

Environmental Collaboration and Conflict Resolution

Tenth Annual Report

April 2016

DRAFT



U.S. Department of Energy

EXECUTIVE SUMMARY

The September 7, 2012 Memorandum on Environmental Collaboration and Conflict Resolution (ECCR Memorandum) issued by the Office of Management and Budget (OMB) and the Council on Environmental Quality (CEQ) supersedes an OMB/CEQ joint memorandum issued in November 28, 2005, on Environmental Conflict Resolution and broadens the efforts called for under the 2005 memorandum by explicitly encouraging appropriate and effective upfront environmental collaboration to minimize or prevent conflict. The ECCR Memorandum defines ECCR as “third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or conflicts.”

Recognizing the role of collaboration in conflict resolution and its history of collaborative approaches, both with and without third-party neutrals, to prevent or resolve environmental conflicts, the Department of Energy (Department or DOE) defines ECCR more expansively than the ECCR Memorandum. The Department defines ECCR as the use of any collaborative process to prevent or resolve environmental conflicts, whether or not the process involves the use of third-party neutrals. This definition is consistent with the spirit of the ECCR Memorandum which stated the following.

The challenge of implementing Federal policies and programs can often be met with collaborative, constructive, and timely approaches to identify and address affected interests, consider alternatives, and reach solutions before different positions or opinions result in conflict. Collaborative efforts involving the public and policy and program coordination within and across multiple levels of government are important for addressing these challenges.

Thus, this annual report, prepared pursuant to section 4(g) of the ECCR Memorandum, presents information on the Department’s use of third-parties and other collaborative problem solving approaches in the reporting year.

In Fiscal Year 2015, 24 DOE sites and program offices as well as the Department of Justice reported a total of 31 ECCR cases. Four of these cases involved third-party assistance; most of them are in progress. Of the 27 ECCR cases that did not involve third parties, 9 were reported as completed.

I. INTRODUCTION

A. Background

On September 7, 2012, the Chairman of the Council on Environmental Quality (CEQ) and the Director of the Office of Management and Budget (OMB) issued the Memorandum on Environmental Collaboration and Conflict Resolution (ECCR Memorandum). Section 2 of the ECCR Memorandum defines ECCR as “third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or conflicts.”

Due to its long history of using a variety of collaborative problem solving methods the Department of Energy (Department or DOE) defines ECCR more broadly as the use of any collaborative process to prevent or resolve environmental conflicts, including, but not limited to, those processes involving the use of third-party neutrals.

However, to assure comparability of its data with the CEQ/OMB definition of ECCR, the Department tracks those ECCR cases in which third-party assistance was used, and those in which third-party assistance was not used. This report, required by section 4(g) of the ECCR Memorandum, presents ECCR case data in both categories and describes third-party and non-third-party dispute resolution processes used by the Department in Fiscal Year 2015 (FY 2015).

B. Report Methodology

To provide guidance to Federal agencies implementing the ECCR Memorandum, a staff-level interagency ECCR Steering Committee consisting of representatives from various agencies was formed. This committee, with assistance from the U.S. Institute for Environmental Conflict Resolution, developed a survey template for agency use for this annual report. The Department modified the template to accommodate gathering the data necessary to report separately those DOE cases that used third-party assistance and those that did not. The DOE-modified template is provided as Attachment A.

The DOE template was distributed to points of contact from various programs and site offices throughout the DOE complex. This report contains the information supplied by 21 respondents.

II. ECCR CAPACITY BUILDING PROGRESS MADE IN FY 2015

The DOE sites and program offices maintain and enhance their awareness of ECCR methods and opportunities through monthly environmental attorneys' conference calls and the annual joint DOE/DOE contractor environmental attorneys training. On average, 15 participants join the monthly calls and approximately 60 site and program office representatives participated in the annual training conducted on May 27, 2015.

For example, Sandia National Laboratories/New Mexico reported that although it maintains a strong collaborative relationship with its regulators and has not needed the services of a third-party neutral, it recognizes the potential for that need. Accordingly, the laboratory maintains contact with ECCR resources through the DOE monthly environmental attorneys' conference calls and the annual training to keep up-to-date on agency-wide capacity for the provision and availability of third-party neutrals.

