

**8<sup>th</sup> ANNUAL REPORT (2013) ON  
ENVIRONMENTAL COLLABORATION AND CONFLICT RESOLUTION**

**FOR THE COUNCIL ON ENVIRONMENTAL QUALITY**

**OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY  
(CIVIL WORKS)**

February 2014

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1. **ECCR Capacity Building Progress:** Describe steps taken by your department or agency to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2013, including progress made since FY 2012. Include any efforts to establish routine procedures for considering ECCR in specific situations or categories of cases. To the extent your organization wishes to report on any efforts to provide institutional support for non-assisted collaboration efforts include it here. If no steps were taken, please indicate why not.

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

#### General Comments

In FY 2013 USACE took various steps to build programmatic/institutional capacity for both ECCR and non-third-party-assisted collaborative environmental problem-solving processes, both at the headquarters level, and across the 38 Districts and 8 Divisions in the US where USACE executes its Civil Works program. While USACE has an ECCR center and other programs that specifically focus on collaborative process, the bulk of USACE's collaborative activities relate to specific, ongoing Civil Works projects across all mission areas (e.g. flood risk management, navigation, ecosystem restoration) and functional areas (e.g. planning, construction, operations, and regulatory).

Across USACE Divisions and Districts there is strong support for collaborative problem solving processes with staff being encouraged with resources and training to align their activities with - and implement - these processes. From the highest levels of USACE, the leadership commitment to collaboration is unwavering and constantly reiterated.

Rather than rely on third-party ECCR, Districts and Divisions report a preference for a proactive engagement approach with sponsors, partners and the public. They develop local, state, regional, and national teams promoting collaborative planning to anticipate problems and identify alternative solutions early so as to reduce the risk and magnitude of future environmental conflicts. We highlight these experiences in the answers to question 7 in the report. Districts, in the North Atlantic Division (NAD), for example, involve junior staff members in active work to advance collaborative engagement with stakeholders and thus build programmatic/ institutional capacity for ECCR. South Atlantic Division (SAD) proactively addresses potentially controversial program or project environmental issues as early as possible in the Civil Works planning process to resolve these issues before they become significant environmental conflicts.

Some parts of USACE report that collaborative processes that did not require formal third party ECCR were working well and thus did not see a need to build programmatic /institutional capacity for formalized ECCR.

## Integrating ECCR objectives into USACE mission statements and strategic planning

The USACE Campaign Plan has embraced collaborative approaches [www.usace.army.mil/about/campaignplan/Pages/Home.aspx](http://www.usace.army.mil/about/campaignplan/Pages/Home.aspx). During FY13, strategies and activities were developed and executed at the Headquarters, District and Division levels to implement the collaborative objectives of the Campaign Plan:

- Collaboration is integral to the Engineer Research and Development Center's *Civil Works Research & Development Plan* that includes this cross-cutting strategy for collaboration: ***Multidisciplinary and Integrated Inter-Agency Teams: Advance a watershed-based, systems approach to water resources planning and management utilizing multidisciplinary research and engineering talent from across the Corps R&D community; integrate product development teams to incorporate the diverse talent of Corps researchers and practitioners and strategic partners.***
- Mississippi Valley Division has invested in a new ECCR program in 2013, establishing four new ECCR facilitators, along with a new field point of contact to help administer this program.
- One of the Southwestern Division's FY13 Regional Priorities was to "implement collaborative approaches to effectively solve water resource problems."
- The Great Lakes and Ohio River Division's USACE Campaign Plan Implementation Plan has specific actions and region-wide initiatives focusing on cultivating relationships among stakeholder organizations to collaboratively address complex environmental problems and develop efficient sustainable solutions that appropriately balance competing interests. These actions and initiatives have been on-going within the Division for several years and have been successful in managing potentially contentious issues in a manner that has generally prevented the need for formal ECCR.
- New England District (NAE) does not have an ECCR program. It does however have a similar program where staff environmental compliance scientists can elevate any disagreement with a state, tribal or federal agency to their immediate supervisor for conflict resolution. If this fails to resolve the interagency dispute, the Branch Chief/Division Chief and ultimately the District Engineer would accept elevations to resolve conflict. On a regular basis, NAE hosts a "Mid-Level Managers Meeting" of at least the EPA, NMFS, USFWS and USACE mid-level managers in the region to discuss impending or resolved conflicts, resolve policy and timeliness issues and maintain open communication with the agencies outside a conflicted setting of a particular project. It is the responsibility of the Chief of Evaluation Branch for Civil Works and the Regulatory Division Chief for Regulatory Permits to resolve environmental conflicts.

The USACE Civil Works Strategic Plan is based on the principles of Integrated Water Resources Management, a holistic focus on water resource challenges and opportunities that reflects coordinated development and management of water, land, and related resources. This strategy builds institutional abilities and capacity for collaborative problem solving which is the core of ECCR processes. Work has

progressed on appropriate ways to measure and display the achievement of collaborative goals.

USACE Civil Works Transformation continued to gain momentum in FY13, with the objective to “*...promote enhanced capabilities and greater involvement, ownership, concurrence and commitment among internal USACE team members, local sponsors and partners.*” A major element of Civil Works Transformation is implementation of “SMART planning,” a new USACE business process that provides opportunities for earlier collaboration with partners and the public for feasibility studies, and is being implemented using both in-house and contracted facilitators to lead planning charettes. Third-party facilitators led re-scoping charettes in Alaska, Hawaii, New York, Washington, California, the Mississippi and Missouri Valleys, and elsewhere across the nation. Specific examples of charettes are mentioned in the response to Question 5.

A second pillar of Civil Works Transformation with a strong collaborative element is USACE’s move towards watershed-based budgeting. By building USACE’s budget on a watershed basis, USACE considers how its projects affect stakeholder projects within the watershed and hence more fully captures the benefits to the nation of USACE projects. Stakeholder interaction is an integral part of that process; some examples are included in the response to Question 7.

Civil Works’ Building Strong Collaborative Relationships for a Sustainable Water Future initiative had several accomplishments in FY13. USACE continued efforts associated with the following recommendation in the August 2010 National Report, *Responding to National Water Resources Challenges*: “Gain support for a common data portal that accesses a Federal Support Toolbox of information deemed useful in helping states and water agencies in their water resources planning.” This initiative also advances the 11 May 2011 USACE, NOAA and USGS MOU. The MOU identifies the following need: “Managers and decision makers in all sectors of water resources require new and more integrated information and services to adapt to uncertainty, climate and land-use changes, and increasing demand on limited resources.” The Federal Support Toolbox is now online and advances state-of-the-art collaborative problem solving. All Divisions are involved in this effort. For example, Southwestern Division (SWD) assisted with this effort by contributing information associated with the Water Management and Reallocations Studies Center of Expertise.

USACE Silver Jackets Inter-Agency Program continued to build team capacity in FY13. Across the nation, USACE supports state-led “Silver Jackets” teams that advance collaborative problem solving for flood risk management. Forty-one states have active Silver Jackets teams with Alaska formally establishing a team in FY13. Through Silver Jackets, multiple USACE Districts are involved in pilot activities that advance collaboration through increased data collection, GIS mapping and public communication. Several teams are introducing innovative GIS technology (SimSuite) in a collaborative process to help local governments manage risks of aging levee infrastructure and improve floodplain management overall. More details are included in the response to Question 7.

#### ECCR Support and Programs

- Conflict Resolution and Public Participation Center

Created in FY09, USACE's Conflict Resolution and Public Participation Center of Expertise (CPCX) has the mission to help Corps staff anticipate, prevent, and manage water conflicts, ensuring that the interests of the public are addressed in Corps decision making ([www.iwr.usace.army.mil/cpc/](http://www.iwr.usace.army.mil/cpc/)). During FY13, the Center provided technical assistance to Districts, Divisions and other stakeholders on collaborative processes, including Shared Vision Planning, facilitation services, training, and courses on public involvement, risk communication and conflict resolution. The Center also produced various references to serve USACE in the areas of Environmental Conflict Resolution and collaborative processes. CPCX focuses on five goals of consultation services, capacity building, information exchange, policy support, and research.

In FY13, CPCX established the Public Involvement in Flood Risk Management Pilot Program in coordination with the National Flood Risk Management Program. This program is designed to implement the recommendations for the 2010 report "Flood Risk Management Public Involvement Framework & Implementation Plan." Thirteen flood risk management projects were selected to:

- ▶ *Demonstrate and evaluate the process for determining the appropriate level of public involvement;*
- ▶ *Improve USACE's capacity to engage the public & agency partners at the county, state, & federal levels; and*
- ▶ *Identify best practices for improving 2-way communication and collaborative problem solving.*

This program also includes the development of public involvement specialists.

- Collaboration and Public Participation Community of Practice

In FY13 the USACE Collaboration & Public Participation Community of Practice (CoP) expanded its membership to more than 400 members Corps-wide, launched a CoP newsletter, and sponsored multiple webinars. The CoP is directed by a steering committee from across USACE, promotes information through an interactive web portal, newsletter, webinars, and fosters a network of USACE facilitators from across USACE divisions and business lines.

