

ENVIRONMENTAL COLLABORATION AND CONFLICT RESOLUTION (ECCR) IN THE FEDERAL GOVERNMENT

Synthesis
of
Fiscal
Year
2022
Reports

Submitted by Federal Departments and Agencies
Pursuant to the OMB-CEQ Policy Memorandum on ECCR of September 7, 2012
Compiled by the John S. McCain III National Center for Environmental Conflict Resolution

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To the John S. McCain III National Center for Environmental Conflict Resolution

Morris K. Udall and Stewart L. Udall Foundation

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Background

In 2005, the White House Office of Management and Budget (OMB) and Council on Environmental Quality (CEQ) issued a joint policy memorandum expressing their support for the use of environmental conflict resolution and collaboration in environmental, natural resources, and public lands issues or conflicts.¹ The memorandum urged Federal agencies to increase their effective use of environmental collaboration and conflict resolution and build institutional capacity for collaborative problem solving, providing them with guidance for doing so.

On September 7, 2012, OMB and CEQ reinforced the importance of environmental collaboration and conflict resolution (ECCR) use by Federal agencies by issuing a new, superseding memorandum. The 2012 joint memorandum² (2012 memo) acknowledged the beneficial use of collaboration to prevent disputes before they happen, and directed all executive branch agencies to:

(I)ncrease the appropriate and effective use of third-party assisted environmental collaboration . . . to resolve problems and conflicts that arise in the context of environmental, public lands, or natural resource issues, including matters related to energy, transportation, and water and land management. . .

and defined ECCR as:

(T)hird-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 2012 memo also renewed direction to Federal agencies to submit an annual report to OMB and CEQ on progress made implementing the ECCR policy direction, and to “work toward systematic collection of relevant information that can be useful in on-going information exchange across departments and agencies.”

Annual [ECCR in the Federal Government Agency Reports](#) are intended to increase the effective use of and institutional capacity for ECCR by providing information on realized cost savings and other benefits.

¹ Office of Management and Budget, & Council on Environmental Quality (2005). *Environmental Conflict Resolution Memorandum*. Washington, D.C. The 2005 memorandum is available online here: https://ceq.doe.gov/docs/ceq-regulations-and-guidance/regs/OMB_CEQ_Joint_Statement.pdf.

² Office of Management and Budget, & Council on Environmental Quality (2012). *Memorandum on Environmental Collaboration and Conflict Resolution*. Washington, D.C. The 2012 memorandum is available online here: http://www.udall.gov/documents/Institute/OMB_CEQ_Memorandum_2012.pdf.

Executive Summary

Since 2005, the Morris K. Udall and Stewart L. Udall Foundation's John S. McCain III National Center for Environmental Conflict Resolution has collected individual agency reports and developed an annual synthesis report of ECCR in the Federal Government.³

The National Center streamlined the ECCR in the Federal Government Synthesis Report (Synthesis Report) in FY 2021. The new format focuses on case studies that illustrate the benefits of ECCR use, documents ECCR investments and capacity-building across Federal agencies, and indexes ECCR case numbers utilizing data from four Federal agencies with histories of consistent data collection and reporting. Agencies that commonly submit ECCR in the Federal Government Reports provided significant input on these updates, and the new format of the Synthesis Report reflects that feedback.

Eleven Agencies reported on their use of ECCR in FY 2022, including:

- Department of the Air Force (AF)
- Department of Army (Army)
- Department of Energy (DOE)
- Department of the Interior (DOI)
- Department of Labor (DOL)
- Department of the Navy (Navy)
- Department of Veterans Affairs (VA)
- Environmental Protection Agency (EPA)
- Federal Energy Regulatory Commission (FERC)
- National Oceanic and Atmospheric Administration (NOAA)
- U.S. Army Corps of Engineers (USACE)

Complete reports from submitting agencies are available on the National Center's website:

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

[Appendix A](#) shows the number of agencies reporting on ECCR use since formal reporting began in FY 2006.

[Appendix B](#) shows the most commonly cited contexts for ECCR use (historic data). Acronyms can be found in [Appendix C](#).

In line with previous years, reporting agencies shared data that demonstrate the three key benefits of ECCR use: cost savings to the Federal Government, improved interagency and stakeholder relationships, and better outcomes. See the [FY 2022 ECCR Case Examples section](#) below for details on agency case submissions.

Agencies also shared a broad array of continued and new investments to build ECCR capacity, including providing ECCR training for staff, contractors, and stakeholders. See the [ECCR Capacity Building and Investment in FY2022](#) section below for details on agency capacity building efforts.

Benefits of Environmental Collaboration and Conflict Resolution

EFFICIENCY	Cost savings, timely process, minimizes litigation
BETTER OUTCOMES	Better, more durable outcomes
IMPROVED RELATIONSHIPS	Good governance, increased capacity to serve citizens

³ Individual department and agency reports as well as annual synthesis reports are available online at: <https://udall.gov/OurPrograms/Institute/ECRReport.aspx>.

FY 2022 ECCR Case Examples

Federal agencies utilized ECCR to achieve multiple benefits in FY 2022. Of the eleven agencies that submitted an agency report in FY 2022, six provided case studies to demonstrate how benefits were realized through ECCR use. Case studies serve as tangible examples of the conditions and contexts in which ECCR can provide benefits, the diversity of scope and scale of ECCR processes, and possible formats for ECCR processes.

These cases, outlined below, serve as examples of how ECCR use enabled the Federal Government to save money and time, avoid litigation, improve strained relationships, and realize more sustainable environmental outcomes.

COST SAVINGS AND AVOIDANCE OF CONTINUED LITIGATION

U.S. ARMY, COST RECOVERY ACTION

The conflict involved a claim from an outside party for reimbursement of remediation costs from the U.S. Army under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The matter was in litigation, and the court assigned a magistrate judge to be a mediator/facilitator to help resolve the conflict. The magistrate judge facilitated open communications between the parties to identify and narrow the issues and address potential settlement options. The case was not resolved, however, and the parties returned to litigation. After returning to pre-trial information gathering, the parties opted to enter a second mediation and agreed on a private mediator funded by both Department of Justice (DOJ) and Plaintiffs' counsel.

