

**FY 2017 TEMPLATE**  
**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 in accordance with the memo for activities in FY 2017.

---

<sup>1</sup> The term ‘ECCR’ includes third-party neutral assistance in environmental collaboration and environmental conflict resolution

The report deadline is February 23, 2018.

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 2017 report, along with previous reports, will establish a useful baseline for your department or agency. 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 2017 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>

## FY 17 ECCR Report Template

Name of Department/Agency responding: The Department of the Interior

Name and Title/Position of person responding: William Hall, Director

Division/Office of person responding: Office of Collaborative Action and Dispute Resolution (CADR)

Contact information (phone/email): (703) 235-3791  
william\_e\_hall@ios.doi.gov

Date this report is being submitted: February 23, 2018

Name of ECR Forum Representative William Hall, Sarah Palmer

- 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 2017, including progress made since FY 2016. 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.]

The Department of the Interior (DOI) continues to provide programmatic/institutional capacity to encourage the broadest possible appropriate and effective use of ECCR processes. Within DOI the directives in the OBM/CEQ Memorandum on ECCR are operationalized through the following structures:

- The Office of Collaborative Action and Dispute Resolution (CADR) in the Office of the Secretary, which serves as an impartial source of collaborative problem solving and alternative dispute resolution (ADR) expertise and services. Established in 2001, CADR supports all Bureaus and Offices for both ECCR and workplace matters. CADR oversees implementation of the Administrative Dispute Resolution Act of 1996, other relevant laws, regulations, directives and guidance, and the Department's policy on the use of collaborative processes and problem-solving, ADR, ECCR, consensus-building, and related training. CADR provides Departmental decision-makers with analysis and advice about when to use ECCR and how the Department can effectively engage its

stakeholders. Moreover, CADR is strategically positioned within the Department to help address inter-Bureau natural resource, cultural resource, and land management issues, as well as to assist individual Bureaus and Offices in reaching unified decisions.

- The Interior Dispute Resolution Council (IDRC) and the Bureau Dispute Resolution Specialist (BDRS) positions. The IDRC, comprised of designated BDRSs from each Bureau, is the lead partner in ensuring a coordinated effort to integrate effective conflict management practices and collaborative problem solving as routine business practices throughout DOI.
- The Bureau of Land Management CADR Office resides within the Washington Office Resources and Planning Directorate; Division of Decision Support, Planning and NEPA. Established in 1997 (as the Natural Resource Alternative Dispute Resolution program), BLM CADR provides leadership, guidance, and assistance in collaborative implementation of the BLM's mission "to sustain the health, diversity, and productivity of America's public lands for the use and enjoyment of present and future generations."

Collectively, there are 15 FTEs in DOI (Office of the Secretary, Indian Affairs, and BLM) supporting ECCR services and programs. Collateral duty BDRSs carry out ECCR-related responsibilities in many of the other DOI Bureaus, such as the Bureau of Reclamation, Fish and Wildlife Service, National Park Service, and an additional 15 collateral duty CADR coordinators work in the BLM state or center offices to provide ECCR support, guidance, and capacity building to BLM employees and stakeholders in the field and district offices. Since May 2016, a field-based BLM-CADR specialist was hired to provide on-the-ground collaborative planning and external engagement support to the field tied to the BLM's newly developed planning regulations. In FY 2017 a common trend among many Bureaus/Offices was a decrease in staffing for ECCR as a result of unfilled position vacancies.

Importantly, the use of ECCR is driven by the missions of DOI Bureaus/Offices. For example, the mission of the Office of Natural Resources Revenue (ONRR) is to collect, account for, and verify natural resource and energy revenues due to states, American Indians, and the U.S. Treasury. ONRR has a process and a program for using ECCR to address royalty compliance issues.

#### Capacity and Programmatic Support

CADR staff, IDRC members, and BLM-CADR work collectively to build awareness and capacity to use ECCR at all levels of DOI to build organizational capacity so that DOI's employees can:

- Recognize and manage conflict early,
- Identify opportunities and access resources and assistance to engage interested stakeholders in non-adversarial problem-solving processes to produce durable policies, decisions and solutions, and
- Utilize conflict resolution tools whenever possible to achieve goals without unnecessary delays and costs.

Examples of coordinated capacity-building efforts during FY 2017 included, among other things:

1. Providing consultation services to individuals, offices, teams, and Bureaus on ECCR including education and support for DOI managers on when and how to work with a

- third-party neutral and education and support for external third-party neutrals about DOI and Bureau organizational structures, culture, and coordination needs;
2. Providing leadership education and training as well as basic public participation, collaboration, conflict management, ECCR, and negotiation skills training for managers and employees throughout DOI;
  3. Assisting parties within and outside DOI in identifying and acquiring timely, skilled third-party neutral services acceptable to all parties to conduct assessments, assist with process design, and facilitate selected ECCR processes; and
  4. Managing an internal facilitation roster that supports ECCR and other efforts.

CADR staff members represent DOI on several interagency groups and participated in a variety of interagency efforts to build common understanding and jointly advance collaboration and ECCR. Examples include the ECCR forum led by OMB/CEQ.

Training remains a cornerstone of DOI's effort to build capacity for effective conflict management and collaborative problem solving. DOI is committed to building conflict management skills and collaboration competency to improve internal and external communication, stakeholder engagement in planning and decision-making, collaborative problem-solving and conflict resolution in all areas of the Department's work. In short, good conflict management in the workplace leads to good conflict management with external parties and issues. During FY 2017, the CADR office and its cadre of in-house trainers delivered 53 conflict management skills training sessions to 1026 employees from all Bureaus and offices in eight geographic regions of the U.S. and online. The foundational course on "Getting to the CORE of Conflict", was designed to improve performance in the following key areas:

- Recognizing conflict and its root causes;
- Strategically responding to conflict;
- Efficiently managing and resolving conflict;
- Convening conflict management processes;
- Interest-Based Negotiations; and
- Identifying conflict as an opportunity to create change and build relationships.

The FY 2017 institutional capacity and programmatic approaches to ECCR among the DOI Bureaus/Offices include:

The **Assistant Secretary Indian Affairs, including the Bureau of Indian Affairs and Bureau of Indian Education through its Office of Regulatory Affairs and Collaborative Action (RACA)** have provided numerous training sessions on effective communication and conflict management and has branched out to add training sessions on emotional intelligence and mindfulness. The RACA office provided 4 training sessions with a combined attendance of 60 employees on conflict management and working in the collaborative process in FY 2017. The RACA office regularly engages with the DOI Office of Collaborative Action and Dispute Resolution (CADR) office on giving advice to parties who have matters on appeal before the Board of Indian Appeals, looking for creative ways to provide neutral services in cases that present unique circumstances.

In FY 2017, the **Bureau of Land Management (BLM)** continued to implement its 2015 Strategic Plan, in particular working on Goals 3 and 4 of the Plan, which are Build Collaborative Capacity and Foster Accountability and Assess Outcomes. In working on Goal 3, the BLM facilitated the delivery of several CADR-related and specific trainings, including: Developing and Maintaining High Performing Teams, Collaboration and Conflict Resolution (training from the CBI), Cispus

Collaboration Workshop, and Getting to the Core of Conflict and Communication. In the Oregon/Washington BLM unit two employees became certified to deliver the Getting to the CORE of Conflict and Communication course in FY 2017. In March of 2017, the BLM's NRST hosted a Community of Practice Webinar covering the history of the Blackfoot Challenge and how the collaborative strategy has led to measurable successes.

In order to achieve Goal 4, the BLM is working towards better communication with its BLM CADR coordinators to determine the outcome of BLM and/or DOI funded projects. In addition, the BLM intends to develop methods on determining the cost benefits of using CADR and ECCR resources. In FY 2017 The OR/WA BLM CADR Coordinator led an "After Action Review- AAR" for the volunteer program. The day long activity was designed to support constructive conversation and allowed for solutions to emerge to help the program move forward. As AARs are a part of BLM, especially in the realm of fire and accidents, this might be a good place to focus some of the BLM CADR attention, as it gets staff accustomed to conflict resolution tools.

