

Environmental Collaboration and Conflict Resolution

Fifteenth Annual Report

June 2021

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, on Environmental Conflict Resolution and broadens the efforts called for under the 2005 memorandum by explicitly encouraging appropriate and effective upfront environmental collaboration to minimize or prevent conflict. The ECCR Memorandum defines ECCR as “third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or conflicts.”

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

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

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

In Fiscal Year 2020, a total of 19 DOE site and program offices responded to the ECCR survey request. A total of 22 ECCR cases were reported. Six of the 22 reported ECCR cases involved third-party assistance.

I. INTRODUCTION

A. Background

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

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

However, to assure comparability of its data with the CEQ/OMB definition of ECCR, the Department tracks those ECCR cases in which third-party assistance was used and those in which third-party assistance was not used. This report, required by section 4(g) of the ECCR Memorandum, presents ECCR case data in both categories and describes third-party and non-third-party dispute resolution processes used by the Department in Fiscal Year 2020 (FY 2020).

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 has been formed. This committee, with assistance from the U.S. Institute for Environmental Conflict Resolution, develops a survey template annually for agencies’ use. The FY 2020 survey template remained substantively unchanged from the template used in FY 2019. The DOE modified the template to accommodate gathering the data necessary to report separately those DOE cases that used third-party assistance and those that did not. The DOE-modified template is provided as Attachment A.

The DOE template was distributed to points of contact from various programs and site offices throughout the DOE complex. This report contains the information supplied by 19 site and program offices.

II. ECCR CAPACITY BUILDING PROGRESS MADE IN FY 2020

The DOE site and program offices maintain and enhance their awareness of ECCR methods and opportunities through monthly environmental attorneys' conference calls and the annual joint DOE/DOE contractor environmental attorneys' training. On average, 12 participants join the monthly calls. In 2020, the environmental attorney training, usually held in April, was cancelled due to the COVID-19 pandemic. Planning is underway for a virtual training in 2021.

Examples of building ECCR capacity through the use of third-party neutral assistance and without third-party neutral assistance are given below.

II.A Capacity Building Using Third-Party Neutral Assistance

West Valley Demonstration Project (WVDP). An example of continuing to build ECCR capacity through use of a third-party neutral is the practices employed at WVDP. In 2010 the WVDP began an extended process utilizing the services of a third-party neutral that has been very successful. See Section IV.A for details.

Environmental Management – Los Alamos Field Office (EM-LA). The EM-LA utilizes the services of an outside facilitator in a critical and long-term conflict resolution process. Specifically, DOE EM-LA participates in monthly meetings of the Los Alamos National Laboratory (LANL) Natural Resource Damages Assessment (NRDA) Trustee Council, which consists of representatives from the State of New Mexico, several nearby Pueblos, and the Forest Service. EM-LA is one of the two co-lead Trustees (along with the State of New Mexico), and in that role contracts for a facilitator to assist in the important discussions amongst Trustees during the monthly meetings.

Richland Operations Office – Hanford Site. On behalf of the Hanford Natural Resource Damages (NRD) Trustee Council, DOE contracted a facilitator to assist planning and decision-making among trustees. DOE has also contracted an NRD consultant firm to assist with the completion of Hanford's NRD injury assessment. This year, DOE funded a Legal Work Group with all trustee attorneys to work with the U.S. Department of Justice in addressing legal barriers identified by technical trustees that require resolution to complete the injury assessment.

The 2015 National Defense Authorization Act (NDAA) requires the United States Fish and Wildlife Service (USFWS) to take several actions and allow public access to the top of Rattlesnake Mountain. That mountain is a part of Laliik, a Traditional Cultural property. The related USFWS EIS is at a standstill.

The Udall Foundation assessed how USFWS is implementing the NDAA requirements and implementing the National Historic Preservation Act Section 106 for certain areas of the Hanford Site, in the *Hanford Reach Section 106 Program Assessment*. The Assessment's three main focuses are improving tribal consultation and the relationships, development of a Programmatic Agreement, and improving the cultural resource work. The Assessment makes many recommendations, with few if any recommendations related to concerns that USFWS lacks sufficient funding and staffing. The report recommends extensive further consultations and the use of a facilitator.

Since June 2020, DOE, the State of Washington, and EPA have been engaged in mediated negotiations to identify a mutually agreeable path forward for the Hanford tank waste treatment mission, including the construction and operation of the WTP.