Before mediation, the parties exchanged position papers and relevant documents. During the mediation, the mediator encouraged open discussions, which generated a positive working relationship and built trust. The mediation then moved into shuttle negotiations, and the parties reached a tentative agreement regarding past CERCLA costs. The parties agreed to stay the case until Plaintiffs could determine their future costs. Once they do so, further rounds of mediation may take place.

The parties were able to reach a settlement regarding past costs, which likely saved the Federal government money, time, and resources. Although the parties failed to reach a full settlement, they were able to narrow the remaining issues for future mediation. ECCR use helped the U.S. Army clarify and narrow the issues, thereby reducing the scope of litigation and saving resources and litigation costs.

IMPROVED COMMUNICATIONS AND RELATIONSHIPS

U.S. ARMY CORPS OF ENGINEERS (USACE), POST-DISASTER WATERSHED ASSESSMENT IN CNMI

Three post-disaster watershed assessments were authorized in July 2019 by the Additional Supplemental Appropriations Disaster Relief Act. Watershed assessments rely on a high degree of stakeholder input and engagement. Facilitation was needed to gather input from partners and stakeholders across numerous watersheds in American Samoa, Guam, and the Commonwealth of the Northern Marianas Islands (CNMI). Pacific Ocean Division - Honolulu District (POH) brought in South Pacific Division (SPD) to help manage the workload and provide third-party facilitation services. The primary facilitators were lead planners from SPD, not from the home USACE district that might benefit from work identified in the Watershed Assessments. Facilitators remained neutral by focusing on listening to partner needs instead of advocating for specific, USACE-centric solutions.

Since all three projects kicked-off at the start of the COVID-19 pandemic, the team was forced to pivot to virtual-only engagement instead of extensive face-to-face engagement. The study teams addressed this challenge with specific efforts to collaboratively develop a resilience plan and sustain partner engagement throughout the project timeframe. Substantial effort toward culturally sensitive meeting planning design made the meetings productive, fun, and engaging. Through the watershed assessments, USACE fostered positive working connections with partners in the Pacific. Following the successful completion of all three studies in FY22, Honolulu District is leveraging the partnerships built to possibly stand-up Silver Jackets⁴ teams in the territories.

Key lessons learned included the value of using diverse multi-media tools to keep virtual meetings engaging, including voting tools, ranking of options in real-time, asynchronous surveys, and follow-up phone calls. The team carefully crafted meeting titles to set the tone, e.g., instead of SWOT (Strengths, Weaknesses, Opportunities, and Threats) Analysis, referring to meetings as a “think tank.” Finally, the Project Delivery Team (PDT) included sufficient space in meetings for local experts to share their knowledge, and for a robust interdisciplinary and inter-party exchange of ideas.

COST EFFECTIVE OUTCOME AND AVOIDANCE OF LITIGATION

FEDERAL ENERGY REGULATORY COMMISSION, HYDROPOWER DAM FISH PASSAGE

Non-decisional staff mediated a dispute between the owner and operator of a hydropower dam and several local, state, and federal resource agencies. The parties had previously negotiated a settlement agreement that created specific prescriptions for a nature like fish passage during the dam’s most recent relicensing process. Since then, a new owner acquired the dam and assumed the license. While planning to construct the nature like fish passage the new licensee encountered serious challenges with the prescribed design and approached the resource agencies about modifications. After unsuccessful independent negotiations, the parties came to the FERD Dispute Resolution Service office for third-party assistance. Over a period of nearly a year, DRS worked with the parties to identify the interests served by the original settlement prescriptions and the origins of the challenges to constructing the nature like fish passage as originally contemplated. Ultimately, the mediation process resulted in a new nature like fish passage design that met both parties’ interests as well as the implementation plan and schedule.

This case used permanent DRS staff as mediators and was funded through the DRS budget. Each party was responsible for its own costs. DRS staff scheduled regular weekly meetings with all parties and held regular caucus sessions with each party individually. At first, the discussions focused on the underlying goals of the original settlement agreement and what metrics any new design would need to meet. Then discussions moved toward identifying other potential options that could meet those needs. Once several options were identified, parties jointly evaluated and decided to hold weekly meetings focused on modelling and technical discussions to ensure that the new design would meet the target metrics. The result was an agreed upon design and schedule that laid out each step that needed to be completed, by whom, and by when.

This case resulted in the design, and future construction, of a nature like fish passage that will meet the requirements and further the goals of the resource agencies while being cost effective, safe, and constructable by the licensee. If the parties had not engaged in ECCR, this case likely would have resulted in protracted litigation in Federal court between several different regulatory agencies. In the event of litigation, the nature-like fish passage would not be constructed for many years or not at all. ECCR use allowed the parties to meet their needs in a timely and durable manner.

⁴ Silver Jackets teams are interagency teams that facilitate collaborative solutions to state flood risk priorities. See <https://www.iwr.usace.army.mil/Silver-Jackets/>

Third-party assisted ECCR was particularly helpful in this case because of the number of parties involved. Each resource agency, while generally sharing the mission of protecting natural resources, sometimes had different priorities that occasionally resulted in mixed messages to the licensee. DRS staff were able to help the resource agencies navigate these competing interests and present a consistent message to the licensee.

BETTER OUTCOMES FOR A TRANSBOUNDARY WATERSHED

ENVIRONMENTAL PROTECTION AGENCY (EPA), TIJUANA RIVER WATERSHED

The United States-Mexico-Canada Agreement (USMCA) requires EPA, in coordination with eligible public entities, to carry out the planning, design, and construction of high priority treatment works in the Tijuana River watershed to address transboundary flow pollution. In 2020 the U.S. government, through the EPA, committed \$300 million to the USMCA to identify infrastructure solutions to mitigate this decades-old problem. A Conflict Prevention and Resolution Center (CPRC) facilitator and professional facilitators hired through CPRC's contract improved public involvement on this issue and gathered key information for decisionmakers. This led to the Agency's announcement of the projects it will pursue to address the severe negative impacts to water quality, public health, and the environment in the Tijuana River watershed.