Training and Other Investments in ECCR Support (many investments are now captured in Question 2 this year)

- The Corps Civil Works Directorate, the Engineering Research and Development Center (ERDC) and the Institute for Water Resources continued training of individuals with a customized, 2-day training course on the Fundamentals of Facilitation and Conflict Resolution in 2013 at the USACE Risk Management Center for 21 Corps employees, 3 EPA employees, and 1 USFS employee to build internal and external competency in these fields. More than 150 employees have completed this training to date.
- Twenty members of the ERDC Consolidated Support Division Leadership Development Program attended a 4-hour course on Fearless Facilitation.
- ERDC established a Facilitator Exchange forum web page with quarterly newsletters and webinars on facilitation topics with 189 current USACE subscribers.
- The Corps Civil Works Directorate and ERDC developed "Fundamentals for

Army Corps Executives, an online, on-demand curriculum for leaders at all levels of the Corps. Modules include: Incisive Meetings, Group Dynamics, Conflict, Collaborative Problem Solving and Strategic Engagement, Inciting Innovation, Human Dimensions, and Facilitation for Executives. The beta version curriculum was reviewed during FY13.

- Risk Communication and Public Involvement 3-day training was delivered through USACE's formal PROSPECT training program to 17 students. Specialized Risk Communication trainings were also developed and implemented for the Project Management and Flood Risk Management communities. Other relevant courses offered as part of the PROSPECT training included Customer Relationship Management, and Public Involvement – Communication.
- CPCX taught two courses on Public Involvement and Teaming in Planning reaching 50+ individuals, one requested by Northwestern Division, Omaha District, and the other provided through the Corps' PROSPECT training program. These classes piloted including students in "remote pods" at different locations using DOD's online collaboration platform "Defense Connect Online" (Adobe Connect).
- CPCX delivered multiple Shared Vision Planning trainings for international partners in cooperation with the Mekong River Commission and the US Agency for International Development.
- USACE's Collaboration and Public Participation CoP is partnering with USIECR to promote USACE involvement in the Udall Certificate in Environmental Conflict Resolution. Six USACE students took classes in FY13.
- Divisions and Districts are expanding their roster of facilitators via the national USACE-wide "Find a Facilitator" network housed on the Natural Resource Management Gateway website.
- Mississippi Valley Division (MVD) provided information to the field related to conflict resolution training and potential for inclusion in Individual Development Plans and as appropriate, Performance Plans. The Division pushed out the USIECR Conflict Resolution Certification program in 2013 and established three facilitators for training. MVD senior leaders support staff outreach and ECCR communication and education. MVD also began development of a local/regional ECCR Quality Management System process for public involvement and conflict resolution. Development of this simple tool will help in the regional use of ECCR.
- In Northwestern Division, individuals have participated in Collaboration Training provided by the US Institute for Environmental Conflict Resolution as a part of the Missouri River Recovery Implementation Committee.

## 2. ECCR Investments and Benefits

- a) Please describe any methods your agency uses to identify the (a) investments made in ECCR, and (b) benefits realized when using ECCR. Please note that USACE has an OMB-approved survey that we encourage Districts to use to measure the effectiveness of third party facilitated processes.

Examples of investments may include ECCR programmatic FTEs, dedicated ECCR budgets, funds spent on contracts to support ECCR cases and programs, etc.

Examples of benefits may include cost savings, environmental and natural resource results, furtherance of agency mission, improved working relationship with stakeholders, litigation avoided, timely project progression, etc.

As in past years, this ECCR report was identified as the primary tool for identifying and documenting ECCR investments and benefits. Investments in ECCR are hard to measure, particularly in a project-based agency where many ECCR activities may be an integral part of a project (see discussion in 2c below). There is currently no tracking process for costs or benefits specifically attributable to 3<sup>rd</sup> party ECCR, or to collaborative process support more generally.

An easily-identifiable USACE investment in both 3<sup>rd</sup> party assisted and non-3<sup>rd</sup> party ECCR is funding of USACE's Conflict Resolution & Public Participation Center of Expertise (CPCX) with base funding levels in FY13 of ~3FTE. CPCX's base funding is highly leveraged through direct funding support from specific USACE projects. Base funding levels do not include support from Division-level POC's or USACE-HQ staff.

Current pilot initiatives led by the CPCX provide an opportunity for closer review of lessons learned and documentation to capture the costs and benefits in more detail than typical projects. These include the Climate Change and Silver Jackets pilot programs, along with the Public Involvement in Flood Risk Management pilot program. In FY13 CPCX was also approved to use USIECR surveys for evaluating collaborative processes.

At a Division level, Northwestern Division uses an annual survey to measure the qualitative results for the Missouri River Recovery Implementation Committee (MRRIC). The Engineering Research and Development Center (ERDC) also documents facilitated sessions. In addition to the substantive documentation, many gatherings have written evaluations that provide key feedback to meeting organizers.

- b) Please report any (a) quantitative or qualitative investments your agency captured during FY 2013; and (b) quantitative or qualitative results (benefits) you have captured during FY 2013.

PROJECT	INVESTMENTS	BENEFITS
Lower Mississippi River Endangered Species Conservation Plan (ERDC - Engineering Research and Development Center)	Over the last 12 years, the Corps has funded approximately \$5M in ERDC field studies and collaboration for the pallid sturgeon and other endangered species in support of the \$1.5B Mississippi River and Tributaries project.	Collaborative conservation plan and expectation of a non-jeopardy opinion from USFWS to streamline USACE work and reduce litigation.
Annual Coordination Meeting that discussed dam removal, invasive species management, and dam safety projects (ERDC)	Travel and salary costs for 2-day meeting varies among the approximately 25 participants. Facilitation costs typically average \$10K.	A previous assessment of this ongoing program revealed collaborations for more than 20 operations and maintenance projects, 6 major restoration projects, and 7 major joint publications and policy documents.
National Estuary Program (NEP) and North American Waterfowl Management Plan (NAWMP) in New England District of North Atlantic Division (NAD)	Previous investments in these programs of \$25K to \$50K for all 6 New England states to participate have been eliminated, and so the benefits will also be lost after FY13.	Improved ability to resolve minor matters in an informal setting; building trust between agencies at the staff level.
Missouri River Recovery Implementation Committee (MRRIC) and Missouri River Recovery Program (MRRP)  (Northwestern Division)	A contract for a third-party science neutral to convene an independent panel. The associated MRRP has a full-time project manager for MRRIC and provides combined (Omaha and Kansas City Districts) support to MRRIC of approximately 3 additional FTE. For MRRIC alone, the MRRP has invested \$1.1M in FY2013.	Qualitative benefits are largely intangible, such as building relationships and developing shared understanding of issues.
Facilitator support for projects in Alaska District, Pacific Ocean Division (including Nome, Teller, and Brevig Mission scoping meetings)	Typically provided for by cost-share sponsor.	Facilitators kept the conversation flowing and under control (in potentially contentious meetings) and ensured needed information was gathered from the public and stakeholders.

PROJECT	INVESTMENTS	BENEFITS
Deep Draft Arctic Port System study (Alaska District)		Observed enhanced communication between all parties, including the Corps, the non-Federal sponsor, the affected communities, the potential project users, and the stakeholders.
Facilitation and community outreach in Honolulu District projects (Pacific Ocean Division)	Internal staff resources; Utilizes external facilitators to ensure full community participation in public meetings, often via their A/E contracts for the development of feasibility studies	Facilitators kept the conversation flowing and under control (in potentially contentious meetings) and ensured needed information was gathered from the public and stakeholders.
Five SMART Planning charettes in the Pacific Ocean Division, Alaska and Honolulu Districts	Facilitators from within USACE but not associated with the Project Team were used for SMART Planning charettes for at least five General Investigations projects. These facilitators were offered as either no-cost to the district (because they were in training), or at a limited cost for staff labor only.	These charettes allowed the projects to move forward efficiently through planning steps, identifying potential alternatives and risks. In addition, the processes increased understanding among stakeholders and other federal partner agencies of the USACE planning process.