West Lake Landfill Mediation, Bridgeton, Missouri

The United States (Department of Energy and Department of Justice and the Environmental Protection Agency) are participating in mediation sessions, facilitated by retired judge Richard Dana, with other potentially responsible parties in connection with the cleanup of the West Lake Landfill in Bridgeton, Missouri under the Comprehensive Environmental Response, Compensation, and Liability Act. The principal issue covered by the mediation is the allocation of cleanup costs for the partial excavation of the Landfill, in accordance with EPA's Record of Decision.

II.B Capacity Building Without Third-Party Neutral Assistance

Idaho Operations Office. The DOE Idaho Operations Office routinely engages in collaborative discussions with regulatory and state government officials, as well as Native American Tribal representatives related to the operation of the Idaho National Laboratory Site. An example of continuing to build ECCR capacity through collaborative problem solving without the use of third-party neutral is the approach that the Idaho Operations Office used for five federal agency decision cases involving compliance and enforcement actions. The first strategy used by the Idaho Operations Office was negotiation with the ID Dept. of Environmental Quality regarding the extension of Site Treatment Plan milestones for the treatment and disposition of TRU waste as well as high level waste. Negotiations included extensive collaborative meetings where DOE/site contractors presented issues and potential solutions. The TRU milestones extensions were approved. The Idaho Operations Office also negotiated with the State of Idaho on the November 2019 addendum to the Idaho Settlement Agreement to address disposition of TRU waste and the operation of the Integrated Waste Treatment Unit to treat the sodium bearing waste. DOE and the State of Idaho entered into the agreement in November 2019.

DOE Mound Site (DOE-LM)

The City of Miamisburg alleged it is entitled to response costs and damages from DOE and Monsanto. The parties have entered into tolling agreements to facilitate settlement negotiations. No litigation has been filed yet.

DOE Richland. An example of continuing to build ECCR capacity through collaborative problem solving without the use of a third-party neutral is the approach used at Hanford to administer the Hanford Federal Facility Agreement and Consent Order, or 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, Hanford project managers develop negotiation strategies that

incorporate ECCR principles. Hanford Senior Management and Office of Chief Counsel encourage project managers, supporting personnel to use collaborative negotiations for environmental conflict resolutions. Most issues are resolved informally and never rise to the formal dispute level because informal resolution precludes a project manager from invoking TPA dispute resolution procedures. The issues are resolved collaboratively through monthly Project Manager meetings, quarterly milestone review meetings, Interagency Management Integration Team meetings, and other meetings. Over the course of a year, hundreds of such meetings are held. It is the intent of RL to continue to use the informal collaborative approach to resolve issues before it becomes necessary to enter into formal TPA dispute resolution procedures, or third-party supported environmental conflict resolution.

Savannah River Operations Office (DOE-SR). DOE-SR utilizes pre-dispute resolution (PDR) to negotiate with its regulators. PDR is designed to avoid disputes and associated alternative dispute resolution or litigation. For example, DOE-SR and the South Carolina Department of Health and Environmental Control (SCDHEC) have entered into an agreement that identifies potential disputes in advance, provides a methodology for communication, and sets forth a concurrence process before dispute or alternative dispute resolution is initiated.

SRS identified 8 ECCR cases not involving a third-party neutral for FY 2020. These represent the number of new conditions identified in 2020 that have been approved by SCDHEC for elevation to “events” status. SRS staff frequently negotiate solutions/workarounds because of good faith they have developed through open Core Team collaboration. For example, DOE-SR developed and submitted a proposed plan in April 2020 for the cleanup strategy for the Lower Three Runs Operable Unit, but EPA would not approve it due to a dispute over water quality/discharge limits for a separate OR-EM project. DOE-SR agreed to several schedule extensions because they were confident that the proposed remedy and its rationale were sound. They did not pressure EPA to approve or disapprove the proposed remedy, which could easily have resulted in invoking dispute resolution. The proposed plan was eventually approved in December 2020 and was crafted in consultation with EPA to avoid any entanglement in the separate water quality issue that was in dispute.

