

**4th ANNUAL REPORT (2009) ON
ENVIRONMENTAL CONFLICT RESOLUTION**

FOR THE COUNCIL ON ENVIRONMENTAL QUALITY

**OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
(CIVIL WORKS)**

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Section 1: Capacity and Progress

1. Describe steps taken by your department/agency to build programmatic/institutional capacity for ECR in 2009, including progress made since 2008. If no steps were taken, please indicate why not.

[Please refer to the mechanisms and strategies presented in Section 5 of the OMB-CEQ ECR Policy Memo, including but not restricted to any efforts to a) integrate ECR objectives into agency mission statements, Government Performance and Results Act goals, and strategic planning; b) assure that your agency's infrastructure supports ECR; c) invest in support or programs; and d) focus on accountable performance and achievement. You are encouraged to attach policy statements, plans and other relevant documents.]

General Comments

In 2009 the Corps took many steps to build programmatic/institutional capacity for both ECR and non-third party assisted collaborative environmental problem-solving processes, both at the headquarters level, and across the 38 Districts and 8 Divisions in the US where the Corps Civil Works program is executed.

USACE Campaign Plan & Civil Works Strategic Plan – USACE has embraced collaborative approaches to environmental problems through the Campaign Plan and the Civil Work Strategic Plan. Both documents commit the Corps to implement collaborative approaches to effectively solve water resource problems. Within the Plans, the Corps commits to develop and implement collaborative approaches to improve behavior, accelerate organizational change and solve water resource problems. The plans call for a focus on effectively engaging external agencies to blend multiple approaches & analysis methods, to synchronize complementary interagency efforts, and to orchestrate timing of resources to optimize and integrate multi-agency implementable solutions.

www.usace.army.mil/about/campaignplan/Pages/Home.aspx

Conflict Resolution and Public Participation Center of Expertise Established. On October 17, 2008, the Corps formally established a Conflict Resolution and Public Participation Center of Expertise (CPC) and Directory of Expertise (DX). CPC's mission is to help Corps staff anticipate, prevent, and manage water conflicts, ensuring that the interests of the public are addressed in Corps decision making (www.iwr.usace.army.mil/cpc/). The Center achieves this mission by developing and expanding the application of collaborative tools to improve water resources decision making. During 2009, the CPC developed a strategic plan to focus on five goals:

- Increase the success of specific collaborative and participatory processes for project and program activities conducted by USACE and its partners;
- Build the capacity of USACE staff and its partners, and strengthen the collaborative capacity of USACE culture, to enable effective convening of and participation in collaborative processes;
- Strengthen institutional knowledge and information exchange about

conflict resolution and public participation across the Corps and with external partners;

- Establish the Corps as a thought-leader in the field by conducting research and pilot testing innovative processes, tools and approaches to meet the challenges and opportunities of the future.
- Ensure the Corps' effective implementation of federal conflict resolution and public engagement policies and programs and support successful participation of Corps' leadership in national and international forums by providing policy support to headquarters.

USACE Collaborative Capacity Development Initiative - A significant effort undertaken by USACE to build programmatic capacity specifically for ECR in 2009 was development of a Collaborative Capacity Assessment tool and the execution of workshops in three Corps Divisions to measure their collaborative capacity (the other five Civil Works Divisions of the Corps will have workshops in FY10). This initiative was developed and sponsored by the CPC. These workshops were designed to:

- Explain what USACE is doing to develop/improve collaborative capacity;
- Share results on on-line collaborative capacity survey by region; and
- To learn from Division and District representatives what USACE might do to capture and share collective collaboration successes, remove obstacles to collaboration, and strengthen USACE's ability to collaborate effectively in a variety of circumstances.

Building Strong Collaborative Relationships for a Sustainable Water Resources Future. To identify and leverage opportunities for collaborative efforts and to create a joint national dialogue for water priorities between states, tribes and the federal resource agencies, the Corps convened three regional workshops and a national workshop and assessed potential opportunities to improve collaboration. The workshop brought state, interstate and river basin organizations together with federal officials to explore ways to further leverage Federal resources in assisting tribes and states in their water resources planning and management in an era of constrained resources. www.building-collaboration-for-water.org/

Policy Revisions - As part of its post-Katrina response, the Corps is developing a Framework to Improve Public Involvement specifically in its Flood Risk Management activities and the applicability to improving public involvement Corps-wide. While not explicitly addressing 3rd party assisted ECR, the policy recommendations will both build capacity and develop guidance and business processes for how and when to apply third party ECR to support Corps programs. The Corps has also begun revisions to the Public Involvement guidance for Corps Planning processes. This is being coordinated with the CEQ-led revision of the existing Principles & Guidelines www.whitehouse.gov/administration/eop/ceq/initiatives/PandG/.

