

# Environmental Collaboration and Conflict Resolution

Eleventh Annual Report

March 2017

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 on November 28, 2005, regarding 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 the Department of Energy’s (Department or DOE) history of collaborative approaches, both with and without third-party neutrals, to prevent or resolve environmental conflicts, 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 2016, 29 DOE sites and program offices completed the ECCR survey template. Six of the 89 reported ECCR cases involved third-party assistance; four are in progress. Of the 83 ECCR cases that did not involve third parties, four 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 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 2016 (FY 2016).

## **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 DOE. This report contains the information supplied by 29 respondents.

## **II. ECCR CAPACITY BUILDING PROGRESS MADE IN FY 2016**

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 and DOE contractor environmental attorneys' training. On average, 15 participants join the monthly calls and 131 site and program office representatives participated in the annual training conducted on July 20, 2016.

An example of continuing to build ECCR capacity is the approach that the Richland Operations Office (RL) uses to administer the Hanford Federal Facility Agreement and Consent Order, more commonly referred to as the Tri-Party Agreement (TPA). The TPA is an agreement among DOE, the U.S. Environmental Protection Agency (EPA), and the State of Washington Department of Ecology 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 at the Hanford Site. When disputes arise under the TPA, RL project managers develop negotiation strategies that incorporate ECCR principles. RL Senior Management and environmental legal counsel strongly encourage projects to use collaborative negotiations for environmental conflict resolutions. Collaborative negotiation was used in FY 2016 to resolve each issue, including the use of facilitators or mediators, as appropriate.

In addition to continued staff participation in DOE-sponsored training and conference calls, the Sandia National Laboratories/New Mexico Legal Management Plan considers ECCR in every resolution of an environmental conflict.

ECCR is a central component of the Office of Environmental Management's (EM) engagement with counterpart trustees on issues relating to Natural Resource Damages. EM is currently involved in three formal trustee councils (Hanford, Los Alamos, and Oak Ridge). And together with the Office of Legacy Management, EM is also engaged in preliminary discussions with state and federal trustees on NRD matters at Weldon Spring.

### **III. INVESTMENTS IN AND BENEFITS OF ECCR**

The benefits of integrating ECCR into DOE site and program office projects include expanded and clearer communication that leads to smoother relationships with regulators and the public.

For example, costly and time-consuming litigation, as well as potential strain in rapport with South Carolina regulators, was avoided through a year-long period of negotiations between DOE and the South Carolina Department of Health and Environmental Control (SCDHEC). SCDHEC and DOE Savannah River each established a negotiating team that met frequently to identify the technical scope and terms/conditions of an agreement. Because the parties shared the goal of avoiding litigation and enabling the program in question to continue, the program could continue uninterrupted.

The DOE and SCDHEC teams reached a Dispute Resolution Agreement that set reasonably achievable goals. In addition, DOE's concern of unforeseeable circumstances was managed by agreeing to broader than typical, sweeping force majeure provisions. This collaborative problem solving endeavor benefited from improved communication through the sharing of detailed technical, explanatory information.

In another example, the Pantex Plant in Texas, the primary United States nuclear weapons assembly, dismantlement and maintenance facility, attributes the smooth execution of its programs in FY 2016 to the Core Team process. In that process, Pantex used a third party to facilitate environmental cleanup decision-making through Core Team meetings with the Texas Commission on Environmental Quality and EPA Region 6. The parties characterized their working relationships as respectful and trustworthy.

On behalf of the Hanford NRD Trustee Council, DOE contracted a facilitator to assist planning and decision-making among trustees and resolve or prevent any environmental conflicts.

On behalf of the Los Alamos NRD Trustee Council, DOE contracted an NRD consulting firm. Under the guidance of the trustee council, the firm is performing the NRD injury assessment for all trustees acting as a third-party facilitator to resolve differences amongst the trustees. With the hiring of an NRD contractor, the injury assessment is moving forward towards completion.

At the November 2015 State and Tribal Government Working Group meeting in New Orleans, DOE arranged for the Department of Interior (DOI) to deliver a one-day training on NRD for senior tribal, state, and federal decision-makers. It is anticipated that DOE will reach out to DOI to deliver a second NRD training in 2017 or 2018. The use of this third-party trainer helps to assure that all participants have compatible understandings when it comes to natural resource damage issues, thus reducing the possibility of environmental conflicts arising.