Southeastern Power Administration (SEPA). SEPA is a small Federal agency with the authority to market hydroelectric power and energy in the states of Alabama, Florida, Georgia, Illinois, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, from reservoir projects operated by the U.S. Army Corps of Engineers (COE). SEPA continues to participate twice annually in Alliance meetings that consists of SEPA’s Administrator, SEPA Core Team Managers, other SEPA staff, and various stakeholders. The Alliance is a partnership formed in 1991 among SEPA’s stakeholders which includes customers, the U.S. COE, and SEPA. These Alliance meetings provide an opportunity for participants to discuss hydropower operations, to discuss and coordinate critical water issues and other current and long-term issues affecting all partners, and to plan future strategies. They also attend quarterly Southeastern Federal Power Customer (SeFPC) meetings. These meetings provide an opportunity for SEPA and its customers and stakeholders to discuss operational and industry issues of mutual interest and concern.

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.

As explained in previous WVDP ECCR reports, at the WVDP, the use of a third-party neutral as part of the Phase 1 Study process enabled WVDP and its regulator to utilize the talents of subject matter experts and an independent scientific panel to focus on the areas of technical disagreement between the parties. The anticipated outcome of this multi-year Phase 1 Study process is mutual and timely decision by WVDP and the regulator on Phase 2 of the decommissioning of the remaining facilities at the WVDP. Additionally, the ECCR process includes a comprehensive public participation process in order to insure transparency with stakeholders. The anticipated outcome would avoid lengthy and expensive litigation between DOE and the State of New York on the final disposition of the remaining facilities. The ECCR process is keeping the entire decision-making process on track and helping to avoid any work stoppages due to interagency disagreements.

Staff of the EM-LA continue to believe that retaining the services of a neutral facilitator for monthly LANL NRDA Trustee Council meetings improves the overall relationship between DOE and the Trustees (State of NM and several nearby Pueblos) and avoids wasteful distractions to the NRDA process. The LANL NRDA Trustee Council is an extremely important organization where candid discussions are necessary and encouraged regarding the sensitive issue of potential injury to local natural resources. The facilitator greatly assists the Trustees to engage in discussions during the monthly Trustee Council meeting in order to reach timely resolution on important and sensitive issues as well as ongoing studies. The investment is clearly an overall value-added to the success of the NRDA process.

The Environmental Management Nevada program (EM-NV) continually implements a broad array of partnerships, cooperative arrangements, and unassisted negotiations with a variety of state and community stakeholders to plan, manage, and implement department and agency programs and activities. The program successfully uses regular meetings with environmental regulators and a site-specific advisory board and committees to engage stakeholders in the early stages of decision-making processes. The EM Nevada Program has extended membership on the site-specific advisory board to include a Native American liaison. Stakeholders participate in studies and working groups to collaborate on groundwater issues; endangered, protected, and regulated species; climate change; and other environmental issues. These activities foster open communication between EM-NV and its stakeholders to ultimately avoid environmental conflicts. Increased collaboration is being planned for future endeavors.

SEPA utilizes its strategic planning efforts to promote continued negotiations with all stakeholders and business partners. These efforts have enabled SEPA and its stakeholders to carry forward solutions in accordance with congressional intent and current conditions in the management of federal water resources projects. Frequent negotiations and continued participation in these stakeholder meetings are deemed positive and represent steps forward by SEPA in its strategy to seek amiable conflict resolution.

IV. ECCR CASES IN FY 2020

Respondents reported six ECCR cases in which third-party neutrals were involved and 16 ECCR cases in which they were not. One ECCR case involving a third-party neutral was reported by EM-LM as a case involving the Natural Resources Damages Assessment Trustee Council. For the EM-LM case, the facilitator ensures that the process keeps moving forward without unnecessary distractions to the NRDA process. Another ECCR case involving a third-party neutral was reported by the WVMP as a planning category case. The WVDP staff and its regulator agree that retaining the services of a third-party neutral in order to facilitate reaching interagency consensus on several complex technical issues and controversial facilities holds the greatest potential for mutual and timely decommissioning decisions.

Of the 16 cases not involving a third-party neutral, 5 compliance and enforcement cases for Federal agency decisions were reported by the Idaho Operations Office, and 8 cases were reported by the Savannah River Operations Office (DOE-SR). The DOE-SR cases were defined as new conditions in the Watershed Management Plan approved by the SCDHEC. One additional case was reported as completed for either the Ames Office or Argonne or Fermi National Laboratories (site not identified in single survey response received for all three Laboratories). The other two cases include one at Richland and another involving the Mound site were reported above. Attachment B contains tables summarizing the ECCR survey results.