Corps Culture - Across Corps Divisions and Districts there is strong support for collaborative problem solving processes with staff being encouraged with resources and training to align their activities with and implement these processes. Districts

and Divisions are developing local, state, regional, and national teams promoting collaborative planning to anticipate problems and identify alternative solutions early so as to reduce the risk and magnitude of future environmental conflicts. Some units of the Corps reported that collaborative processes that did not require formal third party ECR were working well and thus did not see a need to build programmatic/institutional capacity for ECR, as historically there is a low incidence of environmental conflicts that require formalized resolutions and would require additional costs. Districts report that ECR is neither scoped nor budgeted in initial project development, design, or construction and that funding to provide for long-term ECR involvement is generally not available. The “turn around” time for formal ECR was also cited as a barrier. Others reported a preference for proactive public involvement. Districts note that currently insufficient resources limit the ability to build capacity.

WestFAST - USACE is a major proponent of the recently formed Western States Federal Agency Support Team (WestFAST) which is comprised of nine federal agencies. WestFAST (www.westgov.org/wswc/WestFAST.htm) is contributing to programmatic capacity for ECR by helping build federal, state, tribal, and other stakeholder organizations relationships in the West. This regional multi-organization structure is helping federal agencies and others become better prepared to conduct future ECR by providing venues to develop common understanding of water resource related issues and building capacity to better leverage and focus the technical resources of multiple organizations.

Training & Other Investments in ECR Support - Various aspects of ECR are being considered in some form in the curriculum of the South Atlantic Division’s Leadership Development Program, and should be integrated into the Environmental Community of Practice’s guidelines for FY 2010. South Pacific Division reports Corps Staff pursuing courses and degrees in Conflict resolution through universities and the USIECR with additional training funds requested in FY2010.

The Corps continued to build institutional capacity for ECR and other collaborative processes through support for multi-day training classes in Public Involvement and Teaming in Planning, Alternative Dispute Resolution, Risk Communication, Risk Communication and Public Involvement and Risk Communication and Conflict Resolution. CPC initiated a series of one-hour training sessions on specific topics via conference call / video & web. The first seminar addressed situations when the science basis of a project or study is questioned: “When the Sparks Fly: Building Consensus When the Science is Contested” by Gail Bingham, temporarily on loan to CPC from RESOLVE. The Corps developed and implemented a one-week course in Collaborative Approaches and Integrated Water Resources Management.

The Corps has also completed development of a survey to measure the effectiveness of collaborative modeling approaches (see Question 5).

Finally institutional support for ECR is being enhanced through the development of in-house contracting mechanisms for accessing ECR facilitators Corps-wide. A stop-gap measure was in place in 2009, with a more robust mechanism in the

pipeline for 2010. This mechanism should address the gaps in existing contracting mechanisms for Districts to rapidly access 3rd party ECR expertise.

Section 2: Challenges

2. Indicate the extent to which each of the items below present challenges or barriers that your department/agency has encountered in advancing the appropriate and effective use of ECR.

	Extent of challenge/barrier		
	Major	Minor	Not a challenge/barrier
	Check <u>only</u> one		
a) Lack of staff expertise to participate in ECR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Lack of staff availability to engage in ECR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Lack of party capacity to engage in ECR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Limited or no funds for facilitators and mediators	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Lack of travel costs for your own or other federal agency staff	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Lack of travel costs for non-federal parties	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Reluctance of federal decision makers to support or participate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) Reluctance of other federal agencies to participate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) Reluctance of other non-federal parties to participate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j) Contracting barriers/inefficiencies	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k) Lack of resources for staff capacity building	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
l) Lack of personnel incentives	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
m) Lack of budget incentives	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
n) Lack of access to qualified mediators and facilitators	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
o) Perception of time and resource intensive nature of ECR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
p) Uncertainty about whether to engage in ECR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
q) Uncertainty about the net benefits of ECR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
r) Other(s) (please specify): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
s) No barriers (please explain): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Section 3: ECR Use

3. Describe the level of ECR use within your department/agency in FY 2009 by completing the table below. [Please refer to the definition of ECR from the OMB-CEQ memo as presented on page one of this template. An ECR “case or project” is an instance of neutral third party involvement to assist parties in reaching agreement or resolving a dispute for a particular matter. In order not to double count processes, please select one category per case for decision making forums and for ECR applications.]

