

Environmental Collaboration and Conflict Resolution

Quarterly Forum Meeting Notes

CEQ Conference Room

722 Jackson Place, Washington, DC

Tuesday, May 19, 2015

1:00pm – 2:30pm

Opening: Horst Greczmiel (CEQ), Andrea Grossman (OMB), and Suzanne Orenstein (Udall Foundation-USIECR) welcomed participants and reviewed the agenda. A list of participants is included in Attachment 1.

General Updates:

- Andrea Grossman and Horst Greczmiel reminded participants to use the metrics from the ECCR metrics worksheet as they develop future annual ECCR reports.
- Suzanne Orenstein announced that the ECCR Synthesis Report is expected to be done by July 1.

Personnel Updates: Richard Kulman is retiring from EPA, Suzanne Orenstein is retiring from USIECR, and Matt Magee is moving on from BLM, all in the next two months.

ECCR Updates from Agencies:

USFS

- The new planning rule is more robust in terms of public participation, so USFS is working with forest management planners to build greater expertise in collaboration. Recently conducted a workshop in Region 3 with conveners from the Gila National Forest, Lincoln National Forest, and Carson National Forest to discuss their forest plan revisions and public engagement strategies.

DOJ

- Currently negotiating in the Klamath basin regarding water rights issues related to Native American tribes.
- Regarding the ECCR Synthesis Report, many of DOJ's cases may be reflected in other agency reports because DOJ always works with other federal agencies on environmental conflict and collaboration cases.

USACE

- The Water Resources Reform and Development Act of 2014 has tasked USACE with expanding its levy safety program. USACE is assessing levees at the local level to ensure safety, and working to develop an outreach plan for how to work with local entities to oversee local levees moving forward. Public engagement and collaboration will be part of these efforts.

DOT

- The Federal Railroad Administration is updating train control design and addressing elements of NEPA. This effort involves a broad collaborative process with tribal representatives and federal agencies. A semi-annual meeting took place last week in this effort.

DOE

- Annual training on ECCR will take place on May 27. Debra Drecksal (USIECR), Peter Williams (USIECR), and Mike Lopez (USIECR) will be presenting. ECCR Forum participants should email Steve Miller if interested in joining the training (steven.miller@hq.doe.gov). The update after that training is that the training was well attended and well received.
- Continuing to work with DOJ and tribal nations on ECCR. Had some ECCR success in the past year on cost recovery action in CERCLA that minimized litigation.

FERC

- Recently reached agreement through mediation on a pipeline abandonment issue. See ferc.gov for more information.

EPA

- Some personnel shifts are taking place internally. David Batson recently retired and Richard Kuhlman will retire this summer. EPA will advertise for these positions soon.

BLM

- The collaboration capacity survey that was discussed at a previous ECCR Policy Forum has been published. The report can be found on the USGS Publications website under BLM Collaborations. The BLM strategic plan is in the final approval stages. Lori Lewis was the facilitator for these efforts and her workshop facilitation helped BLM write the strategy.

CADR

- Sarah Palmer, formerly with USIECR, recently joined CADR as an employee.
- Robert Fisher co-taught a course with Brian Manwaring (USIECR) in the beginning of May on Collaboration in NEPA.

USIECR

- Stephanie Kavanaugh will be joining the Udall Foundation's DC office as a Senior Program Manager. She has been a facilitator with NOAA for the past seven years.

NOAA

- No new updates.

US Air Force

- No new updates.

US Army

- No new updates.

DHS

- Jennifer Hass recently joined DHS and will work on ECCR there.

Discussion Topic I: ECCR and Native American and Alaska Native Programs

Mike Lopez recently joined the Udall Foundation's U.S. Institute for Environmental Conflict Resolution as a Senior Program Manager for the Native American and Alaskan Native (NAAN) program. He previously served as in-house counsel for the Nez Perce tribe where he coordinated and facilitated government-to-government consultation. Part of the Udall Foundation's mission is to strengthen Native Nation governance, particularly in environmental and natural resource issues. The Udall Foundation gives particular attention to government-to-government consultation on environmental issues and provides expertise in this area to other federal agencies. The Udall Foundation also hosts the Native Dispute Resolution Network, which was established as a facilitation resource for multi-government consultation. It is intended to be complementary to USIECR's Roster of ECCR professionals. Mike will begin his work by reaching out to tribes and federal agencies to ask for input on how the Native Network and NAAN program can be responsive to the needs of ECCR Policy Forum participants.

Discussion: USIECR asked agencies how they integrate collaboration and Native American government-to-government consultation in their work.