The Energy Efficiency and Renewable Energy program office supported staff attendance at several ECCR trainings during the year. The office indicated this support was provided to build “expert knowledge, skills, and capacity by strengthening intellectual and technical expertise” in ECCR.

III. INVESTMENTS IN AND BENEFITS OF ECCR

The West Valley Demonstration Project (WVDP) in New York credits the use of a third-party neutral and effective use of ECCR techniques in its multi-year work with the New York State Energy Research and Development Authority (NYSERDA) with allowing the parties to overcome 30 years of entrenched disagreement and conflict over the decontamination and disposition of the WVDP. As a consequence, the project is on course to reach mutual and final decisions on the ultimate disposition of the site in 2020. One of the ECCR techniques used by WVDP and NYSERDA is using the services of a professional facilitator to moderate all public meetings to ensure transparency with stakeholders. Such use is part of the comprehensive public participation plan associated with site decision making.

The use of a third-party neutral is supported by WVDP and NYSERDA through a 50-50 cost sharing arrangement. The parties entered the agreement anticipating an outcome that would avoid lengthy and expensive litigation between DOE and the State of New York on the final disposition of the remaining WVDP facilities. An additional benefit of the agreement is that the use of the third-party neutral and the ECCR processes are keeping the entire decision making process on track and helping to avoid any work stoppages due to interagency disagreements.

IV. ECCR CASES IN FY 2015

Respondents reported five ECCR cases in which third parties were involved and 27 ECCR cases in which they were not. Most of the cases involving third parties are in progress. Of the cases not involving a third party, the bulk of them is in progress and in the planning area. Attachment B contains tables depicting the ECCR survey results.

V. ECCR CASE EXAMPLE USING A THIRD-PARTY

The Department participates in monthly meetings of the Los Alamos Natural Resources Trustee Council. Representatives from DOE, the State of New Mexico, several Pueblos proximate to Los Alamos National Laboratory, and the U.S. Department of Agriculture Forest Service serve on the Council. In its role as one of the two co-lead trustees the Department contracts for a facilitator who assists with the discussions of various parties during the monthly council meetings.

Another example of an ECCR case that involved a third-party is when ABB, Inc. sued the United States for cost recovery concerning the cleanup of a contaminated waste site in Windsor, Connecticut. This matter dragged on for several years, and earlier negotiations to avoid litigation were unsuccessful. At DOE's suggestion, and the suggestion of others, the Department of Justice (DOJ) selected a mediator to help resolve the dispute, with DOJ and ABB sharing the financial costs and DOE contributing staff time.

DOE's ECCR point of contact, in conjunction with the DOE-suggested mediator, were able to talk with both sides, highlighting the desirability of avoiding further litigation and litigation risk, in order to help them push past positioning and rhetoric to achieve a successful agreement. The matter was resolved sooner than would have occurred if ECCR was not used, and the ECCR process saved time and money while restoring good stakeholder relationships. Such a result would not have been possible without ECCR and DOE's assistance in the process.

VI. ECCR CASE EXAMPLE WITHOUT A THIRD-PARTY

Environmental conflict avoidance and resolution continued in FY 2015 to be a key element in the Department of Energy Richland Operations Office (RL) management of its interface with external environmental regulatory agencies and stakeholder groups. RL places a high priority on working collaboratively to avoid conflict and minimize the number of conflicts that need to be resolved through a more formal environmental conflict resolution process. The Hanford Federal Facility Agreement and Consent Order, or Tri-Party Agreement (TPA), is the primary vehicle for this collaborative work. The TPA is an agreement for achieving compliance with the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) remedial action provisions and with the Resource Conservation and Recovery Act (RCRA) treatment, storage, and disposal unit regulations and corrective action provisions. More specifically, the TPA defines and ranks CERCLA and RCRA cleanup commitments, establishes responsibilities, provides a basis for budgeting, reflects a concerted and aggressive goal of achieving full regulatory compliance and remediation, and contains enforceable milestones

Recognizing the potential for conflicts among the parties the TPA authors developed specific provisions for addressing disputes in a defined, structured manner with attached time constraints in order to effectively drive decisions and avoid unnecessary delay. When disputes arise under the TPA, RL senior management and environmental legal counsel strongly encourage project teams to collaboratively negotiate resolutions. Facilitators or mediators may be used, as appropriate. In FY2015, RL was involved with only one official environmental dispute under the TPA; most issues are resolved informally and never rise to the dispute level. Instead, they are resolved collaboratively through monthly project manager meetings, quarterly milestone review meetings, and other meetings as necessary to address issues.