IV.A. ECCR CASE EXAMPLE USING THIRD-PARTY NEUTRAL ASSISTANCE

An example of continuing to build ECCR capacity through use of a third-party neutral is the WVDP. In 2010 the WVDP entered into a tripartite agreement with the New York State Energy Research and Development Authority (NYSERDA) and a third-party neutral in order to facilitate reaching an interagency consensus on the remaining facilities at the WVDP and the Western New York Nuclear Service Center. The Phase 1 Study process was completed in 2018. Integral to the Phase 1 Study process was the agreement between WVDP and NYSEDA to split all associated costs 50/50. WVDP and NYSEDA have now committed to making Phase 2 decisions by 2023 and the ECCR process has kept the parties on-track since the Phase 1 decision.

As part of the Phase 1 process, WVDP and NYSEDA jointly hosted multiple public meetings with a professional facilitator always present and the third-party neutral available when appropriate. The third-party neutral has retained and utilized the services of both Subject Matter Experts and an Independent Scientific Panel to assist with the overall goal toward facilitating interagency consensus. This process has generated multiple technical reports that have been shared with the Federal and state agencies as well as WVDP stakeholders. Additionally, the third-party neutral has utilized the services of a professional facilitator to moderate all public meetings as part of the associated comprehensive public participation plan. Effective use of ECCR techniques has allowed the parties to overcome 30 years of entrenched disagreement and conflict over the disposition of the WVDP and Center. The ECCR efforts are proving to be extremely useful conflict avoidance and conflict resolution tools.

IV.B. ECCR CASE EXAMPLES WITHOUT THIRD-PARTY NEUTRAL ASSISTANCE

Many ECCR cases are handled without the use of a third-party and instead use collaborative discussions to provide information to the public, elected officials and regulatory bodies through formal and informal presentations. This collaborative process also gives DOE the opportunity to brief those bodies, receive their comments and concerns, and address those comments and concerns throughout the decision-making process. For FY 2020, four DOE offices reported cases handled without the use of a third-party neutral; these offices were: the Idaho Operations Office, DOE-SR, the Ames Office or Argonne or Fermi National Laboratories (site not identified in single survey response received for all three Sites), and the Richland office. See Attachment B, Table 2 for additional information and other cases involving DOE activities. Several examples of the FY 2020 reported cases follow.

The case reported for Ames, Argonne, or Fermi was a continuation of a FY 2019 case report. For this case, an ECCR-type process was used to engage local government officials by attending Community Round Table meetings as well as Home-Owners Association meetings before a NEPA scoping process was initiated regarding the building of new powerlines. This outreach was used to gauge how much public interest was present for the building of the powerlines outside of DOE land near homes and along the road of a forest preserve. By presenting the plans for the project, the Lab was able to answer questions and address concerns so that it was determined that a categorical exclusion was appropriate as the outreach revealed little public concern. Thus, DOE saved hundreds of thousands of dollars that otherwise would have been spent on an EA. This case was reported as completed in FY 2020.

For the five cases reported by Idaho Operations Office, three negotiations for projects related to power line construction, the construction of the cap at a Subsurface Disposal Area, and modification to facilities for the production of High Assay Low Enriched Uranium were reported as completed through the Idaho SHPO. Memorandum of Agreements with agreed upon stipulations were established and signed by DOE and SHPO.

Richland reported one case without the use of third-party neutral assistance, which was described earlier in this report.

DOE-SR stated it had 8 ECCR cases addressed without the use of third-party neutral assistance. SRS considered cases with new conditions in the Watershed Management Plan approved as “events” by SCDHEC to be cases.

V. PRIORITY USES OF ECCR

The Department’s sites and program offices used third-party and non-third party ECCR collaboration with regulators and stakeholders in the following areas in FY 2020:

- Collaborative discussion with stakeholders (both federal and non-federal);
- Multi-issue and Multi-party Environmental Disputes;
- Natural resource protection;
- Site permits; and

- Site remediation, decontamination, and decommissioning under CERCLA and RCRA

VI. COMMENTS AND SUGGESTIONS REGARDING REPORTING

The ECCR survey form includes the following question: *Please comment on any NEW or CHANGED difficulties you encountered in collecting these data and if and how you overcame them. Please provide suggestions for improving these questions in the future.*

DOE-SR provided a response indicating that the survey form is not clear enough on where information regarding cases not involving third-party neutrals should be recorded. For example, Items 4, 5, and 6 in the survey form are designated as only for cases with third party involvement, and all non-third party-assisted collaboration processes are requested to be recorded under Item 8. This may not be the most efficient format for the questionnaire, given that most cases recorded by DOE entities are non-third-party assisted.