PROJECT	INVESTMENTS	BENEFITS
<p>Unassisted, collaborative problem-solving in response to agency and stakeholder concerns on a variety of General Investigation, Construction, and Operations &amp; Management projects in the Los Angeles District office (South Pacific Division);</p> <ul style="list-style-type: none"> <li>• Collaborative discussions with sponsors, water districts, agencies, others on the Santa Ana sucker (endangered species).</li> <li>• Engagement with interested stakeholders to develop a long-term communication plan for a flood control basin on the Los Angeles County Drainage Area (LACDA) system.</li> </ul>	In-house staff labor	These investments realized improved stakeholder communication and understanding.
Training to enhance ECCR skills among USACE staff	<ul style="list-style-type: none"> <li>• Public Involvement and Teaming in Planning (50 students; about \$100,000 tuition, plus travel and labor)</li> <li>• Udall Center trainings (6 students in four courses; \$5280 tuition, plus labor)</li> <li>• Environmental Operating Principles webinar series (labor only)</li> <li>• Risk Communication and Public Involvement (40 students ; \$50,000 tuition)</li> </ul>	Increased skills and awareness of ECCR among USACE workforce
Collaboration and Public Involvement Community of Practice activities	<ul style="list-style-type: none"> <li>• Monthly/bi-monthly webinars (only labor for preparation and attendance)</li> </ul>	Increased skills and awareness of ECCR among USACE workforce

- c) What difficulties have you encountered in generating cost and benefit information and how do you plan to address them?

There are several significant challenges in generating cost and benefit information associated with ECCR. The first is in defining what types of activities and efforts should and should not be counted. Many offices define ECCR as formal negotiated processes with a neutral third-party facilitator, but recognize that a significant amount of investment is made in discussions and environmental problem-solving activities prior to (or in place of) these formal sessions. Many projects involve outreach to the public, to stakeholders, and even among departments within USACE, so it is still unclear where we draw the line to start tracking ECCR efforts. The updated 2012 OMB/CEQ memo on ECCR defines ECCR broadly, but this revised definition is not understood consistently among representatives in the field who contribute to this report. In FY14 the Conflict Resolution and Public Participation Center of Expertise (CPCX) will make additional efforts to share recommended approaches for completing this report.

A second, related challenge is in defining which costs should be included in any financial tracking system. There are direct costs such as fees for hiring a third-party neutral, and labor and travel to organize and attend meetings. However, there are also indirect costs such as training and building capacity internally and among partners for more effectively leading and participating in ECCR. Further, increased costs or cost savings may result from a stakeholder process revising the project design. For example, a new design alternative that avoids impacting sensitive cultural or ecological resources may be more costly to USACE during construction. There may also be cost savings, such as litigation avoided, but putting a dollar amount on this would be challenging. Furthermore, the costs of conducting ECCR are often shared by cost-share sponsors, so USACE needs a clearer approach for reporting USACE costs or total project costs. CPCX will seek to address this in FY14 in consultation with Division Liaisons.

A third major challenge is that the USACE Civil Works budget only tracks projects or offices, and does not track at the level of detail that would be required to track investments or benefits related to ECCR specifically. Funds are allocated and tracked by projects, not programs. And, these ECCR-type issues evolve over time, so are challenging even to estimate. Furthermore, project funds are 50/50 cost shared, so tracking what expenses support ECCR in a way that would be meaningful to weigh the costs and benefits is even more challenging.

Measuring benefits has the challenge that most are qualitative, thus hard to measure by nature; but a further challenge is being able to attribute these benefits to the process and/or the facilitator.

There are several approaches to improving collection of costs and benefits:

Mississippi Valley Division, who is investing in an ECCR team, is planning to set up a system of tracking funds, costs, and benefits. This will be modeled after their Regional Technical Specialists program, but without funds committed to support it.

For next year's ECCR survey, CPCX will define in detail what information project managers should collect, and how. Developing and distributing a formal, structured, and very specific request for information (beyond this annual survey) would

encourage and enable PM's to gather better data on costs and benefits in the future.

Currently, there are several assets and initiatives which could effectively support improved measurement of benefits starting in FY14. A new program of Public Involvement Specialists in multiple districts across USACE will be valuable in encouraging project managers to distribute the OMB-approved process evaluation surveys for practitioners and participants. Also, several pilot programs (particularly the Public Involvement in Flood Risk Management pilot program) provide opportunity for documenting lessons learned, and closer scrutiny of costs and benefits. To date, the pilot program has already developed a brief pre- and post-project survey for project delivery team members to measure what they gained from the experience. The Specialists will continue to work with the Conflict Resolution and Public Participation Center of Expertise (CPCX) to explore additional opportunities and tools for measuring the benefits, including the possibility of bringing in note takers that focus on the human interaction (ethnographers, for example). These would capture changes in the level of hostility, relationships, and understanding.

3. **ECCR Use:** Describe the level of ECCR use within your department/agency in FY 2013 by completing the table below. [Please refer to the definition of ECCR from the OMB-CEQ memo as presented on page one of this template. An ECCR “case or project” is an instance of neutral third-party involvement to assist parties in a collaborative or conflict resolution process. In order not to double count processes, please select one category per case for decision making forums and for ECCR applications.

	Total FY 2013 ECCR Cases <sup>1</sup>	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or projects completed <sup>2</sup>	ECCR Cases or Projects sponsored <sup>3</sup>	Interagency ECCR Cases and Projects		
		Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other (specify)			Federal only	Including non federal participants	
Context for ECCR Applications:										
Policy development	1	1	_____	_____	_____	1	1	1	_____	
Planning	12	12	_____	_____	_____	6	6	3	3	
Siting and construction	_____	_____	_____	_____	_____	_____	_____	_____	_____	
Rulemaking	_____	_____	_____	_____	_____	_____	_____	_____	_____	
License and permit issuance	_____	_____	_____	_____	_____	_____	_____	_____	_____	
Compliance and enforcement action	_____	_____	_____	_____	_____	_____	_____	_____	_____	
Implementation/monitoring agreements	2	2	_____	_____	_____	1	2	_____	1	
Other (specify): _____	_____	_____	_____	_____	_____	_____	_____	1	_____	
<b>TOTAL</b>	<b>15</b>	<b>15</b>	(the sum of the Decision Making Forums should equal <b>Total FY 2013 ECCR Cases</b> )				<b>8</b>	<b>9</b>	<b>5</b>	<b>4</b>

<sup>1</sup> An “ECCR case” is a case in which a third-party neutral was active in a particular matter during FY 2013.

<sup>2</sup> A “completed case” means that neutral third party involvement in a particular ECCR case ended during FY 2013. 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> Sponsored - to be a sponsor of an ECCR 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 ECCR case.

Note: If you subtract completed ECCR cases from Total FY 2013 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2013 ECCR cases it should equal total cases in which your agency or department participated but did not sponsor. If you subtract the combined interagency ECCR cases from Total FY 2013 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

#### 4. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably completed in FY 2013). Please limit the length to no more than 2 pages.

Lower Mississippi River Endangered Species Conservation Plan
Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance, and how the ECCR effort was funded
<p>There are three federally endangered species (pallid sturgeon, fat pocketbook mussel, and least tern) in the Lower Mississippi River (LMR). Mississippi Valley Division (MVD) began funding the Engineering and Research Development Center (ERDC) in the early 2000's to evaluate status and trends of the listed species. They were fully aware of the three jeopardy biological opinions on pallid sturgeon and least tern in the Middle Mississippi and Missouri Rivers issued by USFWS and were concerned that a similar scenario would occur in the LMR. Prior to ERDC's involvement in the science and technology, most agencies assumed that the listed species were rare in the LMR. For example, most believed that pallid sturgeon were on the brink of extinction and only a hybrid swarm was left. MVD had the foresight to begin developing a USACE-ERDC database on the listed species in the LMR and within 10 years dispelled many of the notions. However, USACE and USFWS were not fully compliant with the ESA because formal consultation on the Mississippi River and Tributaries Project (MR&amp;T), the Corps' largest and longest-running civil works project in their storied history, had not been initiated. In response, ERDC and USFWS prepared a Conservation Plan (ESA, Section 7 (a)(1)) this year (2013) for the three listed species. The Plan specifically addressed potential impacts of the MR&amp;T's Channel Improvement Program (e.g., dikes, revetments, dredging) on the listed species, and conservation measures to avoid and minimize adverse impacts. The Conservation Plan also served as USACE's Biological Assessment requesting formal consultation. The Biological Opinion from USFWS is pending, but USACE expects to receive a non-jeopardy opinion.</p>
Summary of how the problem or conflict was addressed using ECCR, including details of any innovative approaches to ECCR, and how the principles for engagement in ECCR outlined in the policy memo were used
<p>A jeopardy opinion under the ESA is a conflict between two federal agencies. Jeopardy opinions result in non-discretionary reasonable and prudent alternatives to protect the species. USACE is often obligated to fund expensive habitat restoration projects with questionable benefits and without additional authorizations. ERDC's science and technology role in the LMR fostered collaboration between USACE and USFWS, eliminating conflict that typifies endangered species issues. ERDC served as the third party to help both agencies fully understand the status of the listed species in the LMR, which by all accounts, were thriving. The Conservation Plan prepared by ERDC and USFWS represented a culmination of conflict resolution. Not only was the Plan the largest of its kind in the realm of the ESA, it established a long-term commitment by USACE to conserve the species using existing authorities to diversify habitat without compromising the navigation and flood risk reduction missions. Therefore, it is implementable without excessive expenditures and impacts to USACE's primary missions. ERDC informed the process by providing the science during interagency negotiations, and eventually USFWS came to the same conclusion as ERDC that the three listed species were much more abundant than previously thought.</p>
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 ECCR

The history of the ESA is one of conflict and litigation. The process used for the MR&T avoided these pitfalls. USACE proactively developed their own database on the listed species, and by doing so, were in a position to make informed decisions. ERDC, sponsored by MVD, collaborated with USFWS on data acquisition fostering a mutual understanding on the status of the species. USACE began using their existing authorities under the MR&T and partnered with the Lower Mississippi River Conservation Committee to diversify habitat through dike notching and other innovative applications of river training structures. The Conservation Plan integrated the process into a series of conservation measures agreed upon by USFWS and set the stage for formal consultation under the ESA. ERDC's third-party contribution as a science and technology advisor and authors of the Conservation Plan resolved environmental conflict prevalent for similar issues in the Mississippi River Valley. By solving problems collaboratively, a logical plan was developed that is cost-effective by using existing authorities to protect endangered species, environmentally aware of USACE's stewardship role and commitment to the Environmental Operating Principles, and timely before adverse actions and litigation force resolution.