Another example of an ECCR case without a third party follow. As reported by the Department of Justice in its Environment and Natural Resources Division Report:

As part of the Justice Department's increased focus on environmental and health concerns in Indian Country, a...team of attorneys from the Environmental Defense and Environmental/Environment Sections, in partnership with the Environmental Protection Agency, the Department of the Interior, and the Department of Energy, worked diligently with their Navajo counterparts to reach an important settlement announced on May 1, 2015. This settlement resolves the claims of the Navajo Nation pertaining to costs of evaluations at 16 priority mines for which no viable responsible private party has been identified. The United States placed \$13.2 million into an environmental response trust to fund the

evaluations. As such, the settlement agreement puts these mines, many near Navajo communities, on the path to cleanup (ENRD 2015).

VII. OTHER NOTABLE ECCR CASES WITH AND WITHOUT THIRD-PARTY USE

The Department's Office of Science relied on ECCR tools and principles in working with stakeholders during the development of the National Environmental Policy Act (NEPA) Environmental Assessment for the Long-Baseline Neutrino Facility/Deep Underground Neutrino Experiment (LBNF/DUNE). The LBNF/DUNE project involved the Fermilab site in Illinois and the Sanford Lab in South Dakota. Stakeholders included 19 American Indian Tribes, several State Historic Preservation Officers, multiple regulators, and the public. With the use of ECCR tools, litigation has been avoided to date.

Southwestern Power Administration staff consulted with DOE headquarters personnel to incorporate ECCR techniques on NEPA and other environmental processes related to the proposed Plains & Eastern Clean Line Transmission project. The project involves building an approximately 700-mile direct current transmission line that will deliver wind energy from the Oklahoma Panhandle region to utilities and customers in the mid-south and southeastern United States. The extent of the proposed project involved many stakeholders.

When renewing the site-wide RCRA Hazardous Waste Permit for Sandia National Laboratories/New Mexico, which had been pending with the regulator for more than ten years, personnel used ECCR techniques to negotiate its terms and conditions first with stakeholders, then with the regulator prior to the required adjudicatory hearing. While negotiations did not result in 100 percent agreement, they did result in narrowing the issues significantly to the point where there were only three issues in contention with the regulator at the time of the formal hearing. The collaborative negotiations reduced the time needed for the formal adjudicatory process.

VII. PRIORITY USES OF ECCR

The Department's sites and program offices used third-party and non-third party ECCR collaboration with regulators and stakeholders in the following areas in FY 2015:

- Site remediation, decontamination, and decommissioning under CERCLA and RCRA,
- Site-wide RCRA permits,
- Siting transmission lines and research facilities in compliance with NEPA, and
- Natural resource protection.

VIII. COMMENTS AND SUGGESTIONS REGARDING REPORTING

No comments or suggestions were submitted.

Attachment A

Modified Department of Energy ECCR Survey



FY 2015 Environmental Collaboration and Conflict Resolution (ECCR)¹ Policy Report to OMB-CEQ

On September 7, 2012, the Director of the Office of Management and Budget (OMB), and the Chairman of the President's Council on Environmental Quality (CEQ) issued a revised policy memorandum on environmental collaboration and conflict resolution (ECCR). This joint memo builds on, reinforces, and replaces the memo on ECR issued in 2005.

The memorandum requires annual reporting by departments and agencies to OMB and CEQ on progress made each year in implementing the ECCR policy direction to increase the effective use and institutional capacity for ECCR.

ECCR is defined in Section 2 of the 2012 memorandum as:

... third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or conflict including matters related to energy, transportation, and water and land management.

The term Environmental Collaboration and Conflict Resolution encompasses a range of assisted collaboration, negotiation, and facilitated dialogue processes and applications. These processes directly engage affected interests and Federal department and agency decision makers in collaborative problem solving and conflict resolution.

Multi-issue, multi-party environmental disputes or controversies often take place in high conflict and low trust settings, where the assistance of impartial facilitators or mediators can be instrumental to reaching agreement and resolution. Such disputes range broadly from policy and regulatory disputes to administrative adjudicatory disputes, civil judicial disputes, intra- and interagency disputes, and disputes with non-Federal persons and entities.