	Cases or projects in progress ¹	Completed Cases or projects ²	Total FY 2009 ECR Cases ³	Decision making forum that was addressing the issues when ECR was initiated:					Of the total FY 2009 ECR cases indicate how many your agency/department	
				Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other (specify)	Sponsored ⁴	Participated in but did not sponsor ⁵	
<i>Context for ECR Applications:</i>										
Policy development	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Planning	10	2	12	11	_____	1	_____	11	1	
Siting and construction	1	1	2	2	_____	_____	_____	1	1	
Rulemaking	_____	_____	_____	_____	_____	_____	_____	_____	_____	
License and permit issuance	1	1	2	2	_____	_____	_____	_____	2	
Compliance and enforcement action	_____	1	1	1	_____	_____	_____	_____	1	
Implementation/monitoring agreements	1	_____	1	1	_____	_____	_____	1	_____	
Other (specify): NEPA Process and Congressional legislation, implementation	2	_____	2	2	_____	_____	_____	1	1	
TOTAL	15	5	20	19	_____	1	_____	14	6	
	(the sum should equal Total FY 2009 ECR Cases)			(the sum of the Decision Making Forums should equal Total FY 2009 ECR Cases)				(the sum should equal Total FY 2009 ECR Cases)		

¹ A “case in progress” is an ECR case in which neutral third party involvement began prior to or during FY 2009 and did not end during FY 2009.

² A “completed case” means that neutral third party involvement in a particular matter ended during FY 2009. 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.

³ “Cases in progress” and “completed cases” add up to “Total FY2009 ECR Cases”.

⁴ Sponsored - to be a sponsor of an ECR 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 ECR case.

⁵ Participated, but did not sponsor - an agency did not provide resources for the neutral third party's services for a given ECR case, but was either a party to the case or participated in some other significant way (e.g., as a technical expert advising the parties).

4. Is your department/agency using ECR in any of the substantive priority areas you listed in your prior year ECR Reports? Indicate if use has increased in these areas since they were first identified in your ECR report. Please also list any additional priority areas identified by your department/agency during FY 2009, and indicate if ECR is being used in any of these areas. Note: An overview of substantive program areas identified by departments/agencies in FY 2008 can be found in the FY 2008 synthesis report.

List of priority areas identified in your department/agency prior year ECR Reports	Check if using ECR	Check if use has increased in these areas
Navigation	√	√
Flood Risk Management	√	√
Hydropower	√	√
Water Supply	√	√
Recreation	√	√
Emergency Management	√	√
Ecosystem Restoration	√	√
Superfund/ FUSRAP	√	√
List of additional priority areas identified by your department/agency in FY 2009	Check if using ECR	
_____	<input type="checkbox"/>	

Please use an additional sheet if needed.

5. It is important to develop ways to demonstrate that ECR is effective and in order for ECR to propagate through the government, we need to be able to point to concrete benefits; consequently, we ask what other methods and measures are you developing in your department/agency to track the use and outcomes (performance and cost savings) of ECR as directed in Section 4 (b) of the ECR memo, which states: *Given possible savings in improved outcomes and reduced costs of administrative appeals and litigation, agency leadership should recognize and support needed upfront investments in collaborative processes and conflict resolution and demonstrate those savings and in performance and accountability measures to maintain a budget neutral environment* and Section 4 (g) which states: *Federal agencies should report at least every year to the Director of OMB and the Chairman of CEQ on their progress in the use of ECR and other collaborative problem solving approaches and on their progress in tracking cost savings and performance outcomes. Agencies are encouraged to work toward systematic collection of relevant information that can be useful in on-going information exchange across departments?* [You are encouraged to attach examples or additional data]

Of the Corps Districts that are using ECR, only the Mississippi Valley Division cited a specific process for evaluation. Within the Division's regulatory program effectiveness is being measured by numbers and efficiency (time) of permit issuance in support of Iowa's efforts. Cited quantitative measures include: (1) The number of successful ECR outcomes; (2) The number of inquiries to the Institute of [Environmental] Conflict Resolution; (3) Improved performance related to time or money saved related to a particular Corps mission; and (4) Customer survey of successful (or not) of conflict resolution. The Division did not report any tracking for non-regulatory activities.