### Reflections on the lessons learned from the use of ECCR

ECCR is a long-term effort that requires a mutual understanding of the science. USACE must continue to invest in environmental studies to fully understand the state of the science. Collaborative studies among sister agencies will lead to reasonable and prudent alternatives that are not arbitrary and capricious, which is a fundamental flaw in many ESA issues. ERDC strives to be objective and serves as an integral party in conflict resolution. The application of the Conservation Plan and the probable issuance of a non-jeopardy Biological Opinion exemplifies how endangered species conflicts can be resolved. POC: Jack.Killgore@usace.army.mil.

### 5. Other ECCR Notable Cases:

Briefly describe any other notable ECCR cases in the past fiscal year. (Optional)

The majority of this year's notable achievements in ECCR involve organizations and individuals within USACE serving as a third party neutral. Some USACE Divisions reported no use of ECCR this year, either because they were not the lead federal agency (and therefore not responsible for pursuing or leading the federal conflict resolution activities), or because their projects simply did not warrant the involvement of a neutral third party (SPD, LRD, MVD, SAD, NAD). These Divisions site as their notable achievements more consistent and early coordination across projects on identification and consideration of environmental issues; and improved capacity, awareness, and collaboration with the District staff, federal resource agencies, and key stakeholders to avoid or minimize environmental conflict. For example, South Atlantic Division relies upon relationships and collaboration with natural resource agencies, non-federal sponsors, and stakeholders to prevent, avoid or resolve environmental conflicts.

In addition to the case highlighted in Question 4, below is a list of this year's notable ECCR achievements as reported from across USACE:

#### **SMART Planning Charettes**

USACE Civil Works Transformation includes the implementation of "SMART Planning" - a new USACE business process that provides opportunities for earlier collaboration with partners and the public for feasibility studies. This

process is being implemented using both in-house and contracted facilitators to lead planning charettes at the beginning of projects. Between 30 and 40 SMART planning charettes were held last year. Northwestern Division held charettes for the following studies: Missouri River Recovery Management Plan, Missouri River Municipal & Industrial Water Supply (2 charettes), Adams & Denver Counties (Colorado), and the James River. Pacific Ocean Division held charettes for the following studies: Point MacKenzie Shoal, Ala Wai Canal, Hilo Harbor, Waiakea-Palai Flood Risk Management, and Wailupe Stream flood control. To better understand how a SMART Planning charette contributes to a study, an example is provided here:

**The Missouri River Recovery Management Plan** is a large comprehensive study that will provide a management plan to coordinate Biological Opinion requirements for the Missouri River mainstem reservoirs with mitigation objectives for the navigation project under one decision document. The study is a collaborative effort between two Corps District offices and the USFWS, each with its own views on how the study should be accomplished. The study was originally scoped with a 5-year schedule, but due to management direction it is being reduced to 3 years. The study partners conducted a planning charette with third-party neutral facilitation in order to reach vertical team consensus on study assumptions, goals and objectives and overall scope and schedule. The charette was funded through the Missouri River Recovery Program (MRRP) which is a Construction General (CG) account.

The charette used focused exercises, such as brainwriting and structured brainstorming, large group discussions and small group break-outs. The groups utilized a process for risk-based decision making and developed a risk register and decision management plan that will help inform decision makers of the trade-offs between an expedited schedule and potential risks of scaling back the analyses. Facilitated discussions were utilized to assist the group in reaching consensus and remaining on schedule.

The group developed a risk-based schedule that provides decision makers a basis for understanding the trade-offs that will need to be made in order to meet the timelines. The group agreed on several basic concepts for the study that had been discussed extensively many times before. Utilizing a decision log and having everyone agree to what went into the decision log will help the project managers hold the different groups accountable for the decisions that were made at the charette, rather than continue to revisit the same issues again and again.

Charettes are time-consuming and costly and it is difficult to know who should attend for maximum efficiency/effectiveness. Charettes are most effective when key decision makers are present and engaged in the facilitated discussions and wrap-up. Their presence means participants know that any decisions made will not need to be revisited and encourages the group to agree on the way forward.

**Tulsa District and the Oklahoma Water Resources Board (OWRB)  
Planning Assistance to States study**

In anticipation that conflicts will escalate in Oklahoma as demands for finite water resources continue to increase, the 2012 Oklahoma Comprehensive Water Plan identified the need to address policy and technical aspects of Instream/Environmental Flows. In FY13 Tulsa District and the Oklahoma Water Resources Board (OWRB) initiated a study that included activities to provide facilitation and technical support to the State of Oklahoma Instream Flow Workgroup. Also in FY13 Tulsa District and the Chickasaw and Choctaw Nations (Nations) completed a study of environmental flow methodologies. The study conducted an assessment of processes and methodologies for developing flow recommendations associated with waters in the Nations' shared homeland. This work also contributes to the emerging Choctaw and Chickasaw Regional Water Plan.

To reduce the risk of duplicate or contradictory efforts associated with environmental flows assessment methodology Tulsa District facilitated efforts so that each party (Nations, OWRB) reviewed the planning assistance study scope of work of the other party. To date, environmental flow methodology conflicts and contradictions between the State of Oklahoma and the Nations have been minimized. Without the 3<sup>rd</sup> party (Tulsa District) involvement, the risk of contradictions and conflicts associated with potential environmental flows methodology would be much greater. Although this is a first step, the collaborative process of sharing scopes of work may also reduce the risk of conflicts and contradictions between the emerging Choctaw and Chickasaw Regional Plan and future updates of the OCWP.

### **Tennessee Environmental Streamlining Agreement**

USACE's Nashville District participates in the Tennessee Environmental Streamlining Agreement (TESA) which is a programmatic inter-agency effort lead by the Federal Highway Administration and the Tennessee Department of Transportation that employs formal conflict resolution (although not conducted by neutral third party to date). There are quarterly TESA meeting to maintain progress on projects covered by the programmatic agreement. The purpose of TESA is to streamline/coordinate environmental reviews of federally-funded transportation projects to make reviews more efficient and timely without diminishing environmental protections. USACE participated in third party conflict resolution associated with USACE regulatory permitting for one TESA highway project initiated in FY12 and continued in FY13.

### **The Missouri River Basin Interagency Roundtable**

The Missouri River Basin Interagency Roundtable (MRBIR) was established as a forum for federal agencies advocating a collaborative approach to solving issues within the Missouri River watershed. Members of MRBIR, including the USACE Northwestern Division, seek opportunities for collaboration, coordination, and communication among the federal agencies to facilitate more comprehensive interagency efforts that would normally be beyond the scope of just one of the agencies. MRBIR is facilitated by a third party neutral, rotates the Chairperson among the federal agency members, holds monthly conference calls, and meets in person twice yearly. In addition, it has formed working

groups to address various topics including climate collaboration, tribal relations, sediment transport, ecosystem function, and the Missouri River Recover Implementation Committee.

### **North Atlantic Coast Comprehensive Study**

In response to Hurricane Sandy, USACE is conducting the North Atlantic Coast Comprehensive Study (NACCS) to assess the vulnerability of populations at risk to coastal storms in the North Atlantic Division. All five USACE Districts in the North Atlantic Division activity work on projects as do coastal engineers, scientists, and planners from across the USACE Enterprise and subject matter experts from other Federal agencies. NACCS has collaborated with a broad and diverse array of stakeholders and subject matter experts drawn from Federal agencies, State, Tribal, and Local Governments, as well as non-Governmental Organizations and the international engineering community. As the study progressed throughout 2013, a series of technical workshops and webinars were facilitated by both internal and external third party neutrals. These meetings facilitated broad coordination and collaboration on specific topics, such as storm surge modeling, natural and nature-based features, sea level rise, and vulnerability. Webinars have been archived and are available on the project's public web site. Inter-agency policy discussions are also being held, most recently on the integration of natural and nature-based features in system approaches to coastal risk management. The overall goals of ongoing collaborative efforts are to align the NACCS with other regional planning efforts critical to recovery from hurricane Sandy and to the region's future resilience, and to inform decision-making and build consensus on the definition of coastal risk, vulnerability, and strategies to manage these challenges.