The BLM continued to use the DOI's Collaborative Services IDIQ contract which allows the DOI and its bureaus to quickly and easily acquire third-party assistance for collaborative engagement on natural resource and environmental issues. Services may include facilitation, training, process design, development of situation assessments, convening, coaching, evaluation, and/or analysis, depending on the needs. At the state level the Oregon/Washington BLM established a CADR Incentives Fund program to support ECCR projects in the region.

Around the Bureau, there are multiple Resource Management Plan (RMP) efforts underway. Generally, RMPs are developed by the BLM with the assistance of outside contractors who serve as writer/editors of the document and perform the supporting analyses. Often, the contract will include the potential for the use of a third-party facilitator to help the BLM and stakeholders work through difficult and often controversial issues, such as wild horse and burro management or energy development.

The BLM's institutional support for ECCR efforts include supporting the role of the CADR Coordinators across the bureau. In addition, BLM staff regularly participate in unassisted collaborative efforts throughout the BLM, including but not limited to participation in routine cooperating agency interactions, resource advisory council meetings, land use planning meetings (including potential changes to the Greater Sage-Grouse management plans), and other partner meetings. This year, the BLM also provided Greater Sage-Grouse public workshops and meetings to better anticipate, manage, and understand how to move forward with potential changes to the existing Greater Sage-Grouse management plans.

Institutional support also includes the access that the BLM provides to field and state office employees to different types of ECCR-related training for employee education and development. The BLM's National Training Center (NTC) offers multiple CADR related courses, and often brings those courses to remote locations in the field. Many of these courses are designed to help employees develop their skills in collaboration and facilitation, so that they can then act as facilitators in their own meetings. Examples of instructor led trainings include Fostering High Performing Teams; Developing and Maintaining High Performing Teams; Emotion, Outrage, and Public Participation; and Conflict Resolution and Consensus Building. The BLM also has access to a number of DOI-sponsored training, including Getting to the Core of Conflict and Communication. In addition, there are numerous classes available online through the BLM NTC and DOI Learn that employees can take as their schedules allow.

Because the BLM is a multiple use agency managing public lands, the majority of decisions that the BLM makes regarding land use and management requires collaboration with local stakeholders. BLM state and field offices regularly collaborate with state and local partners when making decisions; most often, this is unassisted collaboration that is an organic component of all land use planning decisions.

The **Bureau of Ocean Energy Management (BOEM)** uses ECCR to help the Bureau fulfill its mission. The Marine Minerals Program (MMP) relies heavily on the CADR IDIQ contract to secure third party neutral ECCR services for outreach meetings with Federal, state, and local stakeholders concerning regional offshore sand management for coastal restoration projects. The BOEM Pacific Region and Headquarters utilize CADR staff and contracted neutrals from the CADR IDIQ to facilitate Tribal consultation, stakeholder outreach and taskforce meetings. BOEM's Environmental Programs both in headquarters and regions participated in an internal communications meeting (ACE – Annual Conference on the Environment) facilitated by CADR -- outcomes from this meeting improve assistance in program management and headquarters-regional conflict resolution.

The **Bureau of Reclamation** makes regular use of ECCR, in four general program areas.

The first is in project operations – aiding in decision making related to water and power releases and operations and maintenance. Such examples include the Glen Canyon Adaptive Management Work Group, which guides the operations of Glen Canyon Dam and operations of the Central Valley Project in coordination with the State Water Project in CA, implementation of the San Joaquin River Restoration Program (SJRRP) including the Reach 4B Eastside Bypass and Mariposa Bypass Low Flow Channel and Structural Improvement Project in California, and the Lewiston Orchards Project in Idaho.

The second area is related to facilitating the compliance with Federal environmental laws such as the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA) –and the Endangered Species Act (ESA). Case examples include development of a Programmatic Agreement for the Navajo-Gallup Water Supply Project (NGWSP), the Middle Rio Grande Endangered Species Collaborative Program; Structured Decision-Making Workshops to Assist in Preparation of an Environmental Impact Statement (EIS) for a Long-Term Experimental and Management Plan (LTEMP) for Glen Canyon Dam; the San Joaquin River Restoration Program in California and the Klamath Project ESA Consultation in CA and OR.

The third area is using a facilitated process to address technical, engineering or design issues. Through the Value Engineering Program, Reclamation facilitates collaborative efforts to review technical designs with an eye toward improving the cost effectiveness of engineering or technical solutions to water and power management issues. They are able to improve the effectiveness and efficiency of a proposed water and/or hydro power project – either for contractors, customers or the taxpayers of the United States. It also encourages “outside of the box” thinking to identify design alternatives that may meet needs but which may not have been explored previously. The Navajo Nation – Hogback Canal Contingency Water Supply Study is an example of the important role of the Value Engineering facilitation in Reclamation.

The fourth area is working with Tribes – most specifically working with Tribes, states, other federal agencies and other non-Federal stakeholders to address Indian Water Rights claims – using a facilitated process to avoid litigation and more rapidly towards resolution. Some

examples include the Aamodt Water rights settlement (New Mexico) and the Value Engineering process for the Utah- Navajo water settlement.

The **U.S. Fish and Wildlife Service Human Dimensions Branch (FWS-HD)** serves a unique role in assisting FWS units and teams with stakeholder engagement. In FY 2017 the HD Branch participated on a national planning team for National Wildlife Refuge Systems to address ways to meaningfully engage stakeholders. In 2018 HD Branch will develop an online resource for stakeholder engagement for Service employees. The FWS-HD broadened FWS internal capacity in FY 2017 hosting two IAP2 Public Participation trainings reaching over 40 people at the Mountain Prairie Region and at the National Conservation Training Center.

The **National Park Service Conservation and Outdoor Recreation Division** includes four collaborative programs – Rivers, Trails, and Conservation Assistance Program (RTCA), National Trails System, National Wild and Scenic Rivers Program (WSR), and Hydropower Recreation Assistance Program.

In FY 2017, RTCA and the DOI CADR Office delivered four Collaboration Clinics to 69 NPS and partner staff. Three clinics were offered at George Washington Memorial Parkway (GWMP) for park and partner staff in order to jump start implementation of the GWMP strategic plan, and one clinic was offered to the staff of three National Heritage Areas in Mississippi as a first step in aligning their efforts to enhance national important resources through preservation, education, and stewardship. Collaboration Clinics provide applied training and coaching in using collaborative approaches and processes for planning, decision-making, and resource management.

RTCA coordinates five communities of practice (CoP) to help employees interested in recreation, conservation, and community collaboration connect virtually and share lessons learned. The CoPs met at least 10 times in FY 2017 on topics such as alternative transportation, healthy communities, and river restoration.

The Conservation and Outdoor Recreation Division supported the DOI Urban initiative and the Urban Waters Federal partnership an innovative collaboration between federal agencies and partnerships with communities who are revitalizing rivers and watersheds. This effort was recognized in 2017 through a Samuel J. Heyman Service to America Medal.

The Conservation and Outdoor Recreation Division also collaborated with the Environmental Protection Agency and Groundwork USA to nurture the network of 21 Groundwork Trusts is an ongoing collaborative effort to build sustainable organizations that build healthy, vibrant communities in areas characterized by contamination, blight, disinvestment, and poverty.