Aerial image of wastewater entering the Pacific Ocean from the Tijuana River, just south of San Diego. Photo: EPA Region 9

When announced, there was significant concern among the public and leaders of municipalities in the San Diego area that EPA would not act quickly and would not adequately consider their concerns when deciding how to use the funds. There were also many ideas about how to address the problem and little consensus about how to proceed. Through parallel public engagement processes, the CPRC facilitator and contracted facilitators planned and led meetings with key stakeholders and the public to ensure that all who were interested were heard and had their concerns and ideas incorporated into EPA's analysis.

The facilitated meetings significantly contributed to EPA's ability to increase public confidence in proposed actions to address the long-term problem of transboundary wastewater pollution. This effort culminated in the announcement of EPA's plan to pursue a comprehensive solution in staged phases to address the problem as quickly as possible. The proactive engagement of the public and key stakeholders has likely led to the limited criticism the plan has received as it goes through National Environmental Policy Act (NEPA) review.

BUILDING TRUST AND RELATIONSHIPS FOR DURABLE SOLUTIONS

DOI BUREAU OF LAND MANAGEMENT (BLM), SOUTH FORK OF THE WALLA WALLA STAKEHOLDER ENGAGEMENT

The South Fork of Walla Walla (SFWW) river and adjacent public lands are an important recreation destination for many in Eastern Oregon and Washington State. Approximately 2,000 acres of BLM land provides hiking, biking, and horseback access to many of the trails in the Umatilla National Forest. The area is also the ancestral land and important fisheries habitat of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR). The Bureau of Land Management (BLM) designated the area an Area of Critical Environmental

Concern (ACEC) in 1992, providing management direction for the Relevant and Important Values of the riparian ecosystem, fisheries habitat, and scenic values.

Abutting the boundary of the BLM-administered land are a few private land parcels. These properties were originally purchased in the early 1900s prior to the BLM acquiring the nearby land. There are now summer cabins on these properties with solar panels and propane tanks installed. Historically, a private timber road provided access to the cabins. More recently, primitive roads provided access to these properties. In some areas, the landowners drove directly across the riverbed at multiple locations to access their property.

In February 2020, the area experienced significant regional flooding, which resulted in extensive floodplain erosion as well as landslides within the ACEC. Significant portions of the trail and primitive road became inaccessible for most users. The restricted use created a significant amount of frustration for the public and landowners.

In May 2021, the BLM sought assistance from Collaborative Action and Dispute Resolution (CADR) for third-party neutral support to provide communication and coordination with agency partners, interested stakeholders, and the public. Additionally, this support would help them work towards a long-term solution to the access issue, while balancing the interests of the landowners, protection of the critical habitat, recent restoration efforts, and public use. The third-party neutral conducted interagency meetings with agency representatives to help develop a shared understanding of the current situation, identify and define regulatory authorities, and identify potential funding opportunities. They also conducted two open house-style public meetings which gave the public and the landowners the opportunity to talk to members of the Inter-Disciplinary Team, share their concerns, and provide feedback and comments on how the BLM moves forward with future management of this treasured area.

Engagement meetings were powerful, collaborative, and have led to a better understanding of each parties' goals and concerns. The facilitators' assistance with the logistics in both setting up and facilitating the meetings resulted in much higher quality presentations, a smoother-running physical meeting space, and professional displays with clean, impactful messaging. The meetings also provided a means for all parties to discuss their interests in a facilitated way. CADR has provided BLM with a road map for continuing to build robust relationships with its agency partners and interested parties. The assistance was key to making contacts with private landowners to facilitate their understanding of the situation and continue to ask for their participation in the collaborative process.

The BLM CADR Coordinator for this project has been a huge asset to the BLM. Their experience with the BLM and knowledge of problem solving, and conflict management expertise ensured meetings stayed productive, positive, and solution oriented.

INTRA-AGENCY COLLABORATION FOR CONFLICT PREVENTION

DOI BUREAU OF RECLAMATION, COLLABORATION SUPPORT FOR THE CENTRAL VALLEY PROJECT (CVP) AND STATE WATER PROJECT ACTION

Bureau of Reclamation (Reclamation) required facilitation and collaborative planning and coordination to promote trust and sustainable processes for technical teams engaged in long-term operations of the Central Valley Project (CVP) and State Water Project in California. This effort required third-party facilitation to address longstanding diverse viewpoints from local, state, and federal agencies, and interested parties. These conflicts cover consideration of tradeoffs for endangered species and multimillion dollar agriculture and community decisions. Third-party assistance was necessary to ensure that the Reclamation engaged each of

these elements effectively. Contracted facilitation services were funded through an interagency agreement with DOI's Office of Collaborative Action and Dispute Resolution (CADR).

Given longstanding positions, CADR provided a neutral facilitator to focus on core issues of local, state, federal agencies, and other interested parties. The facilitator helped develop group norms and reviewed those group norms and meeting purpose with meeting participants. The facilitator highlighted action items for individuals, which has helped to continue to improve the efforts and make progress in these teams. Lastly, they identified the needs of these teams and scheduled meetings, documented and tracked follow-up on action items, and ensured documents were 508 compliant. As a result, third-party facilitation services helped keep teams in these partnerships on schedule, on budget, and focused on providing products in response to the LTO collaboration and reporting needs.

Outcomes included effective technical dialogue informing multiagency management teams and collaborative information-sharing forums. Through facilitation, Reclamation has been able to add interested parties to the discussion and deepen the conversation on controversial issues. Third-party neutral support has helped Reclamation share information in an open and transparent manner with the public and any interested parties, building trust.

ECCR use has improved communication and coordination of CVP fish and water management decisions and assisted Reclamation in better understanding what types of information our stakeholders are interested in. Neutral third-party facilitation allows for this dialogue to move away from positional statements and move towards true collaboration.