## **6. Priority Uses of ECCR:**

Please describe your agency's efforts to address priority or emerging areas of conflict and cross-cutting challenges either individually or in coordination with other agencies. For example, consider the following areas: NEPA, ESA, CERCLA, energy development, energy transmission, CWA 404 permitting, tribal consultation, environmental justice, management of ocean resources, infrastructure development, National Historic Preservation Act, other priority areas.

USACE engages in highly collaborative efforts around various priority areas so as to avoid formal ECCR. Some priority areas are more challenging than others and in these collaborative efforts a third party is sometimes employed. The following challenging problems are of specific priority for USACE:

### Aging Infrastructure

The Corps' infrastructure portfolio is being extended past its intended lifespan. The Corps has initiated a program called the USACE Infrastructure Strategy to rate the vulnerability of infrastructure and prioritize repairs. This process can cause tension when local communities' risks must be addressed and the Corps is looking for various ways to make this process collaborative and productive. In FY13 CPCX provided technical support to a Floodplain Management Services Program pilot study being conducted by Tulsa District that has the potential to advance ECCR concepts for emerging challenges of aging high risk levees and vulnerable populations living behind those levees. Part of this pilot addressed the potential for local environmental disasters where the high risk levees protect critical infrastructure such as refineries.

### Climate Change

Climate change is a challenging topic because of the associated uncertainty around timeline and impacts. The USACE Responses to Climate Change program advances multi-organization collaboration to understand and address the impact of climate change on Corps water resource assets. Through the Responses to Climate Change program, agencies come together to share technical information and develop adaptation solutions. One such solution released during FY13 was the Guidance on Adapting to Sea Level Rise for Corps projects. The Corps participates on many interagency teams. For example, last year GAO studied USACE and Reclamation climate change collaboration and processes, as reported in GAO-14-23, "Climate Change: Federal Efforts Under Way to Assess Water Infrastructure Vulnerabilities and Address Adaptation Challenges."

### Endangered Species Act and NEPA

The extent to which the Endangered Species Act (ESA) or NEPA cause conflict at a level that requires ECCR depends on the relationships with stakeholders in each area of the country and the forums used to address issues. In the ERDC example described in Question 4, it is clear that a neutral third-party provided sufficient scientific information to prevent conflicts. Three jeopardy biological opinions for the subject species had already been issued for different river systems. This proactive effort resulted in collaborative scientific field studies and an historic conservation plan that is expected to result in a non-jeopardy

opinion from USFWS.

Elsewhere in the Corps, protracted negotiations with resource agencies during the development of biological assessments and biological opinions through FWCA, ESA and NEPA processes are common due to inherent conflicts between multiple entities in a given watershed for a given resource. Many districts report that they routinely collaborate with other agencies during the NEPA process as a lead or cooperating agency. In South Pacific Division for example, the scarcity of water and other resources in an arid climate, the large number of threatened and endangered species, population growth, and competition for resources drive environmental conflicts during the development of civil works projects. Coordination on particularly challenging projects or resource issues is often raised to the regional level where leadership at the Corps Division office coordinates with regional counterparts at other agencies to assist with issue resolution. It is through this highly collaborative process that formal ECCR is avoided.

#### Clean Water Act 404 Permitting

Similar to above, the extent to which the Clean Water Act permitting process causes conflict at a level that requires ECCR depends on the relationships with stakeholders in each area of the country and the forums used to address issues. In 2013, CPCX piloted an “Effective Communications for Regulatory” course designed to enhance the communication and facilitation skills of Corps regulators. Often the Corps must facilitate between competing interests relating to the permit, such as the permit requester and the local, state, and national resource agencies. In areas where the Corps has strong relationships with the stakeholders involved in the permitting process, there are fewer conflicts and a more efficient approach to permitting.

#### Watershed Approach

The Corps is looking at a watershed approach to more holistically address water management in the US. Divisions are increasingly viewing conflicts and issues from river basin, coastal and watershed perspectives, rather than only project-by-project. In addition to the watershed-based budgeting mentioned in response to Question 1, examples of this shift are seen in North Atlantic Division with their role in the Hurricane Sandy Recovery Program (see Question 5); National Ocean Policy Regional Planning Bodies (see Question 7); the Delaware, Susquehanna, and Potomac River Basin Commissions; and pilots to budget from a watershed perspective for both the James River and the Chesapeake Bay watersheds. South Pacific Division likewise reports actions to address potential conflicts on a larger geographic scale in the California Bay Delta and along the California coast (see Question 7). The goal is to move towards addressing many issues at the watershed level, so that Project Delivery Team members are familiar with the appropriate stakeholders in the area, and understand the interactions among the project and policy levels. Districts, such as reported by Albuquerque District, are beginning to seek ways to collaborate with other agencies to bring additional resources, knowledge and expertise on projects across watersheds.

#### Regional Sediment Management

USACE participates in various regional sediment management groups along the coasts of the U.S. It is often difficult to find locations to place dredging materials

and sand, yet at the same time many organizations need these materials. A collaborative approach is most effective for identifying beneficial uses of dredged materials from USACE deepening activities in shipping channels and harbors. For example, dredging sand can be used to restore marsh habitat and there are many instances of partnerships with state and local governments resulting in cost savings for all parties along with improved habitat for species. Specific examples of benefits realized by regional sediment management groups are found in the answers to Question 7.

**7. Non-Third-Party-assisted Collaboration Processes:** Briefly describe other significant uses of environmental collaboration that your agency has undertaken in FY 2013 to anticipate, prevent, better manage, or resolve environmental issues and conflicts that do not include a third-party neutral. *Examples may include interagency MOUs, enhanced public engagement, and structural committees with the capacity to resolve disputes, etc.*

USACE proactively addresses potentially controversial program or project environmental issues as early as possible to resolve these issues before they become significant conflicts. USACE invites natural resource agency representatives to actively participate in project planning and implementation for many water resources feasibility studies, including high priority studies for harbor and channel improvements and ecosystem restoration. Across all Civil Works programs and missions, including Deep Draft Navigation, Flood Risk Management, and Ecosystem Restoration, USACE actively promotes a positive and collaborative working relationship with its agency and stakeholder partners and benefits from the resulting positive relationships.

### **Formal Coordination Processes**

USACE's Great Lakes and Ohio River Division cites their Silver Jackets efforts as a strong example of non-3<sup>rd</sup> party ECCR where state and other Federal agencies promote open communications and programmatic water resources and environmental coordination among the participants. Besides those staff and agencies normally associated with emergency response efforts, Silver Jackets members include representatives from such organizations as USEPA, NRCS, USDA's National Weather Service, state natural resources agencies, state transportation, state water quality, and state institutions of higher learning. The groups meet routinely (monthly or quarterly depending on the state) and have wide ranging discussions about the ongoing efforts being conducted under respective programs. This process has helped avoid duplicative and conflicting efforts, and generally promoted good working relations at the field and statewide organizational levels.

Similarly, Southwest Division reports continued success of their Silver Jackets activities to successfully resolve issues associated with flood plain mapping between local interests and FEMA. For example, in FY2013 Tulsa District worked with communities and FEMA using ECCR approaches to resolve flood plain mapping issues.

USACE's New England District actively supports National Ocean Policy implementation through a federal partners MOU, the Coastal America Partnership, the Northeast Regional Ocean Council and the Northeast Regional Planning Body (Navy is DOD lead). The District commander engages federal agency counterparts and state DEP Commissioners on a regular basis and USACE attends tribal-hosted interagency meetings when budget constraints allow. USACE staff participation builds trust and enhances our ability to settle project disputes when pursuing certifications on Water Quality Certificates, Coastal Zone Management Consistency, Essential Fish Habitat assessments, etc. Reduced environmental coordination budgets at the District level results in the loss of benefits of the collaborative engagement.

New York District and the Port Authority of New York & New Jersey continue to work with New York City, New York State, US EPA, the National Park Service, and the Hudson River Foundation on comprehensive restoration and waterfront planning to improve the Hudson-Raritan Estuary. A highlight of the collaboration is the 2013 formation of a Restoration work group to steer the development and implementation of the Comprehensive Restoration Plan and research and actions relevant to restoration, acquisition, species, or habitat. Members of the group include non-governmental, city, state, and federal representatives with expertise in habitat restoration, preservation and public access. The Restoration Workgroup is responsible for developing strategies for, providing direction to, and tracking habitat restoration, public access, and acquisition efforts. The Work Group is responsible for making funding decisions related to habitat restoration and acquisition projects supported by the Hudson Estuary Program, and is available in an advisory capacity to funding or mitigation decisions. Regular meetings are posted on the program calendar and are open to observers. In addition, the Restoration Work Group organizes a Restoration Conference, which is a public, annual event highlighting restoration, acquisition, and public access efforts and advancement throughout the harbor estuary.