All survey respondents that provided responses to the questionnaire indicated that they knew of the availability of DOE's Office of Conflict Prevention and Resolution (OCPR) to provide assistance. One of the respondents (EERE) indicated that they received support from and used the resources provided by the OCPR in FY 2020, in the form of information provided in training courses, and requested continued support through additional training opportunities. EM-LA indicates that they would like the support of OCPR in FY 2021 in ongoing negotiations with its regulator on milestones. The Office of Science, Great Lakes (for Ames Office and Argonne and Fermi National Laboratories) requested more outreach to management about available programs.

Attachment A

Modified Department of Energy FY 2020 ECCR Survey

Attachment B

Department of Energy FY 2020 ECCR Cases with and Without the Use of a Third-Party



FY 2020 Environmental Collaboration and Conflict Resolution (ECCR)¹ Policy Report to OMB-CEQ

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

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

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

. . . third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or 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 reporting template is provided in accordance with the memo for activities in FY 2020.

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 FY 2020 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 2020 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: <https://udall.gov/OurPrograms/Institute/ECRReport.aspx>.

Name of Site/Program responding:

Name and Title/Position of person responding:

Division/Office of person responding:

Contact information (phone/email):

Date this report is being submitted:

Name of ECCR Forum Representative:

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

1. ECCR Capacity Building Progress

- a. Describe any **NEW, CHANGED, or ACTIVELY ONGOING** steps taken by your site or program to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2020, including progress made since FY 2019. Please also include any efforts to establish routine procedures for considering ECCR in specific situations or categories of cases, including any efforts to provide institutional support for non-assisted collaboration efforts. Please refer to your FY 2019 report to only include new, changed or actively ongoing ECCR capacity building progress. If none, leave this section blank. **ECCR matters not involving a third-party neutral should be reported under question 8.**

Please refer to the mechanisms and strategies presented in Section 5 and attachment C of the [OMB-CEQ ECCR Policy Memo](#) for additional guidance on what to include here. Examples include but are not restricted to efforts to:

- integrate ECCR objectives into agency mission statements, Government Performance and Results Act goals, and strategic planning;
- assure that your agency's infrastructure supports ECCR;
- invest in support, programs, or trainings; and
- focus on accountable performance and achievement.

Please type your response in the box below.

- b. Please describe the trainings given in your site/program in FY 2020. Please include a list of the trainings, if possible, along with the course names and the total number of people trained. Please refer to your FY 2019 report to include only trainings given in FY 2020. **If none, leave this section blank.**

2. ECCR Investments and Benefits

- a. Please describe any **NEW or CHANGED or INNOVATIVE** investments made in ECCR in FY 2020. Examples of investments may include ECCR programmatic FTEs, dedicated ECCR budgets, funds spent on contracts to support ECCR cases and programs, etc.

Please refer to your FY 2019 report to only include new, changed, or innovative investments made in ECCR. **If none, leave this section blank. ECCR matters not involving a third-party neutral should be reported under question 8.**

- b. Please describe any **NEW or CHANGED** benefits realized when using ECCR in FY 2020.

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.

Please refer to your previous report to only include new or innovative methodology to identify ECCR investments and benefits.

If none, leave this section blank. ECCR matters not involving a third-party neutral should be reported under question 8.

3. ECCR Use

- a. Describe the level of ECCR use within your site/program in FY 2020 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 2020 ECCR CASES ²	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or Projects		Interagency ECCR Cases and Projects	
		Federal agency decision	Administrative proceedings/appeals	Judicial proceedings	Other (specify)	Completed ³	Sponsored ⁴	Included Other Federal Agencies Only	Included Non-Federal Participants (e.g., states, Tribes, and non-governmental)
Policy development									
Planning									
Siting and construction									
Rulemaking									
License and permit issuance									
Compliance and enforcement action									
Implementation/monitoring agreements									
Other (specify):									
TOTAL		(the sum of the Decision Making Forums should equal Total FY 2020 ECCR Cases)							

² An “ECCR case” is a case in which a third-party neutral was active in a particular matter during FY 2020.

³ A “completed case” means that neutral third party involvement in a particular ECCR case ended during FY 2020. The end of neutral third party involvement does not necessarily mean that the parties have concluded their collaboration/negotiation/dispute resolution process, that all issues are resolved, or that agreement has been reached.