IMPROVED OUTCOMES: A MONUMENT MANAGEMENT PLAN THAT REFLECTS DIVERSE INPUT

UDALL FOUNDATION, NATIONAL CENTER FOR ENVIRONMENTAL CONFLICT RESOLUTION, PACIFIC REMOTE ISLANDS MARINE NATIONAL MONUMENT (PRIMNM) COMMUNITY GROUP

In September 2022, National Center staff facilitated the final meeting of the PRIMNM Community Group (CG), an eleven-member advisory group created in 2019 to provide input to the National Oceanic and Atmospheric Administration (NOAA) and the Fish and Wildlife Service (FWS) on the management and stewardship of the PRIMNM. The management agencies utilized input from this eleven-member group, along with public comments received in 2022, to create a draft monument management plan (MMP) that will be released for public comment in early 2024. The CG included individuals representing research, conservation, cultural practitioner, recreation, fishing, youth, education, and general public interests.

The outline and content of the draft MMP will reflect CG input regarding conservation targets, exploration and research, indigenous and cultural connections, historic resources, partnerships and educational opportunities, operations, and public use.

SIGNIFICANT TIME AND COST SAVINGS

U.S. AIR FORCE, IDAHO WASTE SYSTEMS ENVIRONMENTAL SUIT

Idaho Waste Systems (IWS) brought an environmental suit against the Air Force and two other parties in May 2018 for allegedly contaminating its landfill with hexavalent chromium when a contractor improperly disposed of construction debris at the site. After engaging in discovery, the parties participated in a settlement conference in July 2021, but were ultimately unsuccessful in trying to settle the case, primarily because of how far apart the parties were on the perceived value of IWS's claims. In early 2022, a month before the case was

scheduled to begin trial, the parties entered court-mandated mediation, which was funded through a 25% split in costs per party. The parties conducted formal mediation in February 2022.

Using ECCR, the parties were able to work with a mediator to resolve their remaining disagreements. The biggest disagreement going into mediation was the total pool of money that plaintiff could potentially earn if it won on the merits at trial. The plaintiff believed it was entitled to \$150,000 in past damages, while the U.S. Air Force believed plaintiff was entitled to approximately \$32,000. Recognizing this disparity and focusing on damages rather than strict liability, the mediator worked closely with three of the parties to identify a settlement amount that would allow the parties to end the litigation. Throughout the mediation, the mediator worked to ensure all parties worked with accurate information to best determine how close or far the parties were from reaching an agreement. The use of a mediator greatly reduced the face-to-face interaction between the parties, which in turn reduced the overall tensions/emotions during negotiations and allowed the parties to work objectively towards a common outcome.

The key benefit of resolving the case through mediation was the ability to efficiently resolve this litigation without a prolonged trial. If the parties were unsuccessful at the 2022 mediation session, the case likely would have proceeded to trial, increasing the overall litigation costs associated with the case and the possibility of prolonged appellate processes that could have prevented the conclusion of this litigation. Thus, ECCR use resulted in significant time and cost savings for the Federal government.

Being directed to engage in a good-faith settlement discussion allowed the parties to put past disagreements aside and work to find a settlement value that could satisfy all parties. It also highlights the importance of interagency dispute resolution during the ECCR process. In this instance, DOJ and U.S. Air Force disagreed over the appropriate settlement value of the case. DOJ, as the lead agency for litigation, elected to accept IWS's settlement proposal. The U.S. Air Force continued to provide support to the DOJ and was able to benefit from the terms incorporated into the final consent decree. Despite differing views on valuation, both agencies worked together using ECCR to receive a beneficial outcome for the federal government.

ECCR Capacity Building and Investment in FY 2022

Federal departments and agencies reported a wide variety of investments to build capacity and sustain the use of ECCR in FY 2022, including providing ECCR training to staff and partners. Notable investments are listed below by agency and represent a summarization of the full submission from each agency. Most reporting agencies listed ECCR training as a large part of their ECCR capacity building.

Also notable, EPA's CPRC moved to the newly established Office of Environmental Justice and External Civil Rights which is beginning to lead an increased use of ECCR for environmental justice and civil rights matters. EPA has found that ECCR can be used to help build their agency's capacity in environmental justice through practices such as facilitated dialogues with EPA staff and other stakeholders to address long-term problems and ensure a healthy environment for future generations.

Department of Army

In FY 2022, the Army Dispute Resolution Specialist maintained ECCR capacity through continued implementation of the Army's Alternative Dispute Resolution (ADR) program in accordance with a June 22, 2007 memorandum issued by the Secretary of the Army, and the Department of Defense (DoD) Instruction 5145.05, Alternative Dispute Resolution and Conflict Management, dated May 27, 2016. Additionally, Army built internal ECCR capacity through the following:

- Three attorneys from the Environmental Law Division (ELD) attended the Air Force's Negotiation and Alternative Dispute Resolution Course on April 25-29, 2022. The course addressed interest-based

negotiation, along with ADR methods, best practices, and mediation advocacy skills in a wide variety of contexts. The course was interactive and incorporated several role-playing sessions.

- One attorney from Environmental Law Division (ELD) attended the Advocacy Center's Federal Litigation Course, which included two hours of training on ADR Mediation. During the first hour, a U.S. District Court Magistrate Judge provided a lecture on federal litigation practices, to include a discussion of ADR. During the second hour, the judge oversaw a demonstration and practical exercises involving volunteers from the course.
- Three attorneys from Environmental Law Division (ELD) attended the presentation from National Center for Environmental Conflict Resolution staff regarding Government-to-Government Consultation and Engagement with Native Nations at the ECCR Forum.
- One attorney from Environmental Law Division (ELD) attended other ECCR Forum presentations, including the February ECCR Forum zoom training from the National Center on *Environmental Collaboration and Conflict Resolution in Support of Federal Climate Initiatives: Gaining Traction*; the February Forum presentation from the National Center on *Collaboration with Native Nations and Tribal Consultation*; and the May Forum presentation on *Presentation + Q&A: Geospatial Online Tools for Public Participation in Environmental Governance: Research on USACE and Crowdsourc Reporter*.