As part of the Central Everglades Planning Project, Jacksonville District initiated an Endangered Species Act consultation with the US Fish and Wildlife Service (USFWS) and is negotiating a Memorandum of Agreement with the USFWS for monitoring and recovery strategies for threatened and endangered species, including the endangered Cape Sable seaside sparrow. Jacksonville District also successfully negotiated and obtained a Programmatic Piping Plover Biological Opinion from USFWS for beach renourishment and beach sand placement projects in the Peninsula of Florida (22 May 2013), and negotiated and executed a cooperative agreement with USFWS for Civil Works Activities Affecting Manatees in Florida (19 Dec 2012).

USACE is an active participant in interagency efforts to manage environmental conflict and to collaborate on sustainable solutions in California's Sacramento-San Joaquin Bay Delta. Led by South Pacific Division's Flood Risk Management Program Manager and a dedicated Bay-Delta watershed specialist, USACE participates in the Federal Leadership Committee established under the 6-agency California Bay-Delta Memorandum of Understanding (MOU). Under the MOU, the Federal agencies developed an Interim Federal Action Plan to address the goals of the MOU. Currently, the Council on Environmental Quality hosts periodic teleconference with federal agency representatives from Washington, D.C. and within the Bay-Delta region. Beyond its formal role as a NEPA Cooperating Agency, USACE participates in many levels of the Bay Delta Conservation Plan (BDCP) process where state, federal, and local water agencies, state and federal fish agencies, environmental organizations,

and other interested parties work to manage water flow and habitat restoration actions for the recovery of endangered and sensitive species and their habitats in the Sacramento-San Joaquin River Delta. In addition to funding limited participation in stakeholder meetings, USACE leads cooperative efforts to coordinate, plan, and implement beneficial reuse of sediment in both the Delta and San Francisco Bay through the Delta and San Francisco Bay Long Term Management Strategy.

Since its establishment through a 1998 MOU, USACE's San Francisco District has hosted the Dredged Material Management Office (DMMO) - an interagency group comprised of federal, state and local partners that is responsible for determining the suitability of dredged material to be disposed of (or placed in) the San Francisco Bay area. The DMMO reviews and approves sediment sampling and analysis plans, sediment test results for all navigational dredge projects, and reviews all permit applications for non-USACE dredging projects. Although the DMMO has been nationally-recognized as a model for interagency/project proponent coordination and cooperation, reduced appropriations since FY12 are making it difficult to maintain this long-standing coordination effort without impacting USACE operations and maintenance missions.

USACE is an active member of the California Coastal Sediment Management Workgroup ([CSMW](#)) whose mission is to facilitate regional approaches to protecting, enhancing, and restoring California's coastal beaches and watersheds through federal, state, and local cooperative efforts. The CSMW is the first state and federal partnership developed in California for on-going, multi-agency interaction on statewide coastal sediment management and environmental-related issues. CSMW provides an avenue for member agencies and other interested stakeholders to provide recommendations and requests for resolving coastal sediment management and related environmental issues that arise as a result of the coastal sediment imbalances. The California Coastal Sediment Management Master Plan (SMP) is a central part of CSMW's mission and is an ongoing, collaborative effort by CSMW to evaluate California's coastal sediment management needs and promote regional, system-wide solutions. Under the [SMP](#), USACE and CNRA cost share the development of Coastal Regional Sediment Management Plans (CRSMP) along the California coast to provide guidance for local coastal managers to make science-based decisions in resolving issues and disputes arising from regional coastal erosion-related impacts and needs. As of summer 2013, four CRSMPs are complete, five are ongoing, and one is expected to start in early 2014. Other examples of interagency coordination success of the CSMW from 2013 that pertain to Environmental Conflict Resolution include: Coordination with the Environmental Protection Agency to develop new guidance and definitions to beneficially use sediment in coastal California; work with the West Coast Governors Agreement to determine if a dedicated west-coast dredge is politically, environmentally, and economically justified to optimize dredging processes; and development of a comment letter in response to proposed expansion of Monterey Bay National Marine Sanctuary and the potential impact of an expansion on implementation of the SMP in that region.

The Western States Federal Agency Support Team (WestFAST) was established in 2008 to support the Western States Water Council (WSWC) and the Western Governors' Association in coordinating Federal efforts regarding water resources. Currently a USACE employee from Little Rock District serves as the WestFAST

Federal Liaison, working with 12 Federal agencies with water management responsibilities in the West and the WSWC on a day-to-day basis. Current priorities of WestFAST include:

- Better enabling the exchange of federal and state water data
- Developing “Principles of Collaboration” that can be shared among the WestFAST agencies on how to better engage the states
- Facilitating coordination between various federal programs being implemented within the Colorado River Basin.

Since the signing of a 2002 MOU, USACE’s Albuquerque District has been an active participant in interagency efforts to manage environmental conflict and to collaborate on sustainable solutions in the Middle Rio Grande (NM). The Middle Rio Grande Endangered Species Collaborative Program is a multi-stakeholder partnership to protect and improve the status of two endangered species while simultaneously protecting existing and future regional water uses. USACE participates in the Program’s technical workgroups and is a member of the Program’s sixteen member Executive Committee of federal, state, tribal, local governmental water entities and other basin stakeholders.

During FY13, USACE’s Great Lakes and Mississippi River Interbasin Study (GLMRIS) continued to develop a range of options and technologies to prevent the transfer of aquatic nuisance species between the Great Lakes and Mississippi River basins through aquatic pathways. GLMRIS is also evaluating impacts of these options to the waterways and included methods to address significant impacts. USACE continues to incorporate input from federal, state, and local agencies, Native American tribes, nongovernmental organizations, and the public at key milestones in the study. At the study outset, USACE held 12 meetings in the Great Lakes and Mississippi River basins to gather input used to help define the study problem, opportunities, and constraints. The collaborative stakeholder participation process has included establishing a multi-agency advisory committee, sharing study products as they became available, eliciting feedback on these interim products, and having a strong presence on the Internet and social media.

USACE’s Mississippi Valley Division remains an active member of the EPA-led Hypoxia Task Force (HTF). The HTF is a group of Federal agencies and Mississippi River Watershed states working in a collaborative manner to address nutrient loading in basin water and ultimately reduce the size of the Gulf of Mexico hypoxic zone. In addition, Mississippi Valley Division continues to support Mississippi River watershed efforts. The Corps was a focal leader in three meetings since 2010. Although leadership transitioned to private entities in 2013, the Corps maintains a significant role and is on the Steering Committee for America’s Great Watershed Initiative. In 2013 the USACE-led Mississippi River Commission signed an MOU with the National Great Rivers Research and Education Center to improve river management and leverage resources as appropriate for river science as well as better engage academic institutions.

The Nashville and Memphis Districts teamed up with The Nature Conservancy to sign a Memorandum of Understanding that focuses and coordinates freshwater mussel protection and restoration across Tennessee. This MOU is an opportunity to not only work with the organizations on freshwater mussel issues, but to also help reinforce

and strengthen our relationships to help us ensure that we continue to develop environmentally sustainable projects. Nashville District is a signatory and participant in this regional MOU with The Nature Conservancy and USACE's Great Lakes and Ohio River Division. Similarly, USACE's South Pacific Division reports a Regional MOU with The Nature Conservancy and the Middle Rio Grande Endangered Species Collaborative Program.

Fort Worth District also participates in several nationwide MOAs with various resource agencies (USFWS, FERC, NRC, and Union Pacific Railway) where issues are identified early on, and dealt through pre-existing relationships and understandings prior to conflict development. Pittsburgh District reports use of MOAs in the Regulatory arena and with State Historic Preservation Offices to minimize effects to historic properties.

### **Business Processes and Culture**

Because of the breadth of our responsibilities - from regulatory to planning to construction to operations and maintenance of water resources infrastructure across the country - USACE Districts across the country expend a significant amount of time and resources to build collaborative relationships with other federal and state agencies and stakeholders to prevent, avoid or resolve environmental issues and conflicts. This effort includes public outreach and education regarding USACE missions, programs, projects and studies through public workshops, scoping meetings, working groups, individual meetings and teleconferences. Various programmatic or regional agreements are also used to streamline processes and to foster positive relationships with other agencies. Examples of interagency collaboration, use of interagency agreements and public outreach are listed below:

As part of the agency-wide Civil Works Transformation effort, Los Angeles District's Watershed Program Manager developed a watershed-based budget pilot proposal for the Santa Ana River Watershed that incorporated stakeholders' watershed priorities into the Corps budgetary ranking process. This is essentially an Integrated Water Resources Management approach for budgeting, an entirely new business process which will require significant culture changes within the Corps. Lessons learned from the Santa Ana pilot may inform future budget development guidance. In addition, watershed-based budgeting could help the Corps engage some of the larger, multiple user issues (such as Santa Ana sucker habitat) and help capture participation in collaborative efforts before such efforts require participation by a third-party neutral.