Environmental Collaboration and Conflict Resolution can be applied during policy development or planning in the context of a rulemaking, administrative decision making, enforcement, or litigation with appropriate attention to the particular requirements of those processes. These contexts typically involve situations where a Federal department or agency has ultimate responsibility for decision making and there may be disagreement or conflict among Federal, Tribal, State and local governments and agencies, public interest organizations, citizens groups, and business and industry groups.

Although Environmental Collaboration and Conflict Resolution refers specifically to collaborative and conflict resolution processes aided by third-party neutrals, there is a broad array of partnerships, cooperative arrangements, and unassisted negotiations that Federal agencies may pursue with non-Federal entities to plan, manage, and implement department and agency programs and activities. The Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving are presented in Attachment B. The Basic Principles provide guidance that applies to both Environmental Collaboration and Conflict Resolution and unassisted collaborative problem solving and conflict resolution. This policy recognizes the importance and value of the appropriate use of all forms collaborative problem solving and conflict resolution."

This annual report format below is provided for the seventh year of reporting in accordance with the memo for activities in FY 2015.

We understand that collecting this information may be challenging; however, the departments and agencies are requested to collect this data to the best of their abilities. The 2015 report, along with previous reports, will establish a useful baseline for your department or agency, and collect some information that can be aggregated across agencies. Departments should submit a single report that includes ECCR information from the agencies and other entities within the department. The information in your report will become part of an analysis of all FY 2015 ECCR reports. You may be contacted for the purpose of clarifying information in your report. For your reference, prior year synthesis reports are available at <http://www.ecr.gov/Resources/FederalECRPolicy/AnnualECRReport.aspx>.

Site/Program name:

Name and Title/Position of person responding:

Office of person responding:

E-mail address:

Phone number:

Date report is being submitted:

¹ The term 'ECCR' includes third-party neutral assistance in environmental collaboration and environmental conflict resolution

1: ECCR Capacity Building Progress:

1. Describe steps taken by your site/program to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2015, including progress made since FY 2014. 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.] ECCR matters not involving a third-party neutral should be reported under question 8.

2: ECCR Investments and Benefits

- a. Please describe any methods your site/program uses to identify the (a) investments made in ECCR, and (b) benefits realized when using ECCR.

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. ECCR matters not involving a third-party neutral should be reported under question 8.

- b. Please report any (a) quantitative or qualitative investments your site/program captured during FY 2015; and (b) quantitative or qualitative results (benefits) you have captured during FY 2015. ECCR matters not involving a third-party neutral should be reported under question 8.

- c. What difficulties have you encountered in generating cost and benefit information and how do you plan to address them? ECCR matters not involving a third-party neutral should be reported under question 8.

3: ECCR Use

3A. Describe the level of ECCR use within your site/program in FY 2015 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.

Context for ECCR Applications	TOTAL FY 2015 ECCR CASES ²	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or Projects		Interagency ECCR Cases and Projects	
		Federal agency decision	Administrative proceedings/appeals	Judicial proceedings	Other (specify)	Completed ³	Sponsored ⁴	Federal only	Including non federal participants
Policy development									
Planning									
Siting and construction									
Rulemaking									
License and permit issuance									
Compliance and enforcement action									
Implementation/monitoring agreements									
Other (specify):									
TOTAL									
		(the sum of the Decision Making Forums should equal Total FY 2015 ECR Cases)							

² An “ECCR case” is a case in which a third-party neutral was active in a particular matter during FY 2015.

³ A “completed case” means that neutral third party involvement in a particular ECCR case ended during FY 2015. 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.

⁴ 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 2015 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2015 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 2015 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

3B. DOE's internal policy with respect to Alternative Dispute Resolution at 74 Fed. Reg. 63458 (Oct. 24, 2008) defines environmental conflict more broadly than OMB/CEQ. DOE's internal definition of ECCR would include all types of collaborative problem solving processes used to **prevent or resolve** environmental conflict, **regardless of whether a third party** is used in these processes. Please complete the table below for all cases or projects **NOT** reported in Table 3A which are within the DOE definition of ECCR.