Department of Energy (DOE)

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. During FY 22, DOE site and program offices maintain and enhance their awareness of ECCR methods and opportunities through:

- Monthly environmental attorneys' conference calls. On average, 10 participants join the monthly calls.
- Annual joint DOE/DOE contractor environmental attorney training, including a one-hour ECCR training from National Center staff. A total of 93 site and program office representatives participated in the annual training conducted on October 19, 2022.

Department of the Interior (DOI)

The Department of the Interior (DOI) continues to provide programmatic and institutional capacity to encourage the broadest possible appropriate and effective use of ECCR processes through the following programs and offices: the Office of Collaborative Action and Dispute Resolution ([CADR](#)) in the Office of the Secretary; and the Bureau of Land Management Collaborative Action and Dispute Resolution CADR Program (BLM CADR), which resides within the BLM Headquarters Office of Resources and Planning Directorate; Division of Decision Support, Planning and NEPA.

- In FY 2022, CADR continued its work supporting an ECCR community of practice with representatives from Bureau of Land Management (BLM), Bureau of Ocean Energy Management (BOEM), Bureau of Reclamation (USBR), Fish and Wildlife Service (FWS), National Park Service (NPS), and United States Geological Survey (USGS). This group collaboratively developed and hosted a webinar to orient other DOI employees about the use of ECCR in general and in various bureaus.
- The DOI Office of Collaborative Action and Dispute Resolution (CADR) held a virtual workshop April 19-21, 2022, called *Building Our Collaboration and Conflict Management Culture for External Engagement: Dialogue and Networking for DOI and US Forest Service Professionals*.
- Fourteen (14) Full-Time Employees (FTEs) in DOI's Office of the Secretary and BLM supported ECCR services and programs, and internal collaboration and conflict management activities that build capacity for employees' engagement with the public.
- Twenty-three (23) collateral duty BLM-CADR coordinators worked 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.

- Delivered CADR’s foundational course “*Getting to the CORE of Conflict and Communication*” to 878 employees from all Bureaus and Offices in eight (8) geographic regions of the U.S.
- Delivered CADR’s “*Dynamic Facilitation Skills*” training to 66 employees across the Department.
- In total DOI CADR training offerings in 2022 reached 4,435 participants: (1) *Facilitating Virtual Meetings* course reaching 47 participants, (2) ECCR workshop with 100 attendees, (3) training for the 120 DOI facilitation and mediation roster members, and (4) Future of Work-related offerings that reached 2,193 participants.
- The BLM CADR program offered the following trainings to its employees in FY 2022: *Conflict Resolution Skills for Environmental Professionals* attended by 56 participants, *Developing and Maintaining High Performing Teams* attended by 42 participants, *Persuasive Speaking on Environmental Risk and High Stakes Topics* attended by 20 participants, and *Planning Public Engagement & Communicating Science and Policy Training* attended by 63 participants.
- CADR staff members regularly 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 and the Interagency ADR Working Group.

Environmental Protection Agency

In FY 2022, EPA trained more people in ECCR than in any of the prior six years. These trainings were held virtually. EPA also accomplished the following:

- CPRC continued to provide ECCR training at the 15th annual EPA Conflict Resolution Day in October 2021. The trainings were attended by 419 participants.
- CPRC trained 866 EPA staff in ECCR topics such as, *Engaging Constructively in Difficult Conversations*, *Become a Better Negotiator: An Interest-Based Approach*, and *Facilitating Dialogue*.
- ECCR specialists trained 56 EPA staff in two training sessions on ECCR topics totaling ten hours.
- ECCR specialists in Region 3 led trainings on negotiation and engaging constructively in difficult conversations.
- CPRC updated its popular, *Designing Effective Public Involvement*, training for virtual delivery.
- CPRC delivered a new hour-long training, *De-escalation in Communication*, which helps EPA staff be aware of and defuse challenging conversations with other staff and with the public.
- Twenty (20) ECCR Specialists located throughout all ten (10) EPA Regions remained active in providing ECCR services including mediation, facilitation, and conflict coaching.
- CPRC has five (5) Full-Time Employees (FTEs) to provide expert ECCR services.
- All litigants before the Administrative Law Judges continued to be offered ECCR services.
- EPA’s network of ECCR Specialists grew and became more active in FY 2022; they served as facilitators for multiple cases and delivered multiple conflict resolution trainings.
- CPRC continued to work closely with EPA’s Office of External Civil Rights Compliance (OECRC), which enforces several civil rights laws, most notably Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin, including limited English proficiency, by recipients of federal financial assistance. In FY 2022, CPRC collaborated with OECRC to establish a new process to enhance communication and engagement with environmentally overburdened communities and increase their participation in the resolution of Title VI complaints. CPRC facilitated six Title VI cases using this process in FY 2022.
- In September 2022, CPRC moved from the Office of General Counsel to the newly formed Office of Environmental Justice and External Civil Rights. This move positions CPRC to increase the use of ECCR in EJ and civil rights cases and to serve as a critical link between EPA and communities in support of the administration’s priority of increasing meaningful stakeholder engagement.

Federal Energy Regulatory Commission (FERC)

In FY 2022, FERC accomplished the following:

- Thirty-five (35) participants attended the FERC Hydropower 101 Workshop at the 2021 Clean Currents Conference.
- One hundred (100) participants attended a three-part FERC Hydropower Licensing 101 workshop for the Department of Interior's Turbine Talks series.
- Twenty-five (25) participants attended the presentation on How to Get Involved in FERC Hydropower Licensing Proceedings for the USFS Pacific Southwest Region's Sustainable Outdoor Recreation Collaborative.
- Presented to four EPA staff about FERC's Hydropower Licensing Processes and how Clean Water Act (CWA) Section 401 certification incorporated.
- Presented three (3) FERC 101 overviews to fourteen (14) Congressional staffers.
- Twelve (12) participants attended the Instream Flows for Whitewater Boating training.
- Seventy-five (75) participants attended the Native Peoples of North American lecture series.

