

Environmental Collaboration and Conflict Resolution (ECCR) in the Federal Government Fiscal Year 2021 Agency Reporting Template

Background

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, and 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, 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.”

The 2012 memorandum requires annual reporting by Federal Departments and Agencies to OMB and CEQ on their use of Environmental Collaboration and Conflict Resolution and on the estimated cost savings and benefits realized through third-party assisted negotiation, mediation or other processes designed to help parties achieve agreement. The memo also encourages departments and agencies to work toward systematic collection of relevant information that can be useful in on-going information exchange across departments and agencies

The Udall Foundation's National Center for Environmental Conflict Resolution (National Center) has, since 2005, collected select ECCR data on behalf of Federal Departments and Agencies. *Beginning in FY 2021, the National Center is streamlining the data it collects to reduce the reporting burden on Federal Departments and Agencies and provide the most salient information on ECCR use. This updated reporting template is focused collection of ECCR case studies and data on capacity building, including ECCR training. Case numbers and context reporting are optional.*

Fiscal Year 2021 Data Collection

This annual reporting template is provided in accordance with the memo for activities in FY 2021.

The report deadline is Friday, January 28th, 2022.

Reports should be submitted to Steph Kavanaugh, NCECR Deputy Director, via e-mail at kavanaugh@udall.gov

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 a compilation of all FY 2021 ECCR reports submitted. You may be contacted for the purpose of clarifying information in your report.

For your reference, synthesis reports from past fiscal years are available at <https://www.udall.gov/OurPrograms/Institute/ECRReport.aspx>.

1. Agency Submission Information

Name of Department/Agency responding: US Army

Name and Title/Position of person responding: Cynthia Politowicz, Director of Dispute Resolution

Division/Office of person responding: Office of General Counsel

Contact information (phone/email): 703-614-8377, cynthia.g.politowicz.civ@army.mil

Date this report is being submitted: 31 Jan 2022

Name of ECCR Forum Representative: Carrie Greco, Litigation Attorney, Environmental Law Division, U.S. Army Legal Services Agency

2. ECCR Capacity Building and Investment:

Describe any **NEW, CHANGED, or ACTIVELY ONGOING** steps taken by your department or agency to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2021, including progress made since FY 2020.

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 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.
- ECCR programmatic FTEs
- Dedicated ECCR budgets

- Funds spent on contracts to support ECCR cases and programs
- a) Please refer to your agency's FY 2020 report to only include new, changed or actively ongoing ECCR investments or capacity building. **If none, leave this section blank.**

In FY 2021, despite COVID-19 limitations, the Army Dispute Resolution Specialist continued to maintain the Army's Alternative Dispute Resolution (ADR) program in accordance with the 22 Jun 07 memorandum issued by the Secretary of the Army, and the Department of Defense (DoD) Instruction 5145.05, Alternative Dispute Resolution and Conflict Management of 27 May 16 (DODI 5145.05).

- b. Please describe the trainings given in your department/agency in FY 2021. Please include a list of the trainings, if possible. If known, please provide the course names and total number of people trained. Please refer to your agency's FY 2020 report to include ONLY trainings given in FY 2020. **If none, leave this section blank.**

One Army attorney from the Environmental Law Division (ELD) attended the Air Force's Negotiation and Alternative Dispute Resolution Course on April 26-29 2021. The course addresses interest based negotiation, along with ADR methods and best practices and included many role playing sessions.

Seventy-five legal professionals, including four attorneys and one paralegal from ELD, attended the Judge Advocate General's Legal Center and School's Federal Litigation Course, which provided one hour of training entitled Alternative Dispute Resolution Mediation with Demonstration.

3. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably **completed** in FY 2021). If possible, focus on an interagency ECCR case. Please limit the length to **no more than 1 page**.

Name/Identification of Problem/Conflict:

The Army has no ECCR matters to report in FY 2021. The Army's main priority is dispute avoidance through non-third-party activities. One main area of informal dispute avoidance is through the restoration advisory boards (RAB).