In FY 2017 social scientists with the **U.S. Geological Survey (USGS)** Fort Collins Science Center, Social and Economic Analysis Branch (SEA) presented two 24-hour natural resource negotiation classes for the DOI and its bureaus. These classes are designed to provide negotiation skills to those who are in the front lines of public land management decision making. In November, 2016, SEA scientists instructed “Strategies and Tactics for the Experienced Natural Resource Negotiator” for 15 students. “Negotiation Skills: Building a Foundation” was taught in May, 2017, to 24 students. DOI organizations represented by the students included:

- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Reclamation

- National Park Service
- U.S. Fish and Wildlife Service
- U.S. Geological Survey

In addition, one “Foundations” class was presented at the National Conservation Training Center in October, 2016, for the U.S. Fish and Wildlife Service. At the USGS Leadership 101 classes conducted at the National Conservation Training Center in February and March of 2017, 48 students attended a session on “Negotiation and Communication.” This session was also presented to a Leadership 101 class in Denver in October of 2016.

## 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.

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.

The Department tracks investments through the ECCR Report and use of the ECCR contract managed by CADR. Through the ECCR Report, we have gathered data relating to investments in FTEs discussed more fully in Question 1. In addition, DOI Bureaus and Offices invested approximately \$2.1 million in ECCR services FY 2017 through the CADR ECCR contract. In FY 2017 there were 84 projects initiated or completed under the CADR ECCR IDIQ with several task orders supporting multiple projects. Beyond presenting the investments in FTEs and through the CADR ECCR contract for FY 2017 the Department did not use a formal process or guidance for tracking and reporting on Department-wide investments made in ECCR or the benefits realized when using ECCR, other than describing qualitative benefits via case study narratives.

Investments in human resources are tracked through performance plans. Conflict management and collaboration performance standards are included in the performance plans of all Senior Executive Service (SES) positions to encourage appropriate use of conflict management and collaborative problem-solving. The CADR office advocates and encourages inclusion of conflict management and collaborative problem-solving performance standards for all DOI employees.

In FY 2017 CADR secured the final necessary clearances to implement the new evaluation instruments that were redesigned in FY 2016. We anticipate the new evaluation instruments will result in better tracking of ECCR investments and benefits. We also anticipate the data that will be collected through the new instruments will be useful in improving process design, as well as evaluating agency performance and process outcomes. Several Bureaus, such as BLM-CADR and the USFWS Human Dimensions unit have expressed an interest in adopting a methodology to determine the quantitative and qualitative benefits of ECCR in FY 2018 and the CADR office will coordinate with them on this interest.

- b) Please report any (a) quantitative or qualitative investments your agency captured during FY 2017; and (b) quantitative or qualitative results (benefits) you have captured during FY 2017.

<p><b>Investments</b></p> <p>The CADR Office's 12 FTEs are dedicated to supporting collaborative problem solving and conflict resolution in DOI, both within the Bureaus and with DOI's external stakeholders. The CADR Office established and implements the ECCR IDIQ contract available for all ECCR needs across the Department. In FY 2017 approximately five CADR staff members allocated a portion of their time providing direct ECCR neutral service to Bureaus/Offices and stakeholders. Approximately seven CADR staff members assist Bureaus/Offices in determining their ECCR needs and help the parties secure contracted neutral services through the CADR ECCR contract.</p> <p><b>Indian Affairs.</b> The RACA Office currently has one employee on detail from the Office of the Solicitor to engage in mediations and conflict management. The full-time employee working on collaborative problem solving departed in FY 2017, leaving a vacancy that the Office has not yet been able to fill. In the meantime, the Director of RACA is fulfilling the collaborative action duties with assistance from the CADR Office. RACA uses contract mediators available through the DOI CADR Office contract, this is especially useful for our office as there is often a need for neutrals in tribal disputes and litigation. Funding was available on an as needed basis by the RACA Office to assist Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE) to engage in ECCR activities.</p>
<p><b>Benefits to Indian Affairs:</b> <i>Through the use of mediation, a matter involving a Tribe and BIA was resolved without further litigation.</i></p>
<p><b>The BLM CADR Program</b> has one (currently vacant) full-time program lead position in the Washington Office (WO) and a remotely located field lead. The program lead is responsible for policy, guidance, national program coordination and integration, reporting, and analysis. The program lead serves as the BLM's dispute resolution specialist on the Department of the Interior's Dispute Resolution Council and participates in quarterly interagency forums convened by the Council on Environmental Quality (CEQ). This position has been staffed with temporary detailees for several years and has been vacant since September 2016, although a three-month detail began in November 2017. The remotely located field lead has been in place since May 2016 and functions as the WO CADR program's land use planning and NEPA liaison with the field. Across the Bureau, there are 14 BLM CADR Coordinators located in each BLM state, included Eastern States. The OR/WA BLM CADR Coordinator is a dedicated 0.25 FTE through a Service Agreement with the OR/WA BLM state office, this position is funded by the state office and travel is supported by the State Director's budget. These collateral duty coordinators serve as the point of contact for the field in each State and provide input and feedback for national policy and guidance and are responsible to the Associate State Director. In addition, they connect field and district offices to ECCR resources such as the DOI Facilitation roster, the DOI IDIQ contract, incentives funding, and training; the CADR coordinators participate in a monthly call to share information and issues and discuss future activities.</p> <p>The BLM's National Riparian Service Team (NRST) works directly with local landowners and since 1996 has responded to numerous requests for multi-phase collaboration assistance from a diverse clientele. Although currently focused on riparian and wetland issues as related to grazing, this program is applicable to fostering collaborative solutions for any number of</p>

resource issues.

Enhanced public engagement through third-party neutrals has been the most universally used tool in the BLM CADR tool box. This is for two primary reasons; 1) As BLM is required through NEPA to do Scoping and often Scoping involves a public meeting, the use of the third-party neutral has added capacity to our Interdisciplinary teams. Overall, if BLM CADR is seen as another thing that an ID Team needs to engage, it is a nonstarter. However, when a third-party neutral is adding both value and capacity – it is a win-win. BLM CADR has been using third-party neutrals in public engagement efforts, in which the situation assessment helps shape the scoping. Then the third-party neutral stays with the team throughout public meeting process and support the decision in such as way conflict is drastically reduces or eliminated. It does not mean everyone is completely happy with the outcome, but the public seems satisfied they were heard, honored, and their input valued. 2) The quality of the public meetings has improved substantially, improving communication. This has led to more positive experiences for both the BLM staff and the public.

**Benefits to BLM:** *Most of the benefits realized through the use of ECCR, whether through the use of third-party neutrals or unassisted collaborative efforts, are captured in a qualitative way. These include increased engagement with our stakeholders through the NEPA process, whether through a land use planning effort or a project level environmental review document. Working towards ensuring early engagement through the NEPA process has resulted in opportunities for the public to raise issues early, which reduces the risk for schedule or budget related issues later in the process. Other qualitative benefits include better relationships with our stakeholders, whether through the use of the DOI IDIQ contract or via some unassisted type effort. In addition, the relationships that the BLM builds on through a formal CADR/ECCR process will likely benefit the BLM in some future planning or environmental review effort.*

The **Bureau of Ocean Energy Management** invests resources for ECCR through the CADR ECCR contract.

Benefits to BOEM: As a result of these investments BOEM is able to improve working relationships with stakeholders and further implement the Bureau’s mission.

**Bureau of Reclamation.** Project costs and what is included or considered as ECCR costs vary widely per project, making it hard to calculate an accurate estimate of the investment that has been made in ECCR. Efforts where we are able to clearly identify the ECCR costs because they are associated with the contracts with facilitators, plus some staff time and travel are described here. In FY 2017 total costs associated with the facilitator for the Lewiston Orchards Project Water Exchange and Title Transfer are estimated to be \$200,000. For the Glen Canyon Adaptive Management Program (AMP), the professional facilitator costs were \$72,000. The estimated ECCR costs for development of a Programmatic Agreement for the Navajo-Gallup Water Supply Project in FY 2017 are \$250,000. This includes contractor costs, staff time and travel costs. The estimated costs for the Middle Rio Grande Endangered Species Collaborative Program including science support services for the first option year of the contract is approximately \$1,100,769. Approximately \$875,000 of the five-year EIS contract for the Aamodt Litigation Settlement Implementation/ Pojoaque Basin Regional Water System is allocated for public involvement, Government-to-Government consultation, and stakeholder coordination activities. The estimated cost for the facilitated process

associated Klamath Project Operations Coordinated ESA Section 7 consultation in FY 2017 was approximately \$509,465.00. The FY 2017 costs for the facilitation support of the updates to the Coordinated Long-term Operation of the Central Valley Project and State Water Project was \$300,000.