National Oceanic and Atmospheric Administration (NOAA)

In 2022, NOAA's notable capacity-building investments included:

- NOAA's Office of the General Counsel, Environmental Review & Coordination Section (ERC) continued to support the Association for Conflict Resolution Environmental and Public Policy Section (EPP) by providing a staff member to co-chair the EPP.
- NOAA's Office of the General Counsel, Environmental Review & Coordination Section (ERC), developed a survey to facilitate the collection of information used to compile the FY22 ECCR Synthesis Report. ERC found that this mode of data collection was easy and convenient based upon survey participant feedback. As such, ERC will use the ECCR Forum survey method to collect information for future ECCR reports.
- NOAA's Office of the General Counsel, Environmental Review & Coordination Section (ERC) continues to meet with NOAA staff and staff from the Udall Foundation's National Center for Environmental Conflict resolution on a quarterly basis to discuss ways to better incorporate environmental collaboration and conflict resolution principles into NOAA practices and projects, including those involving Native Nations.
- National Ocean Service (NOS) continued to maintain open lines of communication between Principal Investigators, project managers, grant program managers, and with NOAA Environmental Compliance. Environmental Compliance Coordinators at each NOS program and at the NOS Front Office to resolve any concerns at the appropriate organizational level.
- Each National Ocean Service (NOS) program office is continually reviewing and updating environmental compliance policies, procedures, training courses, in order to address and route any ECCR issues that may arise.

Udall Foundation, [National Center for Environmental Conflict Resolution \(National Center\)](#)

The National Center [provides training in ECCR](#) to federal agencies and their stakeholders as part of their Congressionally mandated mission. In FY2022, the National Center provided 9 ECCR trainings to government, Tribal members, stakeholders, and citizens. All National Center trainings are grounded in the effective skills and practice of ECCR.

Additionally, National Center leadership and team members provided four free webinars on various ECCR topics during FY 2022, including two webinars related to the 50th Anniversary of the National Environmental

Policy Act, one webinar on ECCR use in Federal climate initiatives, and one webinar on place-based, online mapping ECCR tools and case studies.

U.S. Army Corps of Engineers (USACE)

In FY 2022, USACE continued to fund the [Collaboration and Public Participation Center of Expertise \(CPCX\)](#) to serve as an ECCR focal point for the agency. Related investments in ECCR capacity included:

- CPCX delivered eight (8) formal courses, two (2) event presentations, 1 journal publication, quarterly newsletters emailed to the Collaboration and Public Participation Community of Practice (CPP CoP), daily emails full of resources for October's International Facilitation Week distributed to about 2,500 members.
- Hosted nineteen (19) webinars. Webinar participation averaged 210 attendees each. The target audience was USACE staff for most of these activities, although interagency partners participated as well.
- CPCX hosted a training provided by the National Center, *Collaboration with Native Nations and Tribal Consultation*, for the Public Involvement Specialists delivered virtually in November to December 2021.
- The South Pacific Division hosted a workshop for their National Flood Risk Management Program staff. The workshop included topics on environmental justice action planning and tribal program visioning.
- The Northwest Division hosted a workshop given by EPA and CEQ to increase awareness of environmental justice issues and demographics tools.
- A new Project Manager in Louisville District gained on-the-job training in public participation and facilitation skills through mentorship from the District's Outreach Coordinator / Public Involvement Specialist. Together they hosted several public workshops that built District capacity for similar future efforts.
- Many individual staff members also attended external training in facilitation, risk management, public participation, and environmental collaboration.

U.S. Department of Veterans Affairs (VA)

The VA did not have the need to utilize an ECCR process in FY 22, but remains committed to increasing the use of collaborative decision-making and alternative dispute resolution (ADR) processes through:

- Actively advocating for the use of mediation and other ADR processes and ensuring that reliable, credible, technical, and scientific information is available to stakeholders that are engaged in collaborative resource management efforts.
- Implementation of VA Directive 5978, which designates the Executive Director of the Office of Asset Enterprise Management responsible for VA's ECCR Program, including (1) assuring participation of VA staff offices and Administrations in developing and implementing VA's ECCR program, (2) promoting the use of ECCR where appropriate, and (3) tracking and reporting on the use of ECCR within VA.