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.

Army leadership recognizes that successfully implementing environmental restoration requires the full involvement of a variety of stakeholders, including the local community and state and federal regulators. Thus, in FY 2021 the Army continued to invest in RABs as a proactive dispute avoidance measure. The RAB is a volunteer organization comprised of interested and concerned citizens, representatives of the installation, various environmental regulatory agencies, local government activities, and community

environmental groups. The RAB normally meets as needed, sometimes quarterly or annually, to discuss and exchange information about the environmental restoration programs on the installation.

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.

RABs were used to avoid conflict by providing open communication between the stakeholders, regulators, and Army personnel. RABs allowed the Army and regulators to provide updates on the current status of restoration projects so all stakeholders understand the issues, requirements, and limitations for particular restoration projects. The RABs also provided an avenue for stakeholders to submit public comments orally or in writing to address their concerns about current ongoing or future restoration activities. The concerns raised in the comment period can be addressed further in future RABs.

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.

In FY 2021, the Army's use of RABs generated a more efficient process to identify, narrow, and address the stakeholders or regulators' interests and to reach timely and appropriate agreements with stakeholders and regulators, avoiding the need for a third-party-assisted dispute resolution process. The participants of the RABs generate trust as relationships are formed. The parties identified issues and shared a general understanding of the issues through the process. The stakeholders participated in creating solutions tailored to fit the needs of the Army, the regulators, and the stakeholders for each specific restoration project, which resulted in more efficient restoration activities, and better protection of the natural resources.

Please share any reflections on the lessons learned from the use of ECCR.

RABs promote community awareness and obtain constructive community review and comment on environmental restoration actions that will accelerate the overall restoration actions. Most importantly, they help the Army avoid disputes that would otherwise require third-party neutrals or courts to resolve.

Other ECCR Notable Cases

Briefly describe any other notable ECCR cases in FY 2021. **(OPTIONAL)**

In 2021, the Army invested in various proactive measures to avoid environmental conflicts and resulted in better protection of the natural resources. Below are some of the areas where the Army used non-third-party-assisted collaboration in FY 2021.

1. Army utilized dispute resolution processes from Federal Facilities Agreements (FFAs) to resolve disputes at Rocky Mountain Arsenal, Anniston Army Depot, Former Fort Devens, Riverbank Army Ammunition Plant, Alabama Army Ammunition Plant, and Oakland Army Base.

2. The Army engaged in tribal consultations.

Joint Base Langley-Eustis personnel held an annual government to government tribal consultation.

Fort Carson staff hosted its annual meeting to consult with the Tribes on a variety of topics (Hogback Traditional Use Study; Integrated Natural Resources Management Plan; current and ongoing projects; and past and future military training exercises). This was a virtual meeting due to COVID restrictions.

3. The Army held public meetings to address PFAS issues.

Camp Grayling held a public meeting to address issues regarding PFAS.

The Yakima Training Center held a virtual open house for the public to learn more and ask questions about PFAS.

4. The Army held public meetings to address land use issues.

Fort Carson staff hosted the annual National Historic Preservation Act Programmatic Agreement consulting party meeting. NGOs, History Colorado staff, community leaders, and other interested parties were briefed on past and future cultural resources activities on Fort Carson and Pinon Canyon Maneuver Site lands.

In June 2021, Camp Stanley Storage Activity engaged in a meeting with its boundary neighbor, Joint Base San Antonio Camp Bullis, and western boundary neighbor, City of Fair Oaks Ranch, to discuss shared environmental concerns.

4. ECCR Case Number & Context Data (OPTIONAL)

Context for ECCR Applications:	Case Numbers
Policy development	__0__
Planning	__0__
Siting and construction	__0__
Rulemaking	__0__
License and permit issuance	__0__
Compliance and enforcement action	__0__
Implementation/monitoring agreements	__0__
Other (specify): _____	__0__
TOTAL # of CASES	__0__

Report due Friday, January 28, 2022. Submit report electronically to: kavanaugh@udall.gov