DOE

- DOE sees a number of issues involving tribes regarding damages to natural resources and cleanup activities. They are trying to reach consensus through dialogue. There are currently two Notices of Intent to Sue filed by two separate tribal nations. DOE is trying to do a better job of listening to concerns, and staff have gone out to sites and met with people in person. DOE has tried to advocate the use of ECCR techniques as a way to bridge gaps related to different ways of addressing issues. Traveling is a challenge due to restricted budgets. DOE is consulting with USIECR about use of neutral facilitators.
- The Secretary of Energy convened tribes to discuss energy and environment issues several years ago. Top leaders at DOE met with Native tribes. There may be another tribal summit in the fall to discuss timely tribal energy issues.

DOT

- Agreed with others that this is a timely and challenging issue for the agency.

USACE

- USACE has a community of practice that brings together practitioners who work on tribal issues. District tribal liaisons partner with the tribal community of practice to address various issues and challenges. Seth Cohen will work with that community of practice to provide a collaboration workshop. USIECR has helped USACE develop its liaison strategy with tribes.

DOJ

- DOJ is consulting with tribes in the Klamath River case and is starting to use mediators in other tribal work. DOJ is also in discussions with Peter Williams, Mike Lopez, and Sarah Palmer about coming to DOJ's tribal federal training at the end of June. The focus of the training is on enforcement issues around tribal lands and tribal resources, and will include an ADR component.

USFS

- Learning from the field about how to deal with tribes and land management issues. Working to build relationships early on before an issue arises.
- USIECR helped facilitate extensive tribal engagement in the planning process for the new USFS Planning Rule.

EPA

- The National Tribal Operations Committee meets with political appointees in EPA on a quarterly basis to discuss consultation efforts. This has had a positive impact on fish consumption studies for setting toxics limits in Idaho, Oregon, and other states.

BLM

- Recently held a workshop with native groups and organizations to discuss petroleum issues. Working on funding to bring tribal representatives to workshops.

CADR

- Michelle Singer is on a one year detail to CADR from the Office of Special Trustees. She has a lot of experience with tribal issues and is serving as a collaboration coordinator.
- Internally, CADR recognizes the importance of Native work and has a program to help engage tribes regarding management plans and implementation of the DOI government-to-government consultation policy.
- Working on a Native American policy manual with other agencies.

OMB

- Current administration is supportive of Native, as well as state and local, engagement, so it is important to engage with OMB counterparts to highlight this ECCR work. Highlighting these particular engagement efforts may help to justify funding requests in budget discussions.

USIECR

- Challenge is finding culturally appropriate mediators, Native practitioners, and providing for travel expenses for tribes to participate in processes. The Native Network is a useful resource.
- Integrating tribal data with other data is another challenge that USIECR has seen in its work with tribal participation in collaborative efforts.

CEQ

- It is important to bring government-to-government consultation into daily work. There have been recent Executive Orders dealing with sustainability and planning. One establishes a Chief Sustainability Officer, and another addresses ecosystem services. Both of these issues involve relations with tribes and other agencies.

Mike Lopez noted that he feels privileged to work with the Udall Foundation and feels positioned to contribute to helping governments talk to each other and help parties resolve environmental conflicts. The fish consumption

issue in Idaho is a recent example of collaboration and cooperation where proactive discussions between the EPA and Nez Perce Tribe and other tribes in Idaho could take place.

Discussion Topic II: Agency Experiences in Using On-line Tools for ECCR

USACE presented on recent action they have taken to increase and focus the use of collaboration tools. E-collaboration Suites are a collection of collaborative tools to describe a range of internet and intranet based tools that allow people to complete a variety of tasks together online. They serve as a virtual workspace to work collaboratively, and are particularly helpful when practitioners are not able to meet in person given travel constraints.

Some tools are available within DOD, while some are available for the larger federal family. USACE held a webinar to solicit feedback on experiences with each of these tools.

The webinar found that the DOD restrictions and protocols present a challenge to agencies and departments. Staff need to make sure that their agency has a compatible system and appropriate, including legally appropriate, terms of service. It is also important to ensure that there is buy in from the team in the field and that there are agreed upon objectives and guidelines. It is important to provide a training to staff people on the tool to be used for collaboration.

A key challenge at USACE has been that staff in the field have wanted to collaborate with practitioners outside of USACE, but many of the tools that they would use were restricted within DOD. There was a need for a tool where multiple agencies could collaborate and share documents.

USACE has since identified tools that are DOD approved (see Attachment 4). USACE offices are finding local partners who use tools that USACE can join, but not lead. There have been some successes with non-DOD tools. Mindmixer is one example.