Context for ECCR Applications	TOTAL FY 2015 ECR CASES ⁵	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or Projects		Interagency ECCR Cases and Projects	
		Federal agency decision	Administrative proceedings/appeals	Judicial proceedings	Other (specify)	Completed ⁶	Sponsored ⁷	Federal only	Including non federal participants
Policy development									
Planning									
Siting and construction									
Rulemaking									
License and permit issuance									
Compliance and enforcement action									
Implementation/monitoring agreements									
Other (specify):									
TOTAL									
		(the sum of the Decision Making Forums should equal Total FY 2015 ECR Cases)							

⁵ An "ECCR case" for purposes of this table is a case in which a collaborative problem solving process was active in a particular matter during FY 2015.

⁶ A "completed case" means that collaborative problem solving in a particular ECCR case ended during FY 2015. The end of the collaborative problem solving process 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.

⁷ Sponsored - to be a sponsor of an ECCR case means that an agency is contributing financial or in-kind resources to support the collaborative problem solving process for that case. More than one sponsor is possible for a given ECCR case.

Note: If you subtract completed ECCR cases from Total FY 2015 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2015 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 2015 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

4A: ECCR Case Example: Third-Party Neutral

Using the template below, provide a description of an ECCR case in which a third-party neutral was used (preferably completed in FY 2015). Please limit the length to no more than 2 pages.

Name/Identification of Problem/Conflict
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
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
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
Reflections on the lessons learned from the use of ECCR

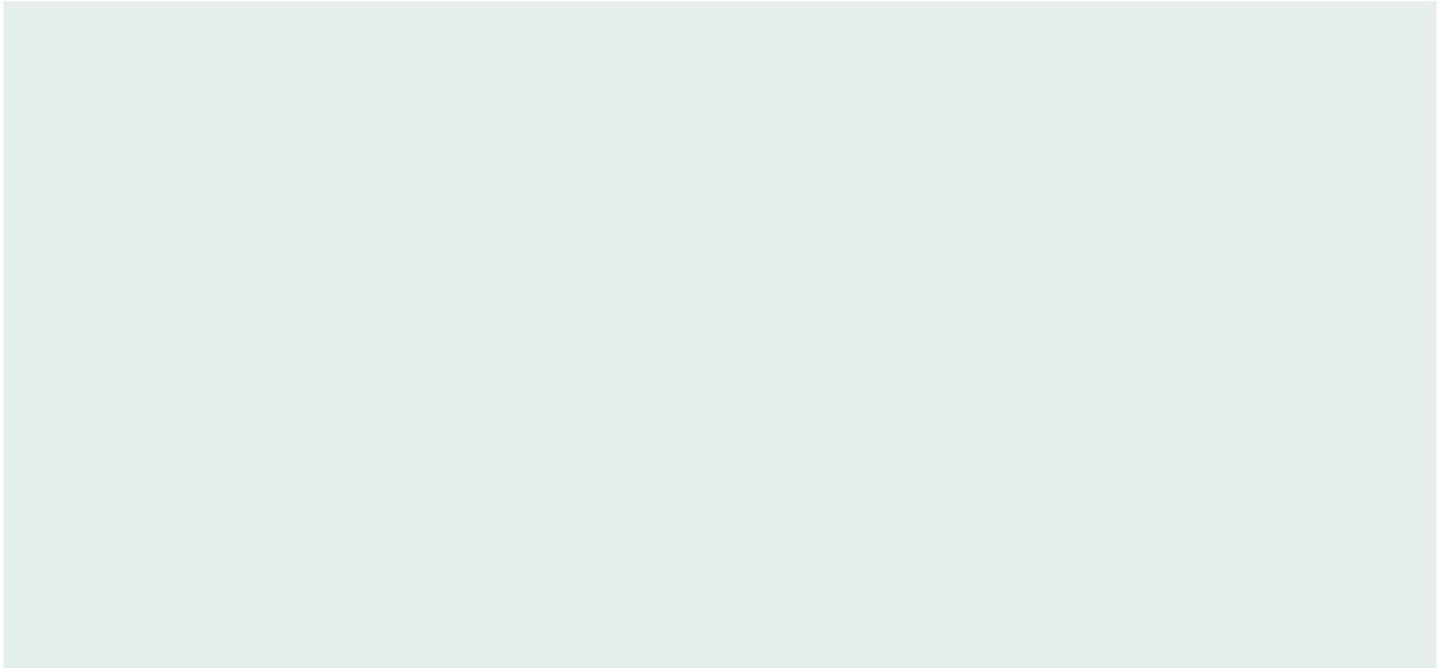
4B: ECCR Case Example: Collaborative Problem Solving

Using the template below, provide a description of an ECCR case in which collaborative problem solving was used (preferably completed in FY 2015). Please limit the length to no more than 2 pages.