**Benefits to Reclamation** (themes summarized from multiple project reports).

As a result of engaging a third party neutral:

*Parties developed a common understanding and improve the working relationship among the different agency staff and stakeholders.*

*Parties remain engaged in discussions and negotiations and have not pursued litigation.*

*Parties, with widely varied interests and beliefs, continue to make progress on technical scientific issues.*

*Parties have confidence that their needs will be assessed and that their proposed solutions will be valued through the development of content for the meeting agenda and through subject matter to be discussed.*

*Parties came to agreement on the complicated and multi-faceted issues related to water in the Colorado River Basin*

*Over the past five years as a result of ECCR, timeframes for Section 106 consultation have improved and led to completion of Section 106 compliance which has positively affected Reclamation's ability to meet construction schedules. ECCR has resulted in improved relations with tribal parties and other stakeholders.*

*By using the ECCR principles of "informed commitment," "accountability," and "openness," Reclamation has built trusting relationships with project stakeholders, resulting in timely decision making and a willingness to work through difficult and culturally sensitive issues in a collaborative manner. In addition, all of the joint public outreach and education efforts undertaken by the settlement parties benefit the public by providing opportunities for public input and informed decision making.*

*Improved coordination and collaboration with stakeholders and interested parties.*

Although **Office of Surface Mining Reclamation and Enforcement (OSMRE)** has a limited number of ECCR engagements in any given year the Office invests resources to support contracted ECCR neutrals and invests considerable hours in preparing, negotiating and administering the contracts for ECCR services.

**Benefits to OSMRE:** *The FY 2017 stakeholder meetings for the bonding rule not only helped us obtain the perspectives of the attendees, but they also made us aware of possible unintended consequences of some of the revisions we were considering in the rulemaking.*

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

Tracking cost –benefit data on a DOI-wide basis is difficult due to the decentralized nature of the Department. Although the CADR ECCR IDIQ contract is a strategic sourcing contract, Bureaus and Offices may expend funds on ECCR using other contract vehicles. Costs relating to labor performed by government personnel, on the other hand, are harder to assess, as DOI agencies do not require their personnel to break down their time into ECCR and non-ECCR time units. Furthermore it is difficult for Bureaus to separate “environmental collaboration and conflict resolution” from regular natural resource management planning. Bureaus routinely practice ECCR principles and methods during other planning and program work, such as Resource Management Plan development and NEPA analysis and document preparation. Most critically, the absence of dedicated funding, the need for a program lead to track information, and competing collateral duties limit many DOI Bureaus in administering cost-benefit assessment instruments. We have found that it is much easier to generate qualitative information regarding the benefits of these processes. Qualitatively, managers may conclude that without the services of a skilled third party neutral, they would not have achieved a successful result. Although subjective, we view these opinions as support for the value of ECCR processes.

Beginning in mid- FY 2018 the CADR Office is implementing the recently updated evaluation instruments for all agreement-seeking ECCR projects. This information, although limited to a subset of the ECCR work occurring in the Department, will begin to better inform CADR and the Bureaus and Offices about the costs and benefits of its ECCR work.

3. **ECCR Use:** Describe the level of ECCR use within your department/agency in FY 2017 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 2017 ECCR Cases <sup>2</sup>	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or projects completed <sup>3</sup>	ECCR Cases or Projects sponsored <sup>4</sup>	Interagency ECCR Cases and Projects		
		Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other (specify)			Federal only	Including non federal participants	
<i>Context for ECCR Applications:</i>										
Policy development	___18	___8	___	___	___10	internati onal project, informat ion sharing	___7_	___18	___10	___8
Planning	___67	___61	___	___	___6	internati onal project, informat ion sharing	___22	___65	___25	___42
Siting and construction	___13	___11	___	___1	___		___8	___5	___	___12
Rulemaking	___1	___1	___	___	___		___1	___1	___	___1
License and permit issuance	___2	___1	___	___	___1	Informat ion sharing	___	___2	___1	___1

<sup>2</sup> An “ECCR case” is a case in which a third-party neutral was active in a particular matter during FY 2017.

<sup>3</sup> A “completed case” means that neutral third party involvement in a particular ECCR case ended during FY 2017. 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 2017 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2017 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 2017 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

Compliance and enforcement action	__4	__4	___	___	___		___2	___3	___4	___	
Implementation/monitoring agreements	__10	__7	___1	___	___2	treaty negotiati on, issue assess ment	___3	___7	___2	___8	
Other (specify): _____	__6	__2	___	___	___4	mediatio n, assess ment	___3	___6	___2	___4	
<b>TOTAL</b>	<b>__120</b>	<b>__95</b>	<b>___1</b>	<b>___1</b>	<b>___23</b>		<b>___46</b>	<b>___107</b>	<b>___44</b>	<b>___76</b>	
		(the sum of the Decision Making Forums should equal <b>Total FY 2017 ECCR Cases</b> )									

#### 4. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably completed in FY 2017). Please limit the length to no more than 2 pages.

##### Klamath Project Operations Coordinated Endangered Species Act (ESA) Section 7 Re-initiation of Consultation (ROC) Process

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

Over the past decade, the Bureau of Reclamation has received separate, uncoordinated Biological Opinions (BiOps) from NOAA's National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS; collectively "the Services"). The competing needs of the three ESA listed species lead to conflicting requirements in the BiOps that made it difficult to meet those requirements simultaneously. In some cases, these conflicting requirements resulted in shortages or curtailments in contracted water deliveries to agricultural water users and National Wildlife Refuges within the Klamath Project. Reclamation and the Services management concluded that a coordinated proposed action for operation of the Klamath Project resulting in a joint or coordinated BiOp(s) could be a solution. Reclamation's Klamath Basin Area Office participated in coordination with the Services under Section 7 of the ESA that led to the integrated Biological Opinion(s) (2013 BiOp) released by the Services in May 2013. In 2017 litigation was brought against Reclamation and NMFS for failure to reinitiate consultation due to exceedance of the disease threshold identified in the incidental take statement in 2014 and 2015. Reclamation reinitiated consultation (ROC) with the Services in spring of 2016 and clarified this in January 2017.

Based on lessons learned, and through the partnerships established while completing the 2013 BiOps, Reclamation and the Services have agreed to raise the level of coordination and collaboration with key stakeholders (including water users, PacifiCorp, and the Klamath National Wildlife Refuge) and six Tribes (the Karuk, Klamath, Yurok and Hoopa and Quartz Valley Tribes and the Resighini Rancheria) throughout the ROC process on the continued operation of the Klamath Project. To ensure inclusiveness and open and transparent communication amongst all ROC parties, Reclamation procured the services of a third party to assist in facilitation and communication support.

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

##### *Key Stakeholder and Tribal Involvement Plan*

To ensure full involvement by key stakeholders and Tribes throughout the entire ROC process, Reclamation, with assistance from the facilitators, and in-depth coordination with the Services, and identified key stakeholders and Tribes, developed and is currently implementing a robust engagement process outlined in the ROC Key Stakeholder and Involvement Plan (Plan).

The Plan outlines Reclamation's approach to providing updates to, and obtaining input from key stakeholders and Tribes during the ROC process and details the forum and mechanisms for distributing information, tracking activities, and incorporating comments and feedback prior to key decision points. Roles for each ROC party are defined and commits Reclamation to coordinating with Tribes, both through formal government-to-government consultation as well as technical information exchange throughout of the ROC process. With respect to Project water contractors, the Plan is inclusive of a Memorandum of Understanding between Reclamation and Project water users detailing roles,

responsibilities, and expectations anticipated throughout the ROC process.