Similarly, Albuquerque District developed a watershed-based budget pilot proposal for the Rio Grande Basin Watershed that folded in stakeholders' watershed priorities into the Corps budgetary ranking process. USACE conducted a stakeholder meeting that encompassed the entire basin and incorporated the resulting information into the budget submission. The watershed pilot builds on ongoing partnering efforts in the basin to improve collaboration and understanding of watershed goals and objectives. Watershed budgeting could help the Corps engage some of the larger multiple-user issues and promote early, collaborative avoidance or resolution of potential conflicts.

Through its business processes, Nashville District continues to conduct ESA consultation for non-navigation operations and maintenance activities. A key issue is the effects of cold water releases from upstream storage projects on a downstream

reach of the Cumberland River that still has a degraded population of listed mussels. USACE has conducted open discussion with various agencies that may be affected by this consultation and possible outcomes. Based on this input, USACE is seeking a solution that balances impacts to existing cold-water reaches (trout fisheries) while warming the downstream reach to a degree where native mussel will be sustainable. This will require give and take from the various agencies, in lieu of single purpose focus. Ultimately, any changes resulting from this consultation would undergo NEPA review. In addition to coordination specific to species affected by navigation activities, Nashville District continually initiates dialogue prior to formal coordination with the state and Federal agencies when proposed actions may affect listed species. Nashville District reports having District employees attend training courses offered by other Federal agencies (USFWS, NRCS, ACHP) in part to provide opportunities to interact with other agency employees and better understand how each agency manages and applies its responsibilities and roles for implementing its laws, guidance, etc. Such joint training also serves as an effective relationship-building tool when USACE employees are attending with agency counterparts specific to our regions. Pittsburg District reports increased collaboration and coordination due to environmental issues when FERC relicenses hydropower operations on USACE lands.

USACE's New York District continues to work with The Port Authority of New York & New Jersey and other federal, state, local agencies and environmental organizations to implement marsh island restoration in Jamaica Bay, New York through beneficial use of dredge materials from USACE deepening activities in NY/NJ Harbor. In FY2013, dredging sand was used to restore an additional 30 acres of marsh islands at Black Wall and Rulers Bar with state and local governments paying 100 percent of the costs associated with sand placement.

For relevant planning, operations and maintenance projects, New York District initiates early Endangered Species coordination processes for the Atlantic sturgeon with resource and state agencies, nonfederal partners and local sponsors. The District developed a Biological Assessment for the National Marine Fisheries Service (NMFS) prior to the official listing of the Atlantic sturgeon and continues to coordinate with both NMFS and the US Fish and Wildlife Service on a per-project or cyclical basis to maintain up-to-date Section 7 consultations.

In addition to long-standing Tribal Trust responsibilities, USACE's Omaha District entered into a Programmatic Agreement with the Advisory Council on Historic Places, Tribes, States and interested parties which established a process for the consultation process under Section 106 of the National Historic Preservation Act. In FY13, Tribal Consultation and outreach was conducted for a variety of programs and projects including distribution of approximately 7,500 consultation letters for work done on Corps managed land and semi-annual meetings to discuss the program and impacts to the site.

Honolulu District's Civil and Public Works Branch hosts bi-annual meetings with the resource agencies to discuss status and provide updates on all proposed civil works projects. The resource agencies are invited to all SMART planning charettes for projects to ensure they have an opportunity to provide input during the development of alternatives at the beginning of the planning process. The Environmental Branch hosts public information meetings on a regular basis within each community where

FUDS have been identified and where they are working on a cleanup program. They also meet regularly with the Native Hawaiian community groups and the State Historic Preservation Office to provide them updates on these projects. The Regulatory Branch has an outreach program to inform State and County agencies of permit requirements. They also have an open door policy for any applicants to ensure that the applicants are fully versed in the application requirements.

Jacksonville District is working with the National Marine Fisheries Service (NMFS) on a Programmatic Biological Opinion (BiOp) for the Comprehensive Everglades Restoration Plan (CERP). For CERP projects, the Programmatic BiOp outlines effect determinations for species under NMFS jurisdiction and will identify the process for future consultations. As part of a robust public engagement process for CERP, USACE staff hosted or participated in several public meetings and the District collaborates with DOI's Science Coordination Group and Working Group of the South Florida Ecosystem Restoration Task Force, the National Research Council's Committee on Independent Scientific Review of Everglades Restoration Progress, and the Water Resources Advisory Commission (an advisory body to the governing board of the South Florida Water Management District).

Jacksonville District Regulatory staff participated in 26 public meetings involving the discussion of Regulatory activities and legal requirements for NEPA, Clean Water Act, Rivers and Harbors Act, Endangered Species Act, National Historic Preservation Act and other Federal environmental laws. This participation included four public meetings on Jacksonville District's Setback Policy for Federal Navigation Channels. Jacksonville District held monthly progress meetings with NMFS at the staff level to help District leadership track the status of important actions and set priorities. District leadership met directly with NMFS Southeast Regional leadership to discuss and resolve endangered species issues. Regulatory leadership has met with the Florida Department of Environmental Protection, Florida State Historic Preservation Officer and Puerto Rico's Historic Preservation Officer to discuss and resolve environmental and cultural resources issues regarding Regulatory permit applications.

USACE's Wilmington (NC) District used the Clean Water Act Section 404/NEPA Merger Process to simultaneously address NEPA and Section 404 for North Carolina Department of Transportation projects, using a team approach to reach consensus on each step of the NEPA/Section 404 Permit process. The team is comprised of state and Federal resource and permitting agencies, all stakeholders in the Section 404 permit process. Differences of opinion and agency missions are recognized and addressed; the team has agreed to reach consensus on each step in the process before moving to the next. Once the project moves to the next step, the agencies cannot return to a previous step for reconsideration unless new/different information is made available, providing a measure of certainty for the applicant. The 404/NEPA Merger Process has been in place since the early '90s in North Carolina, with modification as needed.

Wilmington District Regulatory staff participated in 10 public meetings involving discussion of Regulatory activities and environmental laws. These meetings included scoping meetings for NEPA Environmental Impact Statements and Regulatory Program presentations for the public at colleges and universities in North Carolina. Mobile District Regulatory staff developed two programmatic Endangered Species Act (ESA) agreements with USFWS for the inflated heelsplitter, a freshwater mussel, for

two segments of the Black Warrior River in Alabama.

Mobile District Regulatory Office holds monthly interagency meetings with USACE's Nashville District, US Environmental Protection Agency, USFWS, Alabama Department of Environmental Management, and the Alabama Surface Mining Commission to evaluate coal mining projects and discuss coal mining issues in the state of Alabama. Mobile District Regulatory staff routinely meets with the Mississippi Department of Marine Resources, Alabama Department of Environmental Management, Alabama Department of Transportation, Federal Highway Administration, and other agencies to address permitting issues, streamlining efforts, consistency issues, etc. In addition, Mobile District Regulatory staff participated in 17 public meetings/outreach events to discuss compliance with the Clean Water Act, Rivers and Harbors Act, NEPA, NHPA, ESA, and other relevant environmental laws.

South Pacific Division has a Regional Watershed Planner to assist Districts with implementing the concepts of Integrated Water Resources Management (IWRM). Watershed planning facilitates the collaborative evaluation of a more complete range of potential solutions and is more likely to identify the most technically sound, environmentally sustainable, and economically efficient means to achieve multiple goals in the entire watershed over the long term, i.e., integrated water resources management.

For the last 10 years, staff from Sacramento District's Planning, Regulatory, Emergency Management and Operations have been involved in the Interagency Flood Management Collaborative Program. The primary focus of the group is to facilitate communication between USACE, California Department of Water Resources, local reclamation districts, and various Federal and state natural resource and/or permitting agencies to facilitate Flood Risk Management planning and operations and maintenance activities along the Sacramento River and associated tributaries. The management group meets monthly to discuss a variety of topics such as Section 7 Endangered Species consultations, maintenance agreements, regional flood planning, conservation strategies, habitat conservation plans, etc. For example, one FY13 initiative was an interagency effort to facilitate more timely repairs of small erosion sites on Sacramento River Flood Control Project levees and develop a Small Erosion Repair Program Manual that brings a streamlined programmatic approach to what has long been a time-consuming regulatory review and authorization process over 300 miles of levees.

USACE's San Francisco continued to support the San Francisco Planning and Urban Research Association (SPUR) master planning process through participation with other federal state and local agencies on Steering and Technical Advisory Committees. In 2013, SPUR completed the concept document for a high profile, fifty-year Ocean Beach master plan that has wide-spread support in the community.

USACE's Little Rock District reports extensive public outreach during the development of the revision to the Table Rock Lake Master Plan including 3 public scoping meetings with over 2,000 attendees; 3 Focus groups established based on the top 3 concerns heard from the scoping sessions; and 4 public workshops during the draft release with 1,200 attendees.