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.

Using 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 2016**

Respondents reported six ECCR cases in which third parties were involved and 83 ECCR cases in which they were not. Four of the cases involving third parties are in progress, are sponsored, and include non-federal participants. Of the cases not involving a third party, the bulk of them are in the planning area, are in progress, and include non-federal participants. Attachment B contains tables depicting the ECCR survey results.

#### **V. ECCR CASE EXAMPLE USING A THIRD PARTY**

DOE worked with EPA, the Department of the Interior, the Department of Justice, the Navajo Nation, and Freeport-McMoRan, utilizing a third-party mediator to reach a settlement in excess of \$600 million. Third-party mediation helped the parties schedule dates, work out regular meetings to discuss settlement, and most importantly, facilitate discussions to find common ground. In reaching common ground, the United States and Freeport agreed to share the costs to clean up over 200 abandoned uranium mines. The agencies will place \$335 million into a trust while Freeport McMoRan provides the remaining funds. Third-party mediation helped bridge the communication gap between the parties and helped avoid costly litigation while also achieving an outcome agreeable to all parties.

## **VI. ECCR CASE EXAMPLE WITHOUT A THIRD PARTY**

For the Plains and Eastern Transmission Project, the DOE Field Element, based in Oklahoma, implemented public outreach and collaboration processes associated with the NEPA Environmental Impact Statement scoping processes. For the drafting of the Section 106 Programmatic Agreement pursuant to the National Historic Preservation Act, DOE utilized a collaborative outreach effort with all affected agencies and Native American governments in a series of face-to-face meetings and conference calls. Personnel from the Advisory Council on Historic Preservation and the DOE Office of Tribal and Intergovernmental Affairs participated in stakeholder meetings to address particular areas of conflict during the collaborative drafting process of the Programmatic Agreement. The parties used many ECCR techniques in developing the Programmatic Agreement.

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

Personnel at DOE's Oak Ridge Reservation, EPA, and the State of Tennessee continue to progress in resolving the dispute with the siting, design, and construction of a new on-site CERCLA disposal facility that is acceptable to all Federal Facility Agreement (FFA) parties. An objective of the FFA project team is to resolve differences between the agencies at the lowest working level practicable. Incorporating numerous ECCR principles in its discussions, the team identified several key issues that required management level input and resolution before moving forward. DOE hired a third-party neutral facilitator to lead discussions in an informal dispute setting and focus on those key issues. The facilitator, using clear communication techniques and attempting to rebuild trust amongst the parties, helped to get all sides to see where they agreed, where they disagreed, and various options to overcome those disagreements. While the issue is still ongoing, using ECCR principles by the third-party facilitator clearly advanced the understanding between the FFA parties, brought about several pointed attempts to resolve the dispute, and allowed the project to move forward. Using a third-party facilitator allowed the parties to simply listen to each other, and through more effective listening, offer unique solutions that otherwise would likely have not arisen.

The Los Alamos National Laboratory Natural Resource Damages Assessment Trustee Council (Council) consists of representatives from the State of New Mexico, several nearby Pueblos, and the U. S. Forest Service. DOE is one of the two co-lead Trustees (along with the State of New Mexico) and, in that role, contracts for a third-party facilitator to assist with the important discussions amongst Trustees during the meetings. The Council is an extremely important organization where candid discussion on the sensitive issue of potential damages to local natural resources is necessary and encouraged. The facilitator assists the Trustees to engage in discussions during the monthly Council meeting to timely resolve important issues and relevant studies.

The Department's Southwestern Power Administration consults and collaborates with state agencies and tribes on transmission maintenance-related cultural resource preservation issues in Oklahoma, Missouri, and Arkansas. In FY 2016 Southwestern reached agreement with the relevant state agencies on a draft Cultural Resources Programmatic Agreement covering

Southwestern transmission maintenance activities. Several federally recognized tribes have requested to be concurring parties and others have requested to remain informed. Southwestern plans to engage a third-party neutral in FY 2017 to facilitate review with the tribes prior to finalizing the Programmatic Agreement.