#### *Science Integration and Peer Review*

A major component of the environmental conflict in management of the Klamath River Basin has been dueling science on fish disease, fish health, and hydrologic and biologic modeling methods. As such, Reclamation, via facilitation support, and jointly with support the Services, have committed to independent science review of select documentation (e.g., scientific reports and literature, analytical and modeling tools, etc.) meant to inform the ROC process.

The committed level of coordination and collaboration between agencies, stakeholders, and Tribes on water management of the Klamath River Basin and related policy and usage of scientific information is unparalleled.

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

Together, Reclamation, the facilitators, and the Services, have been able to successfully elevate coordination efforts and the level of engagement with key stakeholders and Tribes during the ROC process. Due to the recent litigation, relationships are fragile between the agencies and the key stakeholders and Tribes. As such, the continued facilitated development and maintenance of these relationships has enabled a collaborative process that will likely produce solutions similar to the previous consultation and reduce the potential for future litigation. These relationships are the foundation of a working environment of transparency and accountability that provide for trust, improved communications, and understanding given the complex water management issues that face the team.

The development of the new coordinated water management approach will take many hours of staff and management time that is dedicated to collaboration efforts working toward creative solutions that are expected to build on the foundation of the 2013 BiOp. The new improvements to the Proposed Action will incorporate new science and data while investigating areas of further flexibility and creative solutions to ensuring contractual obligations to Project water users are upheld, Tribal Trust responsibilities are met, and requirements under ESA and all other applicable laws and policies are followed while reducing the potential for future litigation. Some of the benefits that are anticipated to be realized include the maximization of certainty and quantity of available water for irrigation deliveries and meeting the regulatory requirement to avoid jeopardy to ESA listed species and not adversely modifying or destroying critical habitats. The agencies in close coordination with key stakeholders and Tribes, will continue to strive for a water management strategy that is powerful and innovative and creates a decision making process that has the flexibility to optimize limited water supplies to benefit fish and farmers instead of previous water management regimes that managed to rigid minimums. The continued, collaborative approach will also further foster continued relationship building to assist in solving the complex natural resource issues that confront us and contribute to broader comprehensive solutions needed in the Klamath Basin.

Reflections on the lessons learned from the use of ECCR

With assistance from the third party neutral, Reclamation, the Services and Basin stakeholders have found ways to constructively address their conflicts while identifying flexibility within the constraints of the ESA and tribal trust responsibilities, and remaining consistent with applicable law and policy. Stakeholder engagement and interagency coordination have been key factors to the success of this effort.

**5. Other ECCR Notable Cases:** Briefly describe any other notable ECCR cases in the past fiscal year.

**Indian Affairs.** Through mediation the BIA and the Pyramid Lake Paiute Tribe resolved a conflict over whether and what amount of interest the Tribe was owed on funds held by BIA. The matter entered mediation when the Tribe appealed the BIA decision to the Interior Board of Indian Appeals.

**BLM.** Several states in the BLM benefited from the use of the DOI CADR's IDIQ contract and third-party neutrals. These projects included development of several preliminary land use planning documents for national monuments, as well as situation assessments, public workshops, and activities meeting other needs. There were also several projects, particularly in Oregon and through the National Riparian Service Team, that were funded outside of the DOI CADR's IDIQ contract.

The Missoula Field Office (FO) partnered with the Montana State Office and the Washington DC Office (WO) to provide facilitated Recreation Focus Groups. The purpose of the process was to better anticipate and manage potential recreation user issues and conflicts in the Missoula planning area as part of its Resource Management Plan (RMP) revision effort. The Rock Springs, WY FO is working on developing their draft RMP and the FO included in their contract the option to have a facilitator to help with some contentious cooperating agency meetings. There are multiple, divergent viewpoints that need to be considered which has resulted in a breakdown in communication at points during the process. Use of a third-party neutral has helped to facilitate the conversation, make it more productive, and although the process is still troubled, the facilitation effort has created a safe space. In addition, the cooperating agencies requested the use of the facilitator.

The New Mexico State Office hosted a planning and environmental coordinator (P&EC) meeting in the fall which was facilitated by two BLM facilitators. This 2.5-day meeting brought together all of the P&ECs in the state and resulted in greater communication and collaboration amongst the P&ECs.

In July of 2017, the Oregon BLM CADR Coordinator was requested to support the San Juan Islands National Monument staff in a third-party neutral mediated session with an external partner. The outcome was positive, and the external party (as well as other stakeholders) have seen that the BLM is willing to genuinely collaborate with all the stakeholders, regardless of their stance.

In the Oregon/Washington BLM the Applegate Valley ECCR project in the Medford District Office, ECCR and engagement of a third party neutral was pivotal in this long-standing conflict. This was one of the BLM Incentive Funds project and has been tracked already through DOI, between the detailed submission for funding and the two Situation Assessments and Report out of the Consensus Institute.

**Bureau of Reclamation**

**San Joaquin River Restoration Program's (SJRRP) Reach 4B, Eastside Bypass and Mariposa Bypass Low Flow Channel and Structural Improvements Project (Reach 4B**

**Project) Consensus Based Alternative Process.** The SJRRP was established in late 2006 to implement the Stipulation of Settlement (Settlement) in *Natural Resources Defense Council (NRDC), et al., v. Kirk Rodgers, et al.* The Reach 4B Project would implement key elements of Paragraph 11(a) and 11(b) of the Settlement, related to routing of restoration flows and fish passage. The Reach 4B Project area includes Reaches 4B1 and 4B2 of the San Joaquin River, Reaches 2 and 3 of the Eastside Bypass, and the Mariposa Bypass in Merced County, California.

Using an independent third party neutral, Reclamation and CA Division of Water Resources (DWR) is currently in the alternatives development process for the Reach 4B Project. The goal of this multi-stakeholder process is to assist Reclamation and DWR in the identification of a consensus-based preferred alternative by identifying an alternative for the Reach 4B Project that is consistent with the Restoration Goal, meets the terms of the Settlement and San Joaquin River Restoration Act, and is acceptable to most stakeholders. The consensus based alternative process is based on guidance in CEQ 43 CFR 46.110 which encourages consensus-based decision-making based on direct community involvement in development of project goals, purposes, needs and alternatives.

The consensus-based alternative approach provides these entities the opportunity to provide input on the Project alternatives that will be analyzed in the Reach 4B Project EIS/R. The consensus based alternative process allows the stakeholders to identify new alternatives or reconfigure proposed alternatives to create an alternative that better meets stakeholders' goals and objectives.

**Glen Canyon Dam Adaptive Management Program.** The Glen Canyon Dam Adaptive Management Program (AMP) was implemented following the 1996 Record of Decision (ROD) on the Operation of Glen Canyon Dam and reaffirmed in the 2016 ROD for the Glen Canyon Dam Long-Term Experimental and Management Plan (LTEMP) to comply with consultation requirements of the Grand Canyon Protection Act (GCPA) of 1992. It provides an organization and process to ensure the use of scientific information in decision making for Glen Canyon Dam operations and protection of downstream resources consistent with the GCPA. The AMP includes the Secretary of the Interior's Designee, Adaptive Management Work Group (AMWG), Technical Work Group, U.S. Geological Survey's Grand Canyon Monitoring and Research Center, and independent scientific review panels. Department of the Interior Regional Directors also facilitate communication and cooperation within the AMP.

The AMWG is a federal advisory committee chaired by the Secretary's Designee. A major initiative of the AMWG is providing input on the implementation of LTEMP, the framework for adaptively managing Glen Canyon Dam for the next 20 years. The AMWG makes recommendations to the Secretary of the Interior concerning Glen Canyon Dam operations and other management actions to protect resources downstream of the dam consistent with the GCPA, Endangered Species Act, National Historic Preservation Act, and other applicable federal laws.