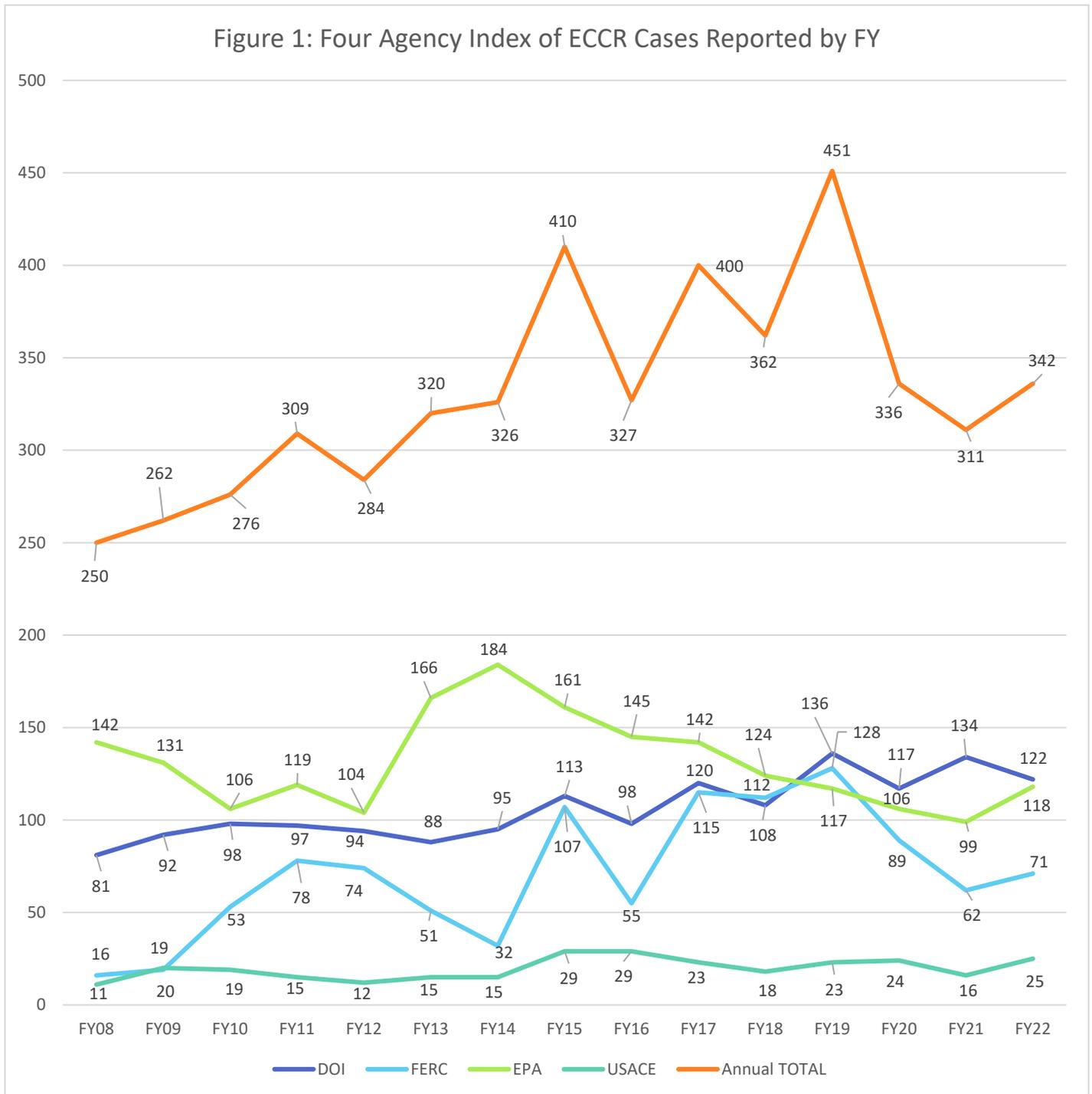
Additionally, VA seeks the input of stakeholders through public meetings for actions and projects that it anticipates will generate controversy. VA also maintains an Environmental ADR Program website, <https://www.va.gov/adr/EnvADR.asp>.

ECCR Case Number Data

Beginning with the FY 2021 synthesis report, ECCR case numbers are tracked using an index of data from four (4) agencies: Department of the Interior, Environmental Protection Agency, Federal Energy Regulatory Commission, and U.S. Army Corps of Engineers. These agencies have a robust history of reporting ECCR case

numbers and are committed to continuing voluntary reporting. Utilizing this index of four agencies with a consistent methodology for collecting ECCR case number data will ensure comparable data sets over time.

Figure 1 below shows the number of cases reported by fiscal year for each agency, as well as a total case number value. The total case trend line shows the general upward trend in ECCR cases from FY 2008 to FY 2022.⁵ For the first time in seven years, the EPA increased its use of ECCR; there were 118 EPA cases and projects in FY 2022, up from 99 in FY 2021.



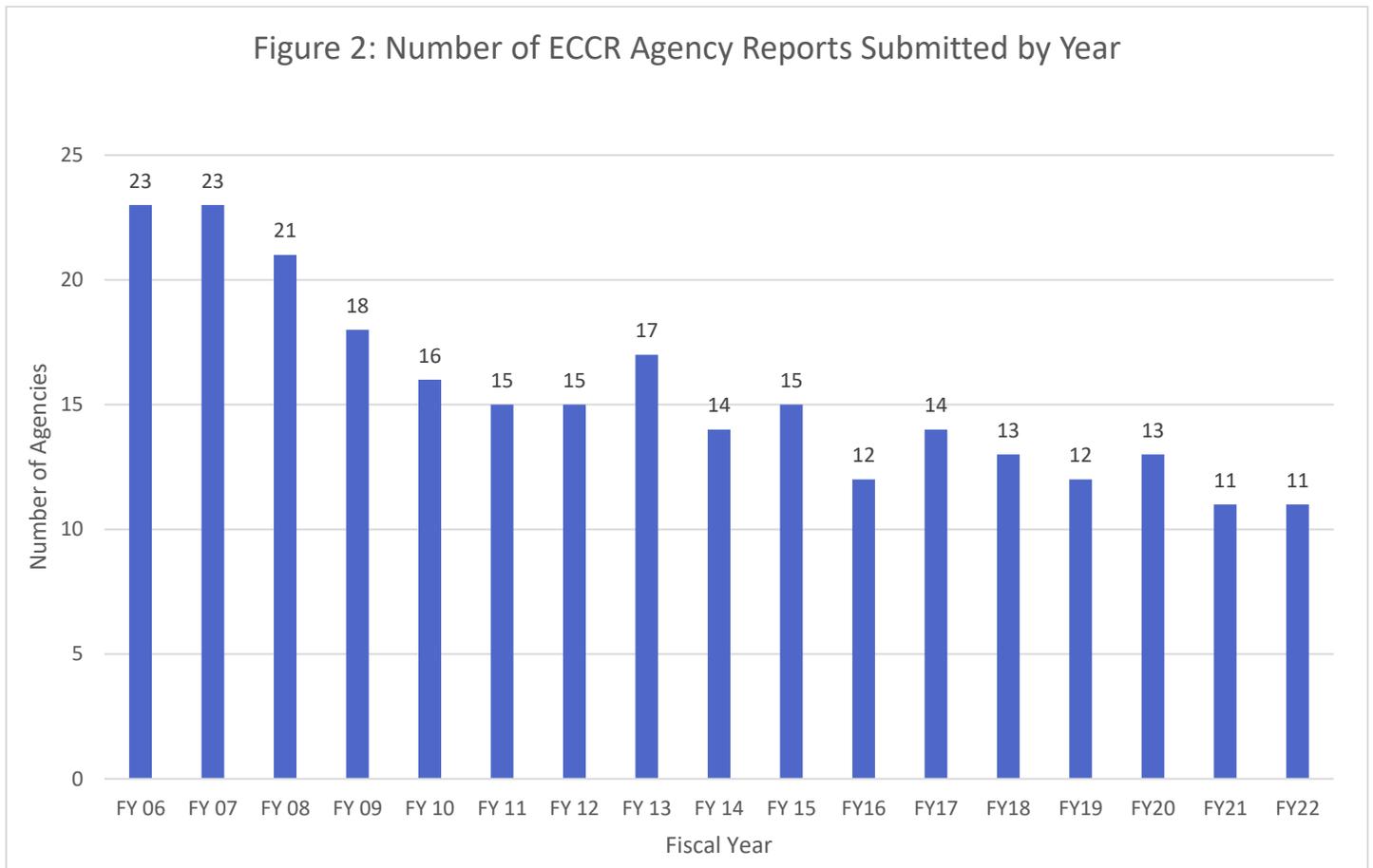
⁵ FY21 case numbers were updated from 360 to 311.