Personnel at the DOE Carlsbad Field Office in New Mexico were able to recover from two incidents at the Waste Isolation Pilot Project (WIPP) transuranic waste disposal site and resume operations as a result of on-going and real-time communications with stakeholders. In 2014, a salt-haul truck fire occurred in the underground disposal area and an exothermic reaction in a drum containing contaminated media contaminated part of the underground area. Via Town Hall meetings that were webcast, the Carlsbad Field Office staff initiated and continued communication updates with stakeholders regarding recovery activities and the milestones accomplished towards resuming WIPP waste operations. Stakeholders were encouraged to submit questions via the internet so that Town Hall presenters could respond real-time to their concerns and collaborate on possible next steps. The open and transparent Town Hall communications between DOE, the DOE WIPP contractor, and stakeholders over the past year helped foster a better working relationship with stakeholders and rebuild trust with the general public.

## **VIII. PRIORITY USES OF ECCR**

The Department's sites and program offices used third party and ECCR collaboration with regulators and stakeholders without a third party in at least the following areas in FY 2016:

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

## **IX. COMMENTS AND SUGGESTIONS REGARDING REPORTING**

No comments or suggestions were submitted regarding the ECCR reporting process.

## Attachment A

### Modified Department of Energy ECCR Survey



## FY 2016 Environmental Collaboration and Conflict Resolution (ECCR)<sup>1</sup> 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 conflicts, 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 eighth year of reporting in accordance with the memo for activities in FY 2016. 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 2016 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 2016 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:

<sup>1</sup> 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 2016, including progress made since FY 2015. 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.

**Please type your response in the box below.**



## 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 2016; and (b) quantitative or qualitative results (benefits) you have captured during FY 2016. 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 2016 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 2016 ECCR CASES <sup>2</sup>	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 <sup>3</sup>	Sponsored <sup>4</sup>	Federal only	Including non federal participants
Policy development	0								
Planning	0								
Siting and construction	0								
Rulemaking	0								
License and permit issuance	0								
Compliance and enforcement action	0								
Implementation/monitoring agreements	0								
Other (specify):	0								
<b>TOTAL</b>	0	0	0	0	0	0	0	0	0
		(the sum of the Decision Making Forums should equal Total FY 2016 ECCR Cases)							

<sup>2</sup> An “ECCR case” is a case in which a third-party neutral was active in a particular matter during FY 2016.

<sup>3</sup> A “completed case” means that neutral third party involvement in a particular ECCR case ended during FY 2016. 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>4</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 2016 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2016 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 2016 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

### 3: ECCR Use

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 2016 ECR CASES <sup>5</sup>	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 <sup>6</sup>	Sponsored <sup>7</sup>	Federal only	Including non federal participants
Policy development	0								
Planning	0								
Siting and construction	0								
Rulemaking	0								
License and permit issuance	0								
Compliance and enforcement action	0								
Implementation/monitoring agreements	0								
Other (specify):	0								
<b>TOTAL</b>	0	0	0	0	0	0	0	0	0
		(the sum of the Decision Making Forums should equal Total FY 2016 ECR Cases)							

<sup>5</sup> 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 2016.

<sup>6</sup> A "completed case" means that collaborative problem solving in a particular ECCR case ended during FY 2016. 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.

<sup>7</sup> 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 2016 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2016 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 2016 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 2016). Please limit the length to no more than 2 pages.

<b>Name/Identification of Problem/Conflict</b>
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 2016). Please limit the length to no more than 2 pages.