A diverse group of 25 stakeholders comprises the AMP and each has a voice in formal recommendations. AMP stakeholders have divergent views on the interpretation of the

GCPA, particularly with regard to how it may or may not amend previous statutes related to the operation of Glen Canyon Dam. Rigid legal viewpoints sometimes stymie collaboration. A professional facilitator has been used to assist the Secretary's Designee in working with the AMWG to review scientific findings and develop consensus recommendations from the AMWG to the Secretary at *Federal Register*-noticed, public federal advisory committee meetings.

The AMP is ongoing and continues to conduct scientific experiments to better understand the effects of dam operations on downstream resources. Additionally, the federal advisory committee (AMWG) makes regular recommendations to the Secretary on dam operations and other actions in order to meet requirements of the 1992 GCPA. The Grand Canyon effort will continue to make progress in forming partnerships among participants, understanding resource issues, and experimenting with dam operations and other management actions to better accomplish the intent of the ROD and GCPA. It is, of necessity, a long-term commitment.

The AMP has achieved a much better understanding of the effects of dam operations on downstream resources and has proven to be a successful venue for stakeholder input on the operation of Glen Canyon Dam. However, adaptive management is an ongoing process where people of many talents and disciplines come together to make robust decisions with the aim of reducing uncertainty inherent in meeting resource management objectives.

**Middle Rio Grande Endangered Species Collaborative Program.** The Middle Rio Grande Endangered Species Collaborative Program (Program) is a multi-stakeholder effort consisting of federal, state, and local governmental entities; Indian tribes and pueblos; and non-governmental organizations representing diverse interests. In 2016, Reclamation entered into a contract for program and science support services for the Program. A contracted and professional third-party neutral manages Collaborative Program meetings and ensures that progress is made in implementing adaptive management under the development of a science program. Under section 4(f)(2) of the Endangered Species Act, the Secretary of the Interior is directed to develop and implement plans for the conservation of endangered species. In the Middle Rio Grande, these endangered species include the Rio Grande silvery minnow and Southwestern willow flycatcher, Western yellow-billed cuckoo, and New Mexico meadow jumping mouse. The Secretary of the Interior may enlist the services of public and private agencies, individuals, and institutions in developing and implementing such recovery plans.

**Implementation of a Programmatic Agreement for the Navajo-Gallup Water Supply Project (NGWSP).** In order to resolve concerns regarding adverse effects from project undertakings and to avoid construction delays, Reclamation contracted for a cultural resource firm to act as a facilitator for work group consultation meetings and to assist in a collaborative process for implementation of a Programmatic Agreement (PA), which is required to comply with Section 106 of the National Historic Preservation Act (NHPA). The PA will cover all tribal-related actions and other agency consultations concerning construction of the project.

Cultural resource issues are a source of ongoing disagreement among tribes, agencies, and stakeholders during construction of large projects. The signatories and concurring parties to the NGWSP PA represent a diverse, often polarized group of stakeholders associated with the project area. It is expected that continuation of this facilitated, collaborative process will yield beneficial results throughout the life of the project. Without facilitation, the consultation process was expected to cause costly and unnecessary delays to the NGWSP.

**Aamodt Litigation Settlement Act/Pojoaque Basin Regional Water System.**

On December 8, 2010, the Claims Resolution Act of 2010 (P.L. 111-291) (Act) was signed into law. Title VI of this Act authorized Reclamation to plan, design, and construct the Pojoaque Basin Regional Water System (RWS) as part of the Aamodt Indian Water Rights Settlement. Parties to the settlement include the four Settlement Pueblos (San Ildefonso, Nambé, Tesuque, and Pojoaque); the State of New Mexico (State); Santa Fe County (County); the City of Santa Fe; and surface water and groundwater rights owners in the Pojoaque Basin (settlement parties). The Secretary of the Interior and all other governmental settlement parties signed the Aamodt Settlement Agreement and Cost Sharing and System Integration Agreement on March 14, 2013. On March 21, 2016, the District Court for New Mexico overruled approximately 800 objections from water rights holders, approved the Settlement Agreement, and entered the Partial Final Decree and Interim Administrative Order. The Aamodt Settlement Agreement is intended to settle the longest running water rights adjudication lawsuit in the country. Each signatory has taken a lead role in implementing the portions of the agreement that are in their area of legal responsibility and/or expertise.

Eleven entities are acting as cooperating agencies for the RWS Environmental Impact Statement (EIS): the four Settlement Pueblos, Bureau of Indian Affairs, U.S. Fish and Wildlife Service, Indian Health Service, U.S. Army Corps of Engineers, New Mexico Department of Transportation, Santa Fe County, and City of Santa Fe. The Notice of Availability for the Final Environmental Impact Statement for the RWS was published in *the Federal Register* on January 19, 2018. Reclamation will issue a Record of Decision after 30 days. The final EIS analyzes the potential environmental effects of five alternatives in planning, designing, and constructing the RWS and connected actions in the Pojoaque Basin.

Reclamation used a third-party neutral to facilitate a series of four public meetings at Pojoaque, Nambé, and Tesuque Pueblos and Santa Fe County in February 2017. These meetings were part of the EIS process and were meant to facilitate information sharing with the public as well as inform them of the public comment period in the EIS. Comments and information from the meetings were incorporated into the final EIS.

Planning and development of the RWS is ongoing. Government-to-Government consultation with the four Settlement Pueblos and coordination with the settlement parties, 11 cooperating agencies, Reclamation contractors, and the public is expected to continue until construction of the RWS is completed and title to the RWS has been transferred. Continuing collaboration among the settlement parties is critical to successful resolution of the lawsuit.

**Lewiston Orchards Project (LOP) Water Exchange and Title Transfer**, is an ongoing multi-year effort to address Endangered Species Act (ESA)- related litigation and Tribal Trust, natural resources, and water supply reliability issues associated with the LOP. The Nez Perce Tribe (NPT), NOAA Fisheries and the Bureau of Reclamation (Reclamation) reached a Settlement Agreement in 2014 to administratively stay ESA litigation concerning the effects of the operations and maintenance of the LOP on listed steelhead. The primary focus of the 2014 Agreement is to continue efforts to complete a full water exchange and title transfer of the LOP as a comprehensive solution to ESA, Tribal Trust and natural resources issues, along with addressing water supply and reliability concerns. The water exchange involves incrementally exchanging the existing surface water system, located predominantly on the Nez Perce Reservation, with an off-Reservation groundwater-pumped system consisting of multiple wells. Since 2014 Reclamation has contracted with a mutually acceptable consultant to facilitate ongoing meetings and formal discussions and to manage development and implementation of negotiated documents in accordance with the 2014 Agreement.

**Updates to the Coordinated Long-term Operation of the Central Valley Project and State Water Project.** On August 2, 2016, Reclamation requested re-initiation of Section 7 consultation under the ESA with the USFWS and NMFS on the Coordinated Long-term Operation of the CVP and SWP. The USFWS responded on August 3, 2016, and NMFS responded on August 17, 2016. Several factors resulted in Reclamation requesting re-initiation of consultation under the ESA, including the continued decline in the status of the federally listed species, the recent multiple years of drought, and the evolution of best available science. Reclamation is using a three-track process with all tracks initiated simultaneously, proceeding in parallel, but concluding at different dates. Facilitation support is being used for coordinating stakeholder workshops, brainstorming, and public meetings. This process is expected to conclude in 2020.