Name/Identification of Problem/Conflict
Overview of problem/conflict and timeline, including reference to the nature and timing of the collaborative problem solving process, and how the ECCR effort was funded
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
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
Reflections on the lessons learned from the use of ECCR

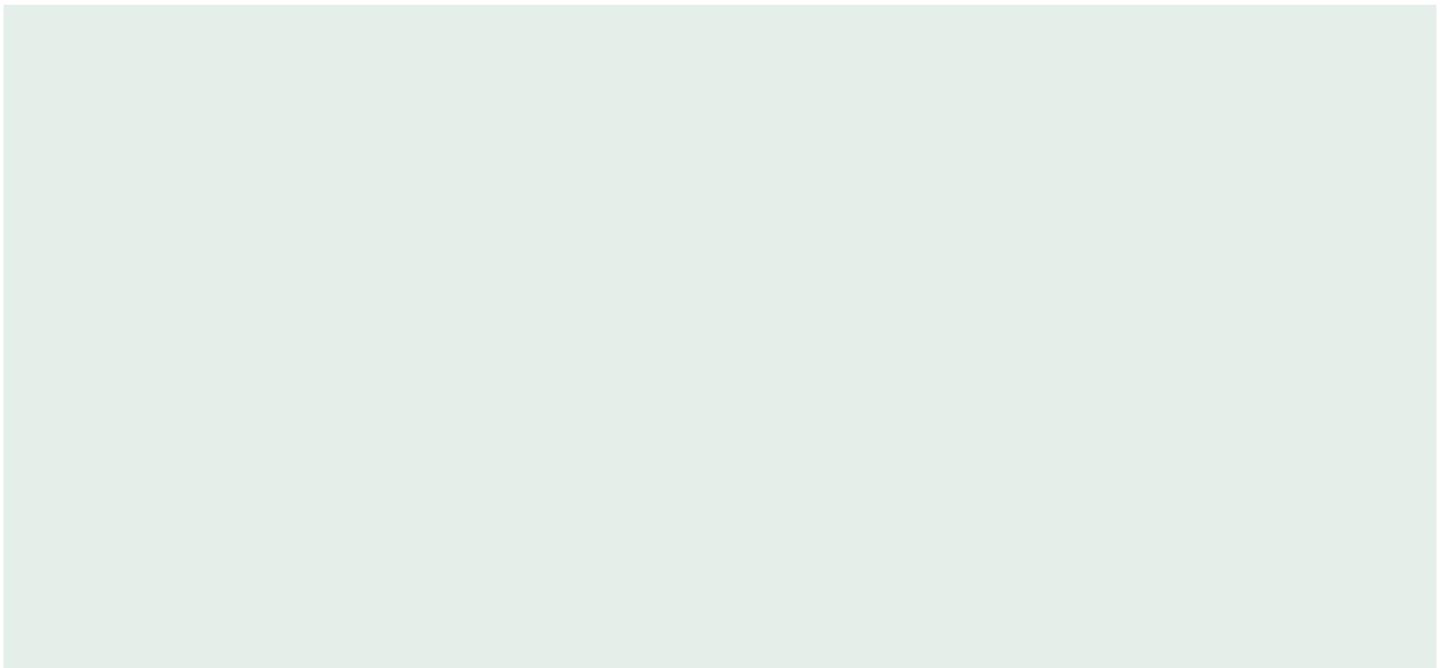
5A: Other ECCR Notable Cases: Third-Party Neutral

Briefly describe any other notable ECCR cases in which a third-party neutral was used in the past fiscal year. (Optional)



5B: Other ECCR Notable Cases: Collaborative Problem Solving

Briefly describe any other notable ECCR cases in which collaborative problem solving was used in the past fiscal year. (Optional)



6: Priority Uses of ECCR

Please describe your efforts to address priority or emerging areas of conflict and cross-cutting challenges either individually or in coordination with other sites/programs. 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. ECCR matters not involving a third-party neutral should be reported under question 8.