<b>Name/Identification of Problem/Conflict</b>
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

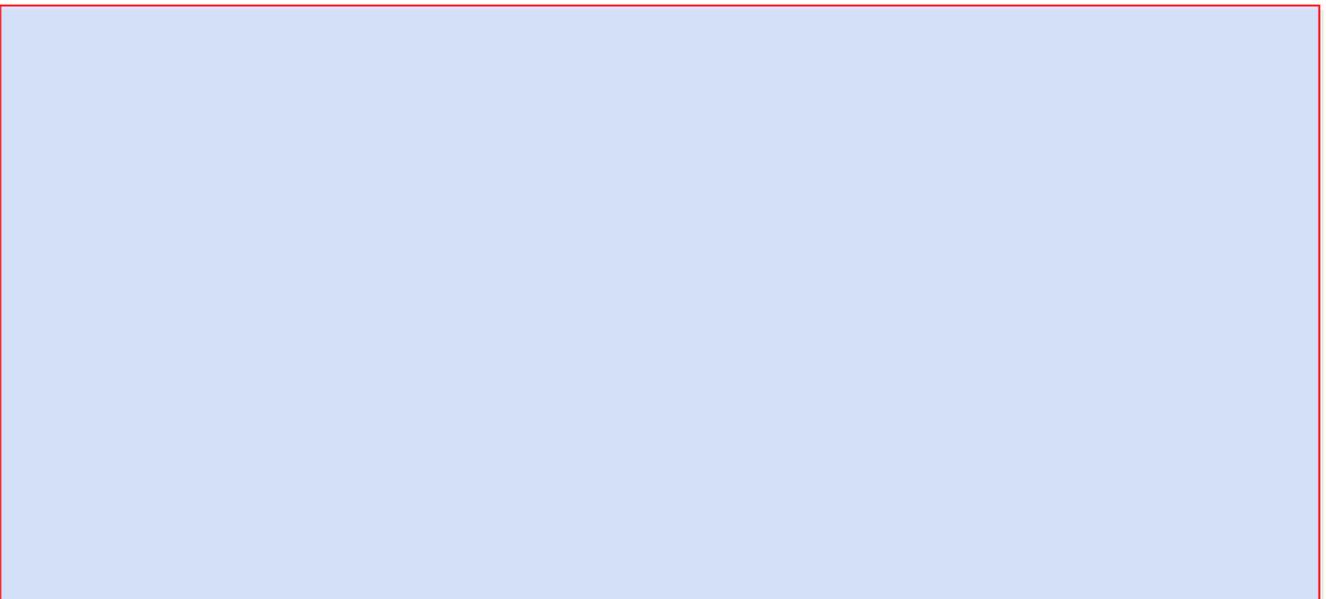
**5A: Other ECCR Notable Cases: Third-Party Neutral**

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)