**Navajo Nation – Hogback Canal Contingency Water Supply Study.** The Hogback Diversion Canal is located approximately 10 miles east of Shiprock, New Mexico and diverts water from the San Juan River for crop irrigation and related ranching/farming activities. On August 5, 2015, the Gold King Mine spill, near Silverton Colorado, triggered an uncontrolled release of approximately 3 million gallons of acidic mine waters into Cement Creek. Cement Creek is a tributary of the Animas River, which in turn is a tributary to the San Juan River. As a result, the Hogback Canal, which is owned and operated by the Navajo Nation and serves the Navajo farmers in the Shiprock, NM area, was shut down for the remainder of the 2015 irrigation season due to poor water quality.

On July 12, 2016, the Navajo Nation President, the Deputy Secretary of the Interior, and the Reclamation Commissioner signed a Memorandum of Understanding (MOU) that committed all parties to work together to identify and analyze potential emergency contingency water supplies for the Hogback Irrigation Canal. The final deliverable of the study being a report containing the results of the study.

A Value Planning Team (Team) made up of representatives from the Navajo Nation Department of Water Resources (Navajo Nation), San Juan River Dineh Water Users

(SJRDWU), San Juan River Farm Board (SJRFB), Bureau of Reclamation (Reclamation), and Bureau of Indian Affairs (BIA), met on November 2, 2016. The Team, led by a neutral Reclamation facilitator, worked through the process of a Value Job Plan with the intent of arriving at the requested deliverable, a report containing alternatives for contingency water supplies to the Hogback Canal.

During the initial meeting, the Team progressed through the Information Gathering and Brainstorming phases of the job plan. Products developed during these phases of the study included a statement of need, design assumptions, and possible sources of water. Additionally, the Team developed a Function Analysis System Technique (FAST) or logic diagram. The objective of the FAST diagram is to help the Team develop a common understanding of the project objectives. The Team brainstormed over a hundred ideas that were grouped into six categories:

- Operational Modifications/Improvements
- Existing Infrastructure Modifications/Improvements
- New Infrastructure
- On-farm Modifications/Improvements
- Risk Management
- Institutional/Archeological/Antiquity Modifications/Improvements

Ultimately, the Team determined the last three of the categories were outside the scope of the MOU. For the initial three categories, the Team evaluated and reduced the ideas to 9 proposals to move forward for full alternative development.

From November 2016 to October 2017, the Reclamation team members, with support from the remaining team, developed preliminary level designs and costs ranges for the 9 proposals. The Team also developed criteria, weighted the criteria, scored the alternatives, and produced a ranking of the alternatives. As a result, further adjustments and refinements were made to the designs and costs.

The role of a neutral facilitator is to help coordinate the Value Planning Study, facilitate the Value Planning Study, and to develop of a final report summarizing the effort. The facilitator's role on this Value Planning Study ended with the publication of the final report in November 2017. The facilitative decision-making process provided by Reclamation's Value Program brought together many technical experts from numerous agencies/commissions to develop alternatives (solutions) of contingency water sources for the Hogback Canal. Everyone's viewpoints and concerns were acknowledged throughout the process and many of the concerns are addressed in the final report. The Navajo Nation and the San Juan River Farm Board are responsible to determine the next steps and to determine if/how the Value Planning alternatives will be carried forward.

**Long-term Plan to Protect Adult Salmon in the Lower Klamath River Project (LTP).** In 2002, a disease outbreak and fish die-off occurred in the lower Klamath River. This fish die-off was due to low flows, warm water temperatures, high fish density, and the rapid spread of the fish pathogens *Ichthyophthirius multifiliis* (Ich) and *Flavobacter columnare* (Columnaris). As a result of the 2002 outbreak and the potential threat of a recurring mortality event in the lower Klamath River, Reclamation augmented flows

from Lewiston Dam on the Trinity River to improve water quality in the lower Klamath River. Years of flow augmentation include 2003, 2004, and 2012 – 2016.

In 2013, Reclamation recognized that a long-term approach for flow augmentation actions was needed to address the need for potentially augmenting flows for many years to come to address the risk of another fish die-off in the lower Klamath River. Subsequently, Reclamation in coordination with the federal, state, and tribal partners developed the Draft Long-Term Plan to Protect Late Summer Adult Salmon in the Lower Klamath River (April 2015) that was also used as the basis to define the scope of the purpose and need and the associated Environmental Impact Statement (EIS).

In fall of 2016, ten agencies (State, Federal, Tribal, and the San Luis Delta Mendota Water Authority) signed on to serve as cooperating agencies in support of the planning and development of the Long-Term Plan to Protect Late Summer Adult Salmon in the Lower Klamath River EIS. With the assistance of a contracted third-party neutral facilitator, Reclamation held three workshops with the cooperating agencies to develop alternatives, review modeling results, and refine monitoring and adaptive management methodologies. The draft EIS was subject to public review and comment between October 14 and December 5, 2016. Reclamation finalized the EIS and the Record of Decision (ROD) was signed April 19, 2017. This decision document provides environmental coverage to implement flow augmentation releases to the lower Klamath River with water from Trinity Reservoir to prevent a disease outbreak that may cause significant mortality of adult salmon in the lower Klamath River. The ROD provides environmental coverage for many years and a basis for future monitoring needs under an adaptive management framework. And lastly, the extensive collaboration efforts resulted in an improved common understanding and working relationship among the different agency staff, stakeholders, and Tribes.

**OSMRE.** As part of the outreach for OSMRE’s proposed Bonding Rule, the rulemaking team held three separate meetings to solicit ideas and recommendations from the major stakeholders in advance of the rulemaking. Because of the strong and competing positions held by the stakeholders, a facilitator was hired, through the CADR IDIQ, to help conduct each of the meetings in a productive and non-confrontational manner. The meetings were conducted in a respectful atmosphere, which helped us obtain valuable comments and ideas for future rulemaking from the attendees.

## 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.

At a programmatic level a key priority for the DOI CADR Office is implementing process evaluation tools and building a foundation of lessons learned and practice improvements that can be integrated across DOI ECCR processes as appropriate. In FY 2018, we will build on existing efforts within CADR and in the broader federal ECCR community to implement a system to evaluate CADR's contracted and direct services.

Across the Departmental Bureaus and Offices the most common uses of ECCR are in resource management planning activities such as NEPA scoping processes for BLM units; and implementation of Reclamation projects such as the Glen Canyon Adaptive Management Work Group. Additionally, Reclamation made use of ECCR to assist with Endangered Species Act (ESA) compliance. Other priority areas in FY 2017 included facilitation of multi-stakeholder task forces / work groups related to oil and gas decommissioning, offshore wind leasing led by BOEM and across all bureaus activities related to government to government consultation as well as compliance with Section 106 of the National Historic Preservation Act.

**7. Non-Third-Party-assisted Collaboration Processes:** Briefly describe other significant uses of environmental collaboration that your agency has undertaken in FY 2017 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.*

For many of the land management Bureaus and Offices in DOI, collaboration with stakeholders and other Bureaus or Federal agencies without the use of a third-party neutral is a common occurrence. Below are selected examples from the Bureaus and Offices.

**BLM.** The majority of ECCR work completed by the BLM continues to be unassisted collaboration, working with state and local partners to develop management solutions that best meet everyone's needs. The BLM's National Operations Center (NOC) Division of Resource Services (DRS) assists the field and state offices in unassisted collaboration, such as the development of cooperative agreements, helping with public meetings and open houses, and participating in negotiations, as needed and requested. The DRS is available to help with development of agreements between the BLM and state/federal partners, with land use planning workshops, and natural resource damage assessments.