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

Note: If you subtract completed ECCR cases from Total FY 2020 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2020 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 2020 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

3. ECCR Use

- b. 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 2020 ECCR CASES ⁵	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or Projects		Interagency ECCR Cases and Projects	
		Federal agency decision	Administrative proceedings/appeals	Judicial proceedings	Other (specify)	Completed ⁶	Sponsored ⁷	Included Other Federal Agencies Only	Included Non-Federal Participants (e.g., states, Tribes, and non-governmental)
Policy development									
Planning									
Siting and construction									
Rulemaking									
License and permit issuance									
Compliance and enforcement action									
Implementation/monitoring agreements									
Other (specify):									
TOTAL		(the sum of the Decision Making Forums should equal Total FY 2020 ECCR Cases)							

⁵ An "ECCR case" for purposes of this table is a case in which a collaborative problem solving process was active in a particular matter during FY 2020.

⁶ A "completed case" means that collaborative problem solving in a particular ECCR case ended during FY 2020. The end of the collaborative problem solving process does not necessarily mean that the parties have concluded their collaboration/negotiation/dispute resolution process, that all issues are resolved, or that agreement has been reached.

⁷ Sponsored - to be a sponsor of a 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 2020 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2020 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 2020 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

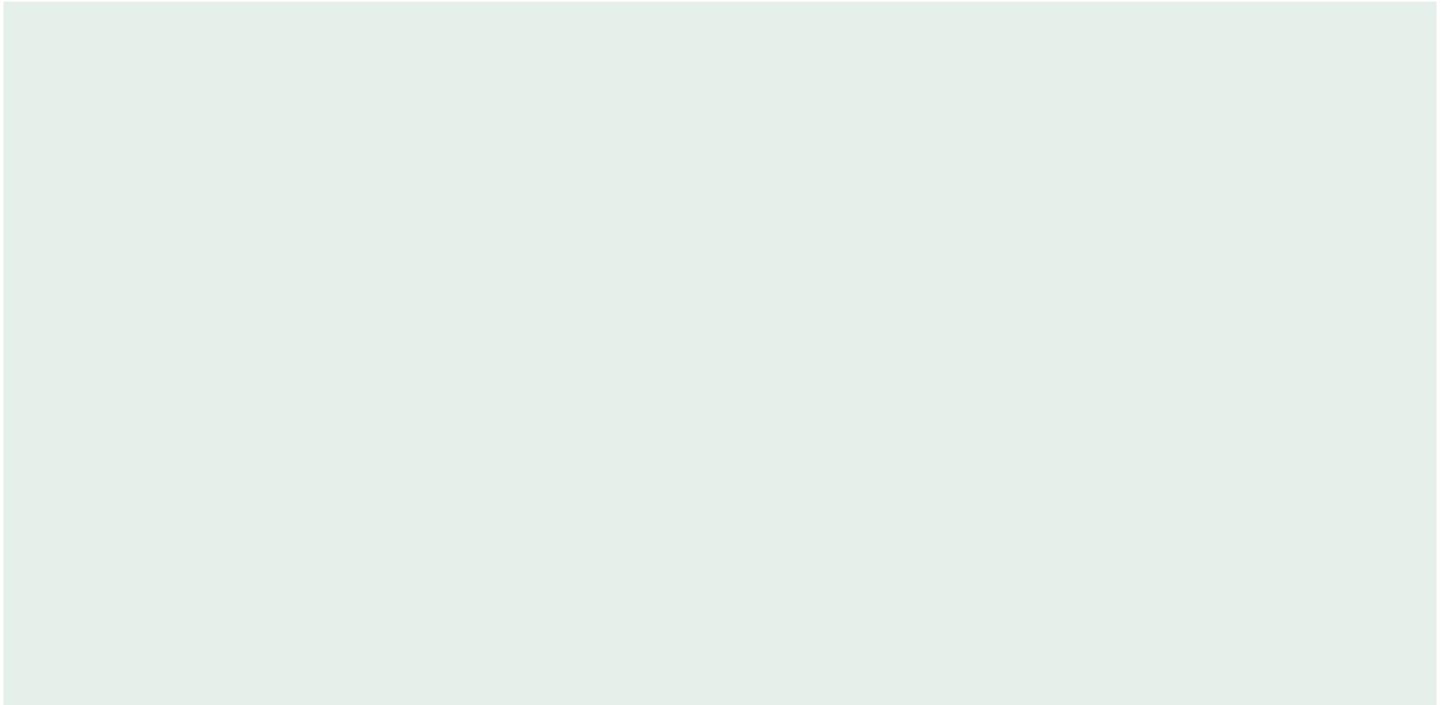
4. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably **completed** in FY 2020). If possible, focus on an interagency ECCR case.