USACE's Los Angeles District engages in collaborative discussions with U.S. Fish and

Wildlife Service, and separately with California Regional Water Quality Control Board staff and management to resolve large-scale, programmatic issues that impede successful coordination on multiple projects. Agenda items have included differing interpretations of implementing regulations, permitting timeframes, coordination processes, and various technical issues. These meetings have helped build better relationships, facilitated improved communication and understanding, and have paid dividends in terms of expediting issue resolution and permitting on a project level.

In FY13, USACE's Albuquerque District led the Southwest Valley Supplemental Environmental Assessment II with the Bureau of Reclamation and the Middle Rio Grande Conservancy District as cooperating agencies. Collaboration from the start of the process sped up the permitting process.

USACE and the Kansas Water Office continue to advance multi-organization cooperation of federal and state agencies similar to the WestFAST model including a successful 2011 pilot that embedded a USACE employee part-time in the Kansas Water Office.

Through consultation under Section 7 of the Endangered Species Act, Tulsa and Little Rock Districts are working with the Southwestern Power Administration, USFWS, navigation interests, and other stakeholders on mitigating impacts and reducing the risk of future environmental conflicts associated with the Interior Least Tern and the operation of reservoirs in the Arkansas River Basin. Current efforts are focused on determining if additional construction of islands along the navigation system will provide more nesting habitat for the Least Tern. Various metrics (i.e. number of birds, acres of habitat, etc.) are being developed to help measure progress.

USACE's Nashville District is coordinating with the US Fish & Wildlife Service on programmatic Biological Assessments for Operations and Maintenance activities that could affect endangered bats. This Biological assessment was initiated in FY13 and is on-going. The objective is to stream-line review for routine activities that have little or no potential to adversely affect bats.

Nashville District continues to coordinate with US Fish and Wildlife Service and state agencies based on commitments made with an ESA consultation for navigation operations and maintenance activities. Coordination activities include sharing district project review/ proposed actions, status meetings, state meeting participation, etc.

Detroit District uses stakeholder meetings, Lake-wide Area Management Plans, Regional Sediment Management Teams, annual coordination meetings with each state and USFWS, and the use of multi-agency management committees.

### **Communication Tools**

Websites, Facebook, Twitter accounts and videos are all common tools that USACE uses to supplement face-to-face meetings, teleconferences and webinars to communicate with partners, other agencies, and the interested public. In some cases, interactive opportunities are provided through Q&A forums for specific projects and reporting of project status, and Mobile District even cites use of an avatar. USACE

Districts develop Communication Plans for each project to determine means to share ongoing work/processes with public, agencies, and stakeholders. Below are some specific examples of public outreach activities in USACE.

Buffalo District's Formerly Utilized Sites, Remedial Action Program has a well-developed outreach program that actively engages the local communities on a regular basis. For sites in urban settings with large amounts of interest, the District sends updates to the community through electronic mailings called "News from the Corps." In addition, the team hosts information sessions with some of the communities on a regular basis. Each site has a webpage that is updated when major documents are released and the reports are distributed to federal, state, and local elected and agency representatives. "Beyond the Headlines" is a forum used on the web to correct misinformation in the media. For high-profile Civil Works projects, the District outreach initiatives focus on developing strategic communication products to address risk communication, and maintains regular communications about specific project and program initiatives. Examples of this include development of project specific webpages and/or Facebook page.

The recently-established cross-cutting USACE Collaboration and Public Participation Community of Practice allows sharing of information across Districts and Divisions through webinars, online exchanges, and newsletters. This invites dialogue of lessons learned that can lead to others gaining knowledge, insight, techniques and tools for better collaboration and avoiding need for conflict resolution.

Between April and August of 2013, Jacksonville District conducted bi-weekly webinars between the District's Project Delivery Team and Federal and state natural resource agencies to streamline and expedite the emergency coastal and supplemental appropriation projects for recovery from Hurricane Sandy and Tropical Storm Debbie. The District continued the bi-weekly teleconferences with the Florida Department of Environmental Protection to identify and resolve issues in obtaining Clean Water Act Section 401 water quality certifications for the District's water resources projects.

### **Scientific/Technical Consensus Building Tools**

Since 1995, USACE's Galveston District has chartered Interagency Coordination Teams (ICT) with state and Federal resource agencies for all major planning studies to collaboratively analyze project alternatives and to identify sensitive or significant resources that must be addressed in project implementation, operations and maintenance. A recent use of ICT is for a major reach of the Gulf Intracoastal Waterway where resource agencies expressed concern about resource impacts resulting from routine Operations & Maintenance. These groups do not involve "neutral third parties" and attempt to reach decisions by consensus. USACE considers ICTs to be "cradle-to-grave" groups that we consult and include throughout project life. Since the routine use of ICTs, SWG has not been sued over our NEPA coordination and documents, and we have not faced protracted time delays in obtaining regulatory approval of our projects. Although USACE has not calculated monetary savings resulting from the use of ICTs, we know from past, pre-ICT experience, that it eliminates almost all delays previously experienced in project approval and implementation.

Through an MOA, USACE advises California's Department of Water Resources on engaging stakeholders in the technical analysis for its semi-decadal water plan. The goal of the MOA is to prepare the California DWR to use the Shared Vision Planning method for the development of a comprehensive water-management plan.

USACE's San Francisco District participates with other agencies on a Long Term Management Strategy Science Group to conceive, develop, carry out, and interpret technical studies on sensitive species in a multi-agency, multi-stakeholder environment. This multi-year effort has lead to informal easing of restrictions on dredging and likely formal easing with an upcoming Biological Opinion.

USACE's San Francisco District also participates in two multi-agency programs, the Bay Area Ecosystems Climate Change Consortium and the Baylands Ecosystem Habitat Goals Update that seek to develop consensus on climate-change-ready Civil Works activities. These programs present the opportunity to reduce the time and cost of environmental compliance for USACE projects and other projects that require USACE regulatory permissions.

A Silver Jackets pilot project in Tulsa District is demonstrating a collaborative process and introducing innovative GIS technology (SimSuite) to help local governments with risk management of aging levee infrastructure in Tulsa County, Oklahoma.

A 2011 USACE, NOAA and USGS MOU identifies a need for "new and more integrated information and services to adapt to uncertainty, climate and land-use changes, and increasing demand on limited resources." In support of that MOU, USACE's Tulsa District leveraged climate information from DOI and NOAA, and the expertise of a USACE visiting scholar from the Netherlands' to complete a pilot climate change impact assessment in the Lake Oologah watershed and to identify potential next steps to apply project concepts to portfolio asset management of USACE reservoirs with water supply storage.

Detroit District engages other state and federal agency experts on proposed USACE actions for issues such as T&E species, sediment transport, or timing of USACE maintenance or constructions projects.

**8. Comments and Suggestions re: Reporting:** 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.

USACE encountered few difficulties in collecting the information for this data call. The greatest challenge is ensuring that the information collected actually represents all the ECCR-related activities that are occurring in the agency. Many respondents provided minimal responses that likely do not characterize the extent of their involvement in facilitated processes, or the extent of the solicitation and consideration of input from agencies and the public they employed in FY 2013 to minimize and resolve potential conflicts. Districts report that the minimal responses reflect the fact that staff time at districts is significantly constrained under current budget constraints. When there is a direct value added to the District staff it is easier for their management to prioritize time to complete surveys such as this. CPCX will consider how the survey may provide a "value added" to the District as well as meet requirements for OMB-CEQ reporting.

The new format of the report this year was received both positively and negatively. Some Divisions reported that this new format is an improvement and meaningful. Others requested a revised format as the new questions were less clear. For example, it is difficult to understand what is meant by benefits and costs as these terms are used in a different context for USACE planning studies. Also, Questions 1 and 2 now request similar information, with Question 1 asking for efforts to “invest in support, programs, or trainings” that is similarly requested in Question 2.

Each year, CPCX asks USACE what type of conflict resolution and public participation support the Center should provide in the following FY. This year, responders expressed interest in the following types of assistance:

- Public involvement/communication planning,
- Vertical integration support,
- Situation assessments,
- Workshop design,
- Consultation via phone,
- Assistance with charettes, and
- Evaluation of collaborative effort effectiveness.

Divisions and Districts also nominated a number of people to participate in the new Environmental Conflict Resolution Certification program and developmental assignments to CPCX.

Divisions and Districts requested the following on-site trainings:

- Public Involvement & Team Building in Planning,
- Shared Vision Planning,
- Collaborative Leadership,
- Facilitation, and
- Risk Communication.

CPCX also received suggestions for people to add to the USACE Facilitator Database, and there were requests for several webinars including:

- Interactive techniques used for virtual facilitation,
- SMART Planning for non-federal sponsors and local resource agency staff,
- Flood risk management communication,
- Strategic engagement with resource and other agency stakeholders, and
- Examples of Sim-Suite applications for local governments.

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