Several other Districts rely on qualitative evaluation through project reports and observation. Both Norfolk and Walla Walla Districts observed that collaborative processes can obviate need for ECR. Potential metrics cited include increased stakeholder understanding, stakeholder participation, and less litigation. Kansas City District is "qualitatively looking at the level of cooperation and decision making by the bodies engaged in ECR. Substantial movement forward in working through the study process and agreement with process and objectives provide qualitative feedback on effectiveness of ECR." Both South Atlantic and Southwest Divisions identified the information gathering for this ECR report as examples of evaluation and tracking. The North Atlantic Division identified a lack of knowledge or resources for how to evaluate ECR.

The Conflict Resolution and Public Participation Center (CPC) completed the development of a survey instrument, which builds on the Multi-Agency Evaluation Study (MAES) led by the US Institute for Environmental Conflict Resolution. MAES is applicable for any ECR process, while CPC's version is specifically for the use of Shared Vision Planning and other collaborative modeling type processes which often but not always include the use of a third

party neutral. The survey helps to measure the level of success by documenting process characteristics, output, and outcome, including shared learning, trust and relationship building, acceptability of the decision, ease of implementation (lack of resistance/objection). Corps staff have tested the instrument on completed case studies and have submitted the survey to OMB for general approval. The survey is available in the project's final report (IWR Report 09-R-7), which provides recommendations for use of the survey in different stages of the process.

One District recommended that a pilot study be conducted in 2010 to demonstrate whether or not existing project management software could be used to track completion of milestones related to ECR and thus monitor ECR across the Corps. Another district recommended a Corps-wide synthesis of case studies of long-term agreement and elements for success.

6. Describe other significant efforts your agency has taken in FY 2009 to anticipate, prevent, better manage, or resolve environmental issues and conflicts that do not fit within the Policy Memo's definition of ECR as presented on the first page of this template.

SUMMARY

The Corps Civil Works role is varied, with regulatory, planning, operations, engineering, natural resource management, and emergency management functions. Much of the work involves constant communication and long term relationships with other agencies and stakeholder groups. Many tools and processes for collaboration and coordination, over and above federal and state legal requirements, are simply routine day-to-day processes for the Corps.

Overall, Corps Districts use multiple collaborative process tools to come to agreement, and build confidence within teams and stakeholders to plan, operate and construct civil works projects. Early involvement with the public and agencies is key during planning studies, NEPA documentation, engineering studies, and operational studies for projects ranging from levee construction and repairs, environmental restoration, navigation channel improvements, water quality management, water availability and the Corps regulatory program. Every Division is reporting successes in using collaborative process tools.

Corps' offices report extensive use of collaborative planning and problem solving. Many offices also use existing working groups, councils, or regional issues teams initiated by local, state, or other federal agencies. These methods have prevented the need in most cases for a third party facilitator or arbitrator, or have facilitated groups to gain understanding of concerns and priorities, without a formal third party neutral.

Hence the tools and processes that we report on below in various categories incorporate the values, spirit and even techniques of formal ECR but were not viewed by Corps Districts and Divisions to fall within the definition of the CEQ/OMB memo.

FORMAL COORDINATION PROCESSES

Regional and National Memorandums of Understanding/Agreement with National Audubon Society and Ducks Unlimited, Inc and various other resource agencies (USF&W, FERC, NRC, Union Pacific Railway) allow for early identification and resolution of potential conflicts through pre-existing relationships and understandings.

The Silver Jackets Program is a program through which the US Army Corps of Engineers (USACE), the Federal Emergency Management Agency (FEMA),

and other Federal agencies create an interagency team at the state level to develop and implement solutions to state natural hazard priorities. The Silver Jackets Program provides a formal and consistent strategy for an interagency approach to planning and implementing measures to reduce the risks associated with natural hazards. The program's primary goals are to leverage information and resources, improve public risk communication through a united effort, and create a mechanism to collaboratively solve issues and implement initiatives. To date, the Silver Jackets Program has initiated pilot programs in Ohio, Indiana and California. These teams have succeeded not only in improving communication, but also in leveraging resources and programs between Federal agencies.

Corps Districts report active participation in regional collaborative groups such as the Lower Columbia River Solutions group, the Lower Columbia River Estuary Program, the Gulf of Mexico Alliance, Southeast Natural Resource Leaders Group, Gulf of Mexico Program, Coastal America, and Mobile Bay National Estuary Program. Similarly the Savannah Harbor Expansion Study's Executive Steering Committee (USACE, National Marine Fisheries Service, US Fish and Wildlife Service, Department of the Interior, US Environmental Protection Agency, and the State of Georgia) meets quarterly to address planning and to develop collaborative solutions to issues associated with addressing environmental impacts.

