Plan Revision.
  - One forest has worked to ensure that its activities are designed to maintain, enhance or restore native ecosystems and that the activities are supported by most key stakeholders and general public. The Forest has emphasized public involvement and created an open and honest dialogue with key stakeholders. They have worked hard to resolve potential conflicts early in the project development process.
- Some forests have utilized focused invitations to serial appellants and litigants (particularly field visits) pursuant to their submission of comments on environmental documents. These discussions provide a greater understanding of what these interests would like to see and where there is possibility of ‘meeting in the middle.’ These meetings and field trips help to create a more open interaction and have been very insightful for the forests.
  - The Superior NF has attempted to resolve conflicts or disagreements through direct contact instead of using a third party. These include field trips and open houses to discuss projects. One successful example involved field trips and discussions with people living in the Tait Lake area of the North Shore of Lake Superior to create cooperative hazardous fuel reduction. No appeals were received on the NEPA decision. However, for some other projects, appeals and/or litigation occurred despite direct engagement with concerned parties.
- Other forests continue to work directly with community leaders and representatives on the development of projects and stewardship opportunities.
- In some instances, Forest Supervisors are in frequent and direct contact with interest groups, offering site visits and informal appeal disposition meetings to resolve several key issues on projects. These are informal, direct contacts with individuals and help to continue building relationships with frequent commenter’s to NEPA projects. .

### **Involvement in Local Natural Resource & Land Council Groups**

- On one forest, the local county government established a Natural Resource group made up of other agency personnel and the public to involve varying interests in Forest projects, particularly vegetation management projects.
- Another forest has representation on a local Public Lands Councils, wherein issues regarding land management and natural resource management are addressed. Many of these discussions facilitate project development and implementation strategies.

#### **Informal appeal resolution**

- The informal appeal resolution process on one forest has been effective in avoiding lengthy project delays. As a result, the Agency has good relationships with its interested public and has been able to adjust projects, even prior to ending the appeal period, to avoid challenges

#### **On staff partnership coordinator**

- The Wayne National Forest has a designated partnership coordinator who spends time working with program specialists in identifying and contact potential partners. The Forest has held partnership recognition days, where they have invited partners and the media for recognition and thank yous. The Forest is also making extensive use of volunteers, who after working with them are spreading positive messages about the Wayne and the Forest Service.

#### **Dispute resolution skills**

- Having employees in leadership positions who have a good attitude about collaboration, conflict resolution, and consensus building goes a long way in facilitating dialogue among diverse interests. Having employees who have good dispute resolution skills, means not having to always hire outside 3rd party consultants

#### **PACs, RACs, and Stewardship Groups**

- The Bitterroot National Forest continues to work with a Resource Advisory Committee to develop project proposals for resource work to be completed across the Forest. As a result of the work of this committee, the Forest has seen a reduction in the number of appeals and litigations on NEPA projects over the past few years.

## Section 4: Demonstration of ECR Use and Value

- 7 Briefly describe *your departments'/agency's most notable achievements* or advances in using ECR in this past year. (See Appendix C for a list of all responses)

Units contacted for development of this report noted several outstanding achievements in using ECR in 2009. Specific examples include:

- The selection of an alternative in a Final EIS that became the decision in a highly contentious Travel Management project. Only two appeals to the decision were received by two individuals. One of the appeals was subsequently withdrawn after an informal resolution meeting. (*Inyo National Forest*)
- Signing an interagency agreement with the US Institute for Environmental Conflict Resolution for neutral services related to hazardous fuels reduction projects and engaging a neutral to assess a proposal for multi-party stakeholder meetings. (*San Bernardino National Forest*)
- Broad collaboration in the management of public lands, including identification of deficiencies with current standards and guides in forest plan, improved processes to determine economic impacts as it relates to grazing, and new methodologies for rapid stream assessments. (*Fishlake National Forest*)
- Consistent and active engagement with the Lolo Restoration Committee (LRC) on all medium and large scale NEPA projects. The LRC is a pre-established, Forest-specific collaborative working group of the Montana Forest Restoration Committee (MFRC). The Committee consists of representatives from environmental interests, forest products industry, university/research interests, recreation industry, and general public. Where possible, the Lolo NF utilizes the 13 "Restoration Principles" established and agreed to by members of the MFRC to design ecosystem management projects. Because of its working relationship with the LRC/MFRC, the Forest has seen a decrease in project appeals and litigation. (*Lolo National Forest*)
- Reaching an 'Agreement in Principle' for the surrender of the FERC license for a project with multiple parties including state and federal agencies, the Kalispell Tribe of Indians, Non-government Organizations, and public representatives. While the actual settlement agreement has not been finalized, it is well on its way to being completed. (*Colville National Forest*)
- Two District's use of "early involvement" helped prepare proposals for Travel Management. NEPA decisions and associated analysis have been prepared. No appeals on either decision have been received to date. (*Boise National Forest*)
- On-going collaboration between three Stewardship Groups continues on the Forest. The Stewardship authority authorized the use of retained receipts by all three Groups, regardless of which Stewardship Area generated the funds. Six projects were submitted to the renamed Coast Range Stewardship Fund and were all approved. Three projects from the Siuslaw Basin SG, two from the Mary's peak SG, and one from the Alsea SG. The Stewardship Groups met together as the Coast Range Roundtable. (*Siuslaw National Forest*)