Appendix A: Number of Federal Agencies Reporting on Use of Environmental Collaboration and Conflict Resolution (ECCR) by Fiscal Year

The number of Federal departments and agencies submitting annual ECCR reports has declined from 23 in FY 2007 to 11 in FY 2022, as seen in Figure 2, below. The case number index data over the same period of time demonstrates that the decline in number of agencies reporting is likely not due to an indication of the decreased use of ECCR by Federal agencies. A number of factors could influence the decline in reporting agencies, including bandwidth for data collection and reporting and lack of consequences for not reporting. Seven departments or agencies have submitted reports annually since reporting began in 2006, including:

- Department of the Interior (DOI)
- Department of Veterans Affairs (VA)
- Federal Energy Regulatory Commission (FERC)
- National Oceanic and Atmospheric Administration (NOAA)
- U.S. Air Force (AF)
- U.S. Army (Army)
- U.S. Army Corps of Engineers (USACE)
- U.S. Environmental Protection Agency (EPA)

Figure 2: Number of ECCR Agency Reports Submitted by Year



Appendix B: Environmental Collaboration and Conflict Resolution (ECCR) Use in the Federal Government

Historically, agencies reported on the context for ECCR use since. Since the contexts have remained consistent over time, agencies no longer submit context data. The five most cited contexts from previous years include:

- Implementation of Environmental Laws
- Implementation of Regulatory and Administrative Rule Actions
- Natural Resource Planning and Management
- Consultation and Coordination
- Decision-making on Broad Environmental Issues

Figure 3 shows specific examples of how ECCR has been used in each of the 5 categories above.

Figure 3: Common Contexts for ECCR Use

Implementation of Environmental Laws	Natural Resource Planning & Management	Regulatory & Administrative Rule Actions	Consultation & Coordination	Broad Environmental Issues
<ul style="list-style-type: none"> •National Environmental Policy Act (NEPA) •Endangered Species Act (ESA) •Clean Water Act (CWA) •National Historic Preservation Act (NHPA) •Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) •Resource Conservation and Recovery Act (RCRA) 	<ul style="list-style-type: none"> •Forest Planning •Conservation and Collaboration •Regional Infrastructure Development •Water Resources (e.g., storm water, groundwater permitting; water releases, quality, and security; flood risk assessment and recovery) 	<ul style="list-style-type: none"> •Energy Development and Transmission, including Renewable Energy; Offshore Development •Negotiated Rulemaking •Compliance and Enforcement Actions •Permitting Review •Site Permits 	<ul style="list-style-type: none"> •Tribal Consultation •Joint Fact-Finding in Planning and Development •Multi-Party, Multi-Scope Issues •Multi-Agency Programmatic Agreements •Stakeholder & Community Engagement •Public Involvement •Collaborative discussion with Federal and non-Federal partners 	<ul style="list-style-type: none"> •Environmental Justice •Climate Change •Watershed-level Resource Planning •Socially and Culturally Important Species Management

Appendix C: Acronyms

ACEC	Area of Critical Environmental Concern
ADR	Alternative Dispute Resolution
AF	U.S. Air Force (Air Force)
Army	U.S. Army (Army)
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
BOEM	Bureau of Ocean Energy Management
CADR	Collaborative Action and Dispute Resolution (DOI)
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CEQ	Council on Environmental Quality
CWA	Clean Water Act
CPCX	Collaboration and Public Participation Center of Expertise (USACE)
CPRC	Conflict Prevention and Resolution Center (EPA)
CNMI	Commonwealth of the Northern Marianas Islands
CTUIR	Confederated Tribes of the Umatilla Indian Reservation
CVP	Central Valley Project (USBR)
DoD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOJ	Department of Justice
DOL	Department of Labor
DRS	Dispute Resolution Service (FERC)
ECCR	Environmental collaboration and conflict resolution
ELD	Environmental Law Division (Army)
EIS	Environmental Impact Statement
EPA	U.S. Environmental Protection Agency
ERC	Office of the General Counsel, Environmental Review & Coordination Section (ERC)
ESA	Endangered Species Act
FACA	Federal Advisory Committee Act
FERC	Federal Energy Regulatory Commission
FTE	Full-time employee
FY	Fiscal year
GCC	Grand Collaboration Challenge
IWS	Idaho Waste Systems (IWS)
NASA	National Aeronautics and Space Administration
NCECR	National Center for Environmental Conflict Resolution
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NOAA	National Oceanic and Atmospheric Administration
NOS	National Ocean Service
NPS	National Park Service
OHA	Office of Hearings and Appeals (DOI)
OMB	Office of Management and Budget
PDT	Project Delivery Team (USACE)
POH	Pacific Ocean Division – Honolulu District (USACE)
RACA	Office of Regulatory Affairs and Collaborative Action (BIA)
SFWW	South Fork of Walla Walla
SHPO	State Historic Preservation Officer
SPD	South Pacific Division (USACE)

SWOT	Strengths, Weaknesses, Opportunities, and Threats (USACE)
USACE	U.S. Army Corps of Engineers
USBR	Bureau of Reclamation
USFWS	U.S. Fish and Wildlife Service
USGS	United States Geological Survey
VA	Department of Veterans Affairs