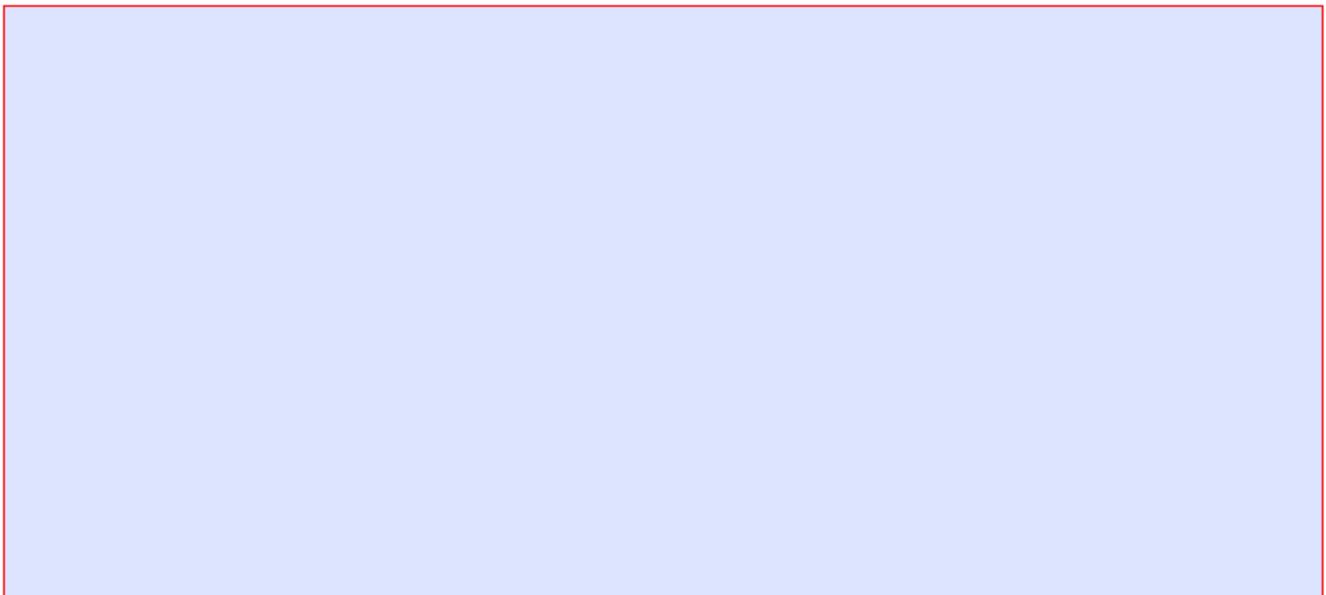
## **6: Priority Uses of ECCR**

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 December 15, 2016.  
Submit report electronically to: [Beverly.Whitehead@hq.doe.gov](mailto:Beverly.Whitehead@hq.doe.gov)  
Questions: Please call Beverly Whitehead (202) 586-6073 or Steve Miller (202) 586-2925**

**Attachment B**

**Department of Energy 2016 ECCR Cases With and Without the Use of a Third Party**

**Table 1: ECCR with a Third Party**

	Total FY 2016 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	Adm'n or appeals	Judicial	Other (specify)			Federal only	Including non-federal parties
<i>Context for ECCR Applications:</i>									
Policy development									
Planning	3	1 (WVDP)			1 (EM-ORC) <sup>1</sup> 1 (EM-ORC) <sup>2</sup>	1 (EM-ORC)	1 (EM-ORC)		2 (EM-ORC) 1 (WVDP)
Siting and construction	1	1 (Oak Ridge)					1 (Oak Ridge)		1 (Oak Ridge)
Rulemaking									
License and permit issuance									
Compliance and enforcement action	1			1 (FM)		1 (FM)			1(FM)
Implementation/monitoring agreements									
Other (specify): LANL Natural Resources Assessment Trustee Council	1				1 (EM-LA)		1 (EM-LA)		1 (EM-LA)
<b>TOTAL</b>	<b>6</b>	<b>2</b>		<b>1</b>	<b>3</b>	<b>2</b>	<b>3</b>		<b>6</b>

<sup>1</sup> Other specified as “NRD Training”

<sup>2</sup> Other specified as “pending NRD injury assessment”

EM-LA - Environmental Management-Los Alamos Field Office

EM-ORC - Environmental Management-Office of Regulatory Compliance

FM - Freeport Mining

WVDP - West Valley Demonstration Project

**Table 2: ECCR Without a Third Party**

	Total FY 2016 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	Adm'n or appeals	Judicial	Other (specify)			Federal only	Including non- federal parties
<i>Context for ECCR Applications:</i>									
Policy development									
Planning	71	1 (Oak Ridge)  1 (SWPA)			68 (RL)  1 (SROO)	1 (SWPA)		18 (RL)	50 (RL) 1 (SWPA) 1 (Oak Ridge)
Siting and construction	2		2 (Oak Ridge)						2 (Oak Ridge)
Rulemaking									
License and permit issuance	1		1 (Oak Ridge)						1 (Oak Ridge)
Compliance and enforcement action	1				1 (SROO)	1(SROO)			1 (SROO)
Implementation/monitoring agreements	1		1 (Oak Ridge)						1 (Oak Ridge)
Other (specify):	7	1 (CBFO)			5 (RL)	1 (SWPA)			5 (RL) 1 (SWPA)

Recovery and resume operations (CBFO) 5 actions were Statements of Dispute under HFFACO between DOE and WA Dept Ecology (RL) 68 cases were milestones negotiated/developed per the TPA (RL) Cultural Resources Programmatic Agreement with three states (SWPA) NPDES compliance issue (SROO)					1 (SWPA)				1 (CBFO)	
<b>TOTAL</b>	<b>83</b>	<b>3</b>	<b>4</b>	<b>0</b>	<b>76</b>		<b>4</b>	<b>0</b>	<b>18</b>	<b>65</b>

CBFO-Carlsbad Field Office

SROO-Savannah River Operations Office

RL-Richland

SWPA-Southwestern Power Administration