Name/Identification of Problem/Conflict
Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance, and how the ECCR effort was funded.
Summary of how the problem or conflict was addressed using ECCR, including details of any innovative approaches to ECCR, and how the principles for engagement in ECCR outlined in the policy memo were used.
Identify the key beneficial outcomes of this case, including references to likely alternative decision-making forums and how the outcomes differed as a result of ECCR.
Please share reflections on the lessons learned from the use of ECCR.

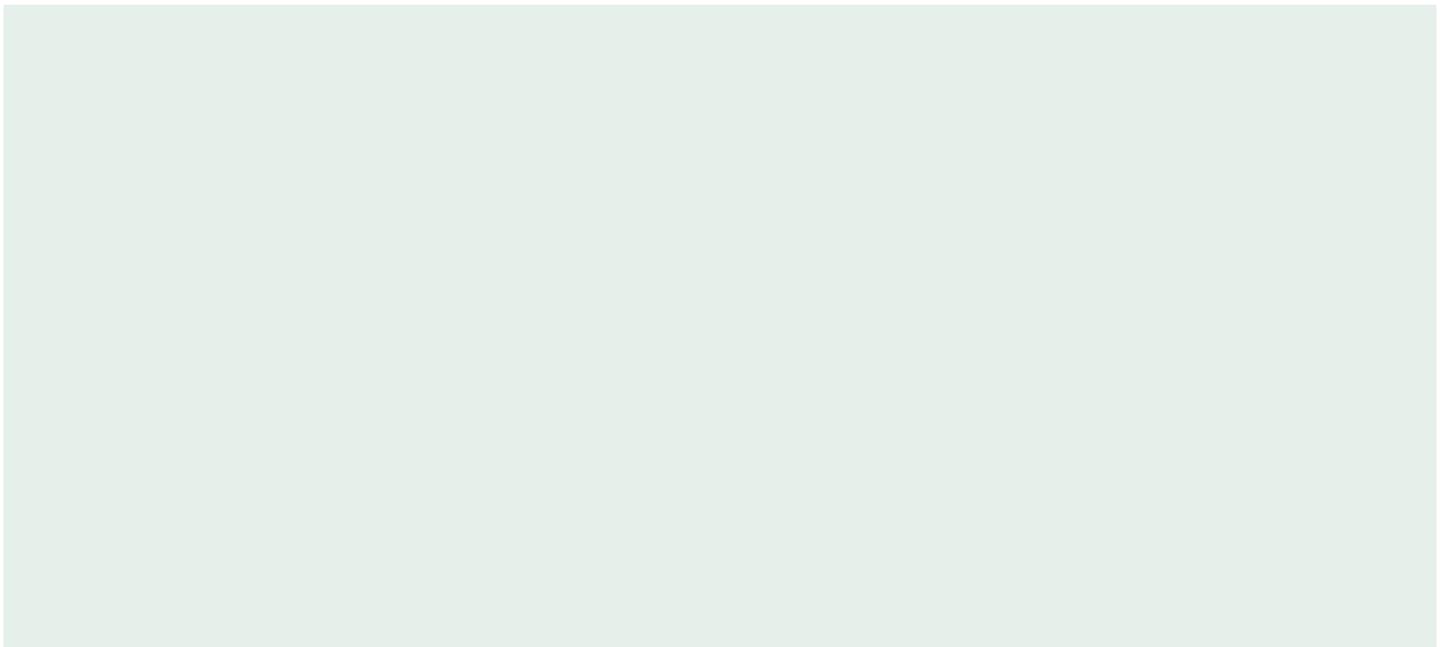
5. Other ECCR Notable Cases

Briefly describe any other notable ECCR cases in FY 2020. **(OPTIONAL)**



6. Priority Uses of ECCR

Please describe your agency's **NEW or CHANGED** 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. Please refer to your agency's FY 2019 report to only include new or increased priority uses. **If none, leave this section blank.**



7. Non-Third-Party-assisted Collaboration Processes (Optional)

Briefly describe other significant uses of environmental collaboration that your site/program has undertaken in FY 2020 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. **If none, leave this section blank.**

8. Comments and Suggestions on Reporting

Please comment on any **NEW or CHANGED** difficulties you encountered in collecting these data and if and how you overcame them. Please provide suggestions for improving these questions in the future. Please reference your agency's FY 2019 report to identify new/increased difficulties. **If none, leave this section blank.**

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 January 15, 2021.