7: 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.

8: With respect to questions 1, 2, and 6 above, do you have anything to add regarding collaborative problem solving processes within DOE's definition of ECCR described in question 3B that did not involve the use of a third-party?

Support from the Office of Conflict Prevention and Resolution

9: Did you know that there was a DOE Office of Conflict Prevention and Resolution to provide you assistance?
 No Yes If yes, how did you learn about the office?

10: Have you had the opportunity to receive support from or use resources provided by the Office of Conflict Prevention and Resolution? If so, please describe. No Yes

11: What specific support can the Office of Conflict Prevention and Resolution provide for you during the coming year?

Please attach any additional information as warranted.

Report due November 16, 2015.

Submit report electronically to: Beverly.Whitehead@hq.doe.gov

Questions: Please call Beverly Whitehead (202) 586-6073 or Steve Miller (202) 586-2925

Attachment A. Basic Principles for Department of Energy Engagement in Environmental Conflict Resolution and Collaborative Problem Solving

Department and/or contractor personnel should:

Informed Commitment	Confirm willingness and availability of appropriate agency leadership and staff at all levels to commit to principles of engagement, and ensure commitment to participate in good faith with open mindset to new perspectives.
Balanced, Voluntary Representation	Ensure balanced inclusion of affected/concerned interests; all parties should be willing and able to participate and select their own representatives.
Group Autonomy	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.
Informed Process	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.
Accountability	Participate in the process directly, fully, and in good faith; be accountable to all participants, as well as agency representatives and the public.
Openness	Ensure all participants and, as appropriate, the 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.
Timeliness	Ensure timely decisions and outcomes.
Implementation	Ensure that decisions are implementable consistent with federal law and policy; commit to identify roles and responsibilities necessary to implement agreement; agree in advance on the consequences of a party being unable to provide necessary resources or to implement agreement; and take steps to obtain resources necessary

**Attachment B
Department of Energy ECCR Cases With and Without the Use of a Third-Party**

Table 1: ECCR with a Third Party

	Total FY 2015 ECCR Cases	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or projects completed	ECCR Cases or Projects sponsored	Interagency ECCR Cases and Projects	
		Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other			Federal only	Including non-federal participants
<i>Context for ECCR Applications:</i>									
Policy development									
Planning	1 WVDP 1 Hanford	1 WVDP			1 Hanford		1 WVDP		1 WVDP 1 Hanford
Siting and construction									
Rulemaking									
License and permit issuance									
Compliance and enforcement action	1 ABB			1 ABB		1 ABB			1 ABB
Implementation/monitoring agreements									
Other (specify): Natural Resources Damage Assessment	1 LANL				1 LANL		1 LANL		1 LANL
TOTAL	4	1		1	2	1	2		4

Table 2: ECCR Without a Third Party

	Total FY 2015 ECCR Cases	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or projects completed	ECCR Cases or Projects sponsored	Interagency ECCR Cases and Projects	
		Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other			Federal only	Including non-federal participants
<i>Context for ECCR Applications:</i>									
Policy development	1 San	1 San				1 San			1 San
Planning	1 SCI 1 SWPA 11 RL	1 SWPA 11 RL 1 SCI				1 SCI		5 RL	1 SCI 6 RL 1 SWPA
Siting and construction	1 IDA	1 IDA				1 IDA			1 IDA
Rulemaking									
License and permit issuance	1 SCI 2 San	1 SCI	2 San			1 San	1 SCI		1 SCI 2 San
Compliance and enforcement action	1 San 3 RL 1 IDA	2 RL	1 IDA	1 RL	1 San	1 IDA		2 RL	1 San 1 RL 1 IDA
Implementation/monitoring agreements	1 SCI 1 San 1 IDA 1 Navajo	1 SCI	1 Navajo	1 San	1 IDA	1 SCI 1 San 1 Navajo 1 IDA			1 SCI 1 San 1 Navajo 1 IDA
Total	27	19	4	2	2	9	1	7	20

RL = Richland

SCI = Office of Science

IDA = Idaho

San = Sandia

SWPA = South Western Power Administration