COMMUNICATION TOOLS

The Corps hosted a Freshwater Diversion Summit to explore the science, public concerns and issues related use of the Mississippi River water for land building or freshening of wetlands and navigation support.

A Communication Plan that includes appropriate public outreach and participation is part of the Corps Project Management Business Process. Identification. Engagement of stakeholders, agencies, and tribes is key to achieving a positive outcome. For many if not most projects, a public website is actively maintained and project updates are sent out to a distribution list (internal and external to the Corps).

USACE led a Summer Hopper Dredging Demonstration Projects with the States of Florida and Georgia, the National Marine Fisheries Service, and the Office of Coastal Resource Management to demonstrate the potential feasibility of conducting dredging activities outside the winter dredging window (December-April) with minimal or reduced sea turtle entrainment rates.

BUSINESS PROCESSES AND CULTURE

- In scoping meetings, public workshops and charettes with the public, Corps

leaders explain proposed projects and answer technical and policy questions.

- In the Mississippi Coastal Improvements Program, the Corps engaged a wide variety of stakeholders (Federal, state, scientific, public, and nongovernmental organizations) and used multi-agency staffing to develop a \$1.02 billion comprehensive plan for restoration and development of a coastal community resilient from future storm effects. Stakeholder involvement throughout the entire plan formulation process produced no significant objections or problems with the plan during State and Agency and Public review.
- Annual meetings of Environmental Chiefs across the Mississippi Valley Division promote internal information exchange on regional environmental efforts and issues and results in avoidance of environmental problems
- The Missouri River Ecosystem Restoration Plan cooperating agency team (basin's Tribes, states, and federal agencies) work hand in hand with the Corps in developing the Environmental Impact statement for the plan. All viewpoints and concerns are taken into consideration and help support decisions on what goes into the final document, preventing future conflicts.
- The Corps also reports examples of fostering collaboration by allowing non-Corps staff to lead interagency meetings directly related to Corps processes. In one Pacific Northwest example an intertribal coordination group is run by a tribal member because it is the most acceptable method for the tribes. In Savannah a Stakeholders Evaluation Group employs a third party mediator to help the group identify environmental issues that they believe the Corps should consider in their feasibility study.
- Corps Regulatory offices recommend pre-application coordination that includes all interested parties. Regular monthly/bi-weekly meetings/teleconferences help identify potential conflicts early in the process. Coordinate early and often to keep all parties apprised of approaching milestones/deadlines and stick to the schedule as much as possible. When scheduling conflicts are identified, use flexibility/adaptability to meet the deadline or renegotiate the dates. Frequent use of electronic updates provides everyone with current information.
- Interagency meetings with environmental consultants and applicants discuss the Federal and State permit processes and improve understanding and efficiency. Regular meeting with state and other federal agencies on Regulatory Permitting Actions promote environmental conflict avoidance.
- Mobile District leads a Civil Works Water Resource Initiative along the Chattahoochee River between Valley and Lanett, AL, and West Point, AL.
- Native American Environmental and Cultural Resource Training. To improve the cultural understanding of Corps personnel, the Corps works with indigenous tribes to conduct immersion training on tribal reservations. This training assists the Corps in effectively accomplishing tasks on their lands, while at the same time fulfilling their trust responsibilities to the tribes.

- The Corps presents and supports workshops, conferences and forums to promote collaborative problem solving and information exchange on navigation, beach protection and environmental restoration including the Association of State Flood Plain Managers National Conference, Southeastern States Water Resources Planning & Management Forum, and the Alabama Partnering Workshop.
- For NC DOT transportation projects state and federal resource and permitting agencies simultaneously addresses NEPA and Section 404 by reaching consensus on each step of the NEPA/Section 404 Permit process (e.g., purpose and need, alternatives carried forward, least environmentally damaging preferred alternative, minimization and avoidance, mitigation, etc.).
- Since the late 1990s the Corps has developed a successful collaborative stakeholder process for Water management across North Carolina and Virginia through weekly conference calls, weekly emails and project status reports, web-site postings, and face-to-face stakeholder meetings as needed (as often as monthly). In addition to keeping stakeholders apprised week-to-week of project operations (especially during drought and flood events or deviations from normal operations), these weekly conference calls/emails and regular face-to-face meetings are used for collaboration/coordination on related issues, such as development of updated drought contingency plans and coordination/review of nonfederal hydropower add-on