Discussion

USFS

- Talking Points is a public participation GIS collaborative mapping tool that can be helpful when a forest is undergoing plan revision. It can show a specific geographic area and the public can access different types of maps of the given area. The public can point to a specific polygon and express their concern about it and why the agency should pay attention to this area. The public can also see comments from other groups, and USFS can see all comments. Once a forest starts using it, they can use it again for other projects. USFS could give a more in-depth presentation of Talking Points at a future ECCR Policy Forum.
- USFS is working on a collaborative mapping tool that analyzes comments. When this is mature it will merge with the other tool. People can also search the database for key phrases. The tool has a report generation function as well.

USACE

- USACE is working toward a public commenting tool similar to that of USFS.

BLM

- BLM has an e-planning tool where areas can be geo-tagged, but would like a tool that has more collaboration capability.

CEQ

- There are several IT systems that provide information available to all the agencies. NEPAssist is an EPA program that allows for collaboratively mapping an area and identifying points of interest. DOE just started a new program, NEPAnode, available to any agency to use. It includes references to EISs that have been filed with EPA. Comment sections can also be filtered by particular topic.

FERC

- Challenge is that there are very few ways that federal agencies can universally collaborate with each other and outside of the federal government.

CADR

- There has been some coordination among DOI, USFS, USDA, and other agencies around fire management. There is an attempt at the technical level to open channels of communication that have appropriate security features from a technical perspective.

Plan for next meeting

- Have IT personnel who work on tools for collaboration sit in on the discussion. Staff could share stories.
- Discuss how local communities define the phrase “coordination.” Could discuss what coordination means to the federal government and how it relates to what local communities are doing or advocating. Discussion of strategies for communities regarding the NEPA process and other coordination mechanisms could be helpful.
- Could be useful to arrange for a large national forum discussion with agency personnel that focuses on education, cross cultural communication, and tribal coordination updates.

Action

- Send Horst a brief description of any IT collaboration tools used by your agency that are available to non-federal partners in addition to federal partners, especially tools that allow for exchange of ideas or information in a real time atmosphere.

Attachment 1: Participant List

Attachment 2: Range of Methods for Assessing benefits and costs of ECCR handout

Attachment 3: USIECR NAAN and Native Network Handout

Attachment 4: USACE E-Collaboration Handout

Attachment 1: Attendees

In person:

Andrea Grossman- OMB
Ashley Goldhor-Wilcock- USFS
Catherine Johnson- Veterans Affairs
Courtney Greenley- USACE
Deborah Osborne- FERC
Debra Drechsel- USIECR-Udall
Francesca Hsie- OMB
Horst Greczmiel- CEQ
Jake Strickler- EPA
Joe Carbone- USFS
Julie Kaplan- DOT
Joanna Jacobs- DOJ ENRD
Lauren Nutter- USIECR-Udall
Maria Lantz- USACE
Matt Magee- DOI BLM
Myles Flint- DOJ EES
Nicole Starman- DOT
Richard Kuhlman- EPA
Robert Fisher- DOI CADR
Steven Miller- DOE
Suzanne Orenstein- USIECR-Udall
Valerie Puleo- USIECR-Udall
William Hall- EPA

On Phone:

Mike Lopez- USIECR-Udall
Sarah Palmer- DOI CADR
Stacy Stoller- DOJ
Steve Kokkinakis- NOAA
Pat Collins- US Air Force
Jennifer Hass- DHS
Two additional phone participants (We could not hear their names and agencies)

Attachment 2: Range of Methods for Assessing benefits and costs of ECCR handout

In their FY2013 ECCR annual reports, agencies identified a range of methods used to assess investments in ECCR as well as capture the benefits realized by use of ECCR processes. Table 1 represents a quick summary of examples reported.

Table 1. Range of Methods for Assessing benefits and costs of ECCR

	DoD	DOE	DOI	DOT	VA	NASA	NOAA	USFS	EPA	FERC	NRC	USIECR
Qualitative Methods for Assessing Benefits												
Annual Agency ECCR Reports	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Documentation of Lessons Learned	✓		✓									✓
Inter- and Intra-agency discussions	✓		✓	✓								✓
Observation of project process	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓
Partnerships with other agencies	✓		✓	✓			✓	✓	✓			✓
Quantitative Methods re ECCR Benefits												
SEER Project			✓						✓			
Evaluation instruments and/or surveys	✓		✓						✓	✓		✓
Tracking Case hours and/or case dockets	✓		✓						✓	✓		
ECCR included in staff performance plans or position descriptions			✓				✓			✓		
Measures for Extent of ECCR Investments¹												
Existence of central resource for ECCR in agency	✓ CPCX		✓ CADR						✓ CPRC	✓ DRD		✓ USIECR
Number of FTE's dedicated to ECCR										✓		
Amount of funding dedicated to neutrals												
Number of projects in which ECCR is used										✓		
Amount of funding support for travel for cases and ECCR outreach												
Number of trainings provided to agency staff										✓		
Existence of IAGs and IDIQs to contract for neutrals												

¹ Measures listed are mentioned by one or more agencies; blank cells only indicate unclear data, not an absence of the measure in a report. (Check all that apply.)