## 8. ECR Case Example

Using the template below, provide a description of an ECR case (preferably completed in FY 2009). Please limit the length to no more than 2 pages. (See Appendix D for a list of all responses)

Name/Identification of Problem/Conflict
Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance
<b><i>Cibola National Forest</i></b>
The Forest acquired the services of the US Institute for Environmental Conflict Resolution (US Institute) to identify key groups and individuals with interests in travel management. Using the results of some preliminary surveys, the Forest and US Institute then developed public involvement strategies to maximize effective public involvement in proposal development and analysis.
Summary of how the problem or conflict was addressed using ECR, including details of how the principles for engagement in ECR were used (See Appendix A of the Policy Memo, attached)
The US Institute led a variety of public travel management workshops to identify key public use patterns, needs, and desires on Kiowa-Rita Blanca National Grasslands and Mountainair Ranger District. On the Magdalena Ranger District travel management project, the US Institute conducted an analysis to identify key interested and affected publics and their attitudes, beliefs, and practices associated with activities that could be affected by changes in motor vehicle use designations on the Forest.
Identify the key beneficial outcomes of this case, including references to likely alternative decision making forums and how the outcomes differed as a result of ECR
Early public involvement in and understanding of the processes associated with travel management was improved. The Agency also obtained a better and broader understanding of forest-user needs and desires. All these outcomes will hopefully result in a better proposed action that addresses the most important resource issues, public needs, and management needs.
Reflections on the lessons learned from the use of ECR
Using ECR signals to the public that they will have increased involvement in project development and additional influence in decision-making. Once started along the path of ECR as a tool to develop projects and make decisions, it would be counter-productive to revert to the historical model of Forest Service planning and decision-making. ECR requires decision-maker support and leadership to be effective.

*b.* Section I of the ECR Policy identifies key governance challenges faced by departments/agencies while working to accomplish national environmental protection and management goals. Consider your departments’/agency’s ECR case, and indicate if it represents an example of where ECR was or is being used to avoid or minimize the occurrence of the following:

	Check <u>all</u> that apply	Check if	
		Not Applicable	Don't Know
Protracted and costly environmental litigation;	31.9%	64.8%	3.3%
Unnecessarily lengthy project and resource planning processes;	31.5%	64.1%	4.3%
Costly delays in implementing needed environmental protection measures;	27.2%	69.6%	3.3%
Foregone public and private investments when decisions are not timely or are appealed;	25.6%	71.1%	3.3%
Lower quality outcomes and lost opportunities when environmental plans and decisions are not informed by all available information and perspectives; and	32.2%	64.4%	3.3%
Deep-seated antagonism and hostility repeatedly reinforced between stakeholders by unattended conflicts.	31.1%	65.6%	3.3%

9. Please comment on any difficulties you encountered in collecting these data and if and how you overcame them. Please provide suggestions for improving these questions in the future.

The use of an on-line survey, clearly identified points of contacts for questions, and regional coordinators for consolidated reporting resulted in improved feedback and information gathering.

***Please attach any additional information as warranted.***

Report due January 15, 2010.  
 Submit report electronically to: [ECRReports@omb.eop.gov](mailto:ECRReports@omb.eop.gov)

Attached A. Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving

**Basic Principles for Agency Engagement in  
Environmental Conflict Resolution and Collaborative Problem Solving**

<b>Informed Commitment</b>	Confirm willingness and availability of appropriate agency leadership and staff at all levels to commit to principles of engagement; ensure commitment to participate in good faith with open mindset to new perspectives
<b>Balanced, Voluntary Representation</b>	Ensure balanced inclusion of affected/concerned interests; all parties should be willing and able to participate and select their own representatives
<b>Group Autonomy</b>	Engage with all participants in developing and governing process; including choice of consensus-based decision rules; seek assistance as needed from impartial facilitator/mediator selected by and accountable to all parties
<b>Informed Process</b>	Seek agreement on how to share, test and apply relevant information (scientific, cultural, technical, etc.) among participants; ensure relevant information is accessible and understandable by all participants
<b>Accountability</b>	Participate in the process directly, fully, and in good faith; be accountable to all participants, as well as agency representatives and the public
<b>Openness</b>	Ensure all participants and public are fully informed in a timely manner of the purpose and objectives of process; communicate agency authorities, requirements and constraints; uphold confidentiality rules and agreements as required for particular proceedings
<b>Timeliness</b>	Ensure timely decisions and outcomes
<b>Implementation</b>	Ensure decisions are implementable consistent with federal law and policy; parties should commit to identify roles and responsibilities necessary to implement agreement; parties should agree in advance on the consequences of a party being unable to provide necessary resources or implement agreement; ensure parties will take steps to implement and obtain resources necessary to agreement