The Implementation Group (IG) is comprised of a core group of cooperating agencies (State of Wyoming, local governments, counties, and conservation districts) that identify solutions to issues (such as erosion or wildlife disruption) in the project area that are identified by other stakeholders. The group was created as the result of the ROD for the CD-C EIS, which analyzed the impacts of the development of almost 9,000 natural gas wells across a 1.1 million-acre project area in south central Wyoming. Throughout the development of the EIS, cooperating agencies (including the State of Wyoming as well as counties and conservation districts) and other stakeholders (mainly non-governmental organizations representing environmental interests, but also including local landowners and grazing permittees) have expressed concern regarding the ability of natural gas operators to adequately reclaim disturbances in the project area. In addition, stakeholders remain interested and invested in planning the

development in the project area in a way that reduces environmental impacts while at the same time allows for the development of the fluid mineral resources. This group is in its infancy (the ROD was signed in late 2016 and due to the recently lifted hold on all FACA and non-FACA chartered groups has only met once), and is a good example of a collaborative process that continues to exist after the project development and NEPA phase of the EIS are over. The collaborative process that was created during the development of the project EIS will help shape the future of development in the area.

The Jordan Meadows Collaborative Group in Nevada has been receiving assistance from the BLM's National Riparian Service Team (NRST) in order to work through a term permit renewal for the Jordan Meadows allotment. In 2017, the group participated in a kick off workshop, a meeting to develop grazing management options, and a group meeting, with 25 participants, to review options and finalize the 2017 grazing management plan.

**NPS.** The RTCA staff provided community assistance and collaboration support to 400 communities for park and trail development, recreational programming, and conservation. These projects enhance the livability, sustainability, and economy of communities across the country. The Wild and Scenic Rivers staff supported 13 Partnership Wild and Scenic Rivers groups working in collaboration to protect and enhance river values locally.

**OSMRE.** Energy development including the leasing, mining, transportation and combustion of coal is increasingly of significant interest to the public and includes concerns regarding air quality and climate change; human health effects, impacts to threatened and endangered species, as well as impacts to local hydrology and cultural resources. All federal decisions require environmental analysis in accordance with the National Environmental Policy Act (NEPA). Starting in FY 2016, and continuing through FY 2017, the OSMRE Western Region implemented significant enhancements to their NEPA public participation process including, conducting external scoping, providing opportunities for public comment on draft documents, as well as conducting public outreach meetings during the preparation of environmental assessments before recommending the mining of federal coal or issuing decisions approving the mining of coal where OSMRE is the regulatory authority. OSMRE often partners with other federal and state resource management agencies through execution of a memorandum of understanding to best inform their decision. Where endangered species may likely be affected by the project, OSMRE has worked collaboratively with the project proponent and the United States Fish and Wildlife Service to develop appropriate conservation measures.

To ensure the participation of tribal members in the Southwest, OSMRE ensures that notification of all permitting actions and the opportunity to comment is done using radio announcements in either the Navajo or Hopi language. In addition, during all public meetings OSMRE ensures that the meetings are held in locations easily accessible to tribal members and that Navajo and Hopi translators are available to ensure that all questions from the public are understood and can be answered and that any comments the public may have are entered into the record.

OSMRE has worked closely with the Tribes and other State and Federal bureaus to develop Programmatic Agreements under section 106 of the National Historic Preservation Act. This involves significant negotiation and collaboration with all parties to ensure the Programmatic

Agreements meet all signatory parties' needs.

Last, on the enforcement side, the OSMRE Western Region frequently works with the DOI, Office of the Solicitor, to collaborate with environmental stakeholders on proposed decisions and resolve disputes with environmental groups that challenge OSMRE decisions.

#### **Bureau of Reclamation.**

**Columbia River System Operations (CRSO) Environmental Impact Statement (EIS), Pacific Northwest Region.** Management of stakeholder and tribal engagement for the CRSO EIS, Pacific Northwest Region (Idaho, Montana, Oregon, and Washington). Various Columbia River Basin and Pacific Northwest Region stakeholders and tribes have a high level of interest in the development of the Columbia River System Operations EIS and the associated National Environmental Policy Act (NEPA) process. The Bureau of Reclamation (Reclamation), the Army Corps of Engineers (Corps), and Bonneville Power Administration (BPA) are “co-lead agencies” on a comprehensive EIS for operation and maintenance of 14 federal dams located within the Columbia River Basin in Idaho, Montana, Oregon, and Washington. The co-lead agencies identified a need to respond to Tribal governments and stakeholders regarding comments to draft EIS products under development that were received outside of public comment period within the NEPA planning effort.

The co-lead agencies worked with tribes to develop an innovative three-tiered (staff, deputy, and executive levels) consultation framework that allows for meaningful consultation with 19 federally-recognized Indian tribes and three tribal organizations on development of the EIS. The consultation presents many challenges, including a court-mandated timeframe for development of the EIS coupled with the logistics associated with scheduling and coordinating efforts of three co-lead federal agencies and numerous tribes spread across four states. In 2017 several meetings were held at each tier of the tribal consultation framework, but only the executive level meetings were facilitated. These were held August 30 and 31, 2017 and included the three agency executives and tribal leadership.

#### **Aamodt Litigation Settlement Act/Pojoaque Basin Regional Water System.**

The Aamodt Settlement Agreement has created controversy in the Pojoaque Basin over private property rights, including continuing use of private wells and access to private property located within the exterior boundaries of land owned by the four Settlement Pueblos. The largest source of controversy over the last year was a dispute between Santa Fe County and the Pueblos over county roads that were in trespass on Pueblo land. The issue was stopping progress on the implementation of the Settlement Agreement. In the summer of 2017, Reclamation Deputy Commissioner Alan Mikkelsen agreed to serve as a neutral to assist the four Settlement Pueblos and Santa Fe County in reaching agreement to resolve trespass issues over the County-maintained roads within Pueblo boundaries. Although Reclamation is a party to the settlement and is building the RWS, Reclamation was not a party to the trespass issues. Deputy Commissioner Mikkelsen, who had not previously been involved in Aamodt or the RWS, provided a fresh, outside perspective and played an important role in facilitating discussions that ultimately led parties to reach agreement in principal on the trespass issue. Santa Fe County is currently sharing the agreement with its constituents as parties prepare to finalize the agreement.

**Minute 323 Negotiation Process.** Minute 323 is part of an ongoing cooperative program

begun in 2007 by the Secretary of the Interior to reach agreement with Mexico and the Basin States on a set of cooperative measures in the Colorado River Basin in order to meet the challenges in the years and decades ahead. An interim agreement reached in 2012, Minute 319, (Minute 323's predecessor), was scheduled to expire at the end of 2017, so a binational team of negotiators (Minute Negotiating Group or MNG) convened in 2015 to begin discussions on a follow-on cooperative Minute. The MNG included multiple representatives from the Basin States, Reclamation, the U.S. and Mexican Sections of the International Boundary and Water Commission (IBWC), CONAGUA (Mexico's federal water agency) and Mexican state representatives. Minute 323 builds upon Minute 319 and provides operational certainty regarding deliveries to Mexico, including reductions and water savings at specific Lake Mead elevations, investment to conserve Colorado River water supplies, and enhancement of environmental and riparian resources until 2026.

In an extensive stakeholder involvement process, both through the MNG and through a larger U.S. Technical Team, Reclamation and IBWC led a collaborative process to reach agreement on a variety of topics of critical importance to the U.S.

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.

A strong interest exists among the DOI reporting Bureaus and Offices to learn how the annual report is used and useful to OMB and CEQ as well as others. Within CADR knowledge of the aggregate ECCR project numbers is important for identifying trends and sharing this information back to the Bureaus and Offices in order to assist with projecting future ECCR resource needs within the Bureaus and offices.

An ongoing challenge in preparing the annual report is limited staff time within the Bureaus to provide responses to the questions in the template and staff time to review and consolidate responses from the field and regional offices into a single Bureau response.

CADR is looking at different approaches to communicate the value and benefits of ECCR as experienced by the Bureaus and Offices and de-emphasizing the data-call aspect of the annual report. Solutions to these challenges rest in part with reconsidering the annual report template but more importantly in conveying how the information is used and useful.

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

Report due February 23, 2018.

Submit report electronically to: [owen@udall.gov](mailto:owen@udall.gov)

**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