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

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

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

Department and/or contractor personnel should:

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

	Total FY 2020 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 ¹	
		Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other (specify)			Federal only	Including non- Federal participants
<i>Context for ECCR Applications:</i>									
Policy development									
Planning	1 (WVDP ²)	1 (WVDP)					1 (WVDP)		1 (WVDP) 2 (RL) 1 (WLLF)
Siting and construction									
Rulemaking									
License and permit issuance									
Compliance and enforcement action	2 (RL ³) 1 (WLLF ⁴)						2 (RL); 1 (WLLF)		
Implementation/monitoring agreements									
Other (specify): EM-LA – Los Alamos Natural Resources Damage Assessment Trustee Council EM-RL – Richland Natural Resource Damage Assessment Trustee Council	1 (EM- LA ⁵) 1 (RL)				1 (EM-LA)		1 (EM-LA); 1 (RL)		1 (EM-LA)
TOTAL	6	1			1		2		4

¹ Interagency ECCR cases are categorized as other Federal agency only or including non-Federal participants (e.g., states, Tribes, and non-governmental orgs.)

² West Valley Demonstration Project

³ Richland

⁴ West Lake Landfill

⁵ EM – Los Alamos

Table 2: ECCR without a Third Party

	Total FY 2020 ECCR Cases	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or projects completed ⁴	ECCR Cases or Projects sponsored ⁴	Interagency ECCR Cases and Projects ⁴	
		Federal agency decision	Administrati ve proceeding s/appeals	Judicial proceedings	Other (specify)			Federal only	Including non- Federal participants
<i>Context for ECCR Applications:</i>									
Policy development									
Planning	3				3 (DOE-SR) ³		3 (DOE-SR)	3 (DOE-SR)	
Siting and construction	1	1 (Ames, ANL Fermi) ¹				1 (Ames, ANL Fermi)		1 (Ames, ANL, Fermi)	
Rulemaking									
License and permit issuance									
Compliance and enforcement action	7	5 (IOO) ² , 1 (RL) 1 (Mound)					5 (IOO)	5 (IOO)	1 (RL) 1 (Mound)
Implementation/monitoring agreements									
Other (specify):	5				5 (DOE-SR)		5 (DOE-SR)	5 (DOE-SR)	
TOTAL⁶	16	8			8	1	13	13	2

¹ Single case was for either Ames National Laboratory, Argonne National Laboratory, or Fermi National Laboratory.

² Idaho Operations Office (IOO)

³ Savannah River Operations Office (DOE-SR)

⁴ Reporting on cases completed, sponsored, and Federal only versus including non-Federal participants was incomplete.

Table 3: FY2020 Reporting and Status of Reported Third-Party Neutral Use

DOE RESPONDENT	Cases Reported	Cases w/o 3rd Party	Cases w/3rd Party
Ames, Argonne, and Fermi National Laboratories (3)	1	1	0
Brookhaven National Laboratory	0	0	0
Environmental Management-Los Alamos	1	0	1
Environmental Management-Nevada Program	0	0	0
Environmental Management - West Valley Demonstration Project	1	0	1
Idaho Operations Office	5	5	0
Lawrence Berkeley National Laboratory	0	0	0
Mound	1	1	0
NNSA Livermore Field Office - Lawrence Livermore National Laboratory	0	0	0
NNSA Production Office (NPO)	0	0	0
NNSA Sandia Field Office	0	0	0
Office of Energy Efficiency and Renewable Energy-Golden Field Office	0	0	0
Office of Legacy Management - Grand Junction and Westminster	0	0	0
Richland Operations	4	1	3
Savannah River Site Operations	8	8	0
Southeastern Power Administration	0	0	0
Southwestern Power Administration	0	0	0
Strategic Petroleum Reserve	0	0	0
West Lake Landfill	1	0	1
Western Area Power Administration	0	0	0
Totals for 22 sites reporting	22	16	6