Environmental Collaboration and Conflict Resolution Quarterly Forum

Michael Lopez*

Udall Foundation

U.S. Institute for Environmental Conflict Resolution

May 19, 2015

Native American & Alaska Native Program (NAAN)

- Udall Foundation's mission includes strengthening Native nations by providing programs to promote leadership, education, collaboration, and conflict resolution in the areas of environment, public lands, and natural resources.
- The U.S. Institute gives particular attention to issues affecting American Indians, Alaska Natives and Native Hawaiians and to the importance of government-to-government relationships when addressing environmental conflict.
- Assists in finding workable solutions for matters between Native nations, other governments or agencies and non-governmental interests.

Native Dispute Resolution Network (NDRN)

- NDRN is a referral and education resource composed of Native and non-Native practitioners who build collaborative capacity through bridging Native and non-Native practices and cultures
- Initiated in 2003 as a resource for individuals, agencies, and organizations needing help with collaborative problem-solving
- Substantive focus is multi-government consultation involving environmental or cultural property issues, and inter-governmental natural resource issues
- NDRN and ECCR Roster are intended to complement each other as resources for federal agencies

NAAN Program Priorities in 2015-16

- Emphasize importance of, and USIECR's commitment to, fulfilling the Udall Foundation's mission, goals and objectives through the NAAN program
- Renewed focus on the NDRN as a valued and critical NAAN component
- Engage Native Nations, federal agencies and NDRN practitioners on ways the Udall Foundation may continue to shape the NAAN program and NDRN as conflict resolution resources

*Michael Lopez is the new Senior Program Manager for the USIECR's Native American and Alaska Native program. Michael previously served as staff attorney for the Nez Perce Tribe, focusing on natural resource, environmental and Indian law matters. Michael received his Juris Doctor and Certificate in Environmental and Natural Resources Law from Lewis and Clark Law School; Master of Biological Sciences from the University of Minnesota; and Bachelor of Science from the University of California, San Diego.

Attachment 4: USACE E-Collaboration Handout

U.S. Army Corps of Engineers

Learn how the U.S. Army Corps of Engineers recognized and addressed the need for virtual collaboration workspaces.

Courtney Greenley
Collaboration in Water Resources Management
Oak Ridge Institute for Science and Education (ORISE) Fellow
May 19, 2015



IWR



Presentation Agenda:

- Identifying the Need for E-collaboration Suites
- How USACE Addressed the Need
- Lessons Learned

Identifying the Need for E-Collaboration Suites:

- **Definition:** E-Collaboration Suites are a collection of collaborative tools to describe a range of internet and intranet based tools that allow people to complete a variety of tasks together online. This may include real-time conversations in forums, collaborative editing of documents, file sharing and storage.
- The ability to conduct face to face project collaboration is declining within USACE. The needs for group collaboration have become more complex, with the workforce in a variety of time zones required to work on documents and projects real-time.

How USACE Addressed the Need:

- Ask yourself the 2 W's: Who and What – see next page for the decision chart developed to assist in choosing an appropriate e-collaboration suite.

Lessons Learned:

- **Before** you decide to use a collaboration suite, seek the advice of your agency Terms of Service (TOS) Point of Contact (POC) to be sure your agency has already signed a federal-compatible TOS, ensuring the TOS is legally appropriate for use by your agency: <http://www.digitalgov.gov/resources/agency-points-of-contact-for-federal-compatible-terms-of-service-agreements/>
- Survey project team prior to selecting a “solution” platform. Ask the 2 W's! Team Lead buy-in is a must!
- Create agreed-upon objectives & guidelines of tools (Will you use the calendar tool? How often?)
- Provide training, help desk, and/or resources depending on the needs of your team.

Choose Your E-Collaboration Suite

Question 1: Who will you be collaborating with?

SUITES	USACE-ONLY*	DOD*	GOVERNMENT	OTHER
APAN	[Line with vertical bar at end]			
SHAREPOINT	[Line with vertical bar at end]			
MAX.GOV	[Line with vertical bar at end]			
KNOWLEDGE HUB	[Line with vertical bar at end]			
MILSUITE	[Line with vertical bar at end]			
YAMMER	[Line with vertical bar at end]			

*Common Access Card (CAC) Required
*Contractors Included

Question 2: What features are you looking for?

SUITES	FILE SHARING	FORUM	CALENDAR	CHAT
APAN	X	X		X
SHAREPOINT	X	X	X	
MAX.GOV	X	X	X	
KNOWLEDGE HUB	X	X	X	X
MILSUITE		X		X
YAMMER	X	X		X

For more detailed information on suites,
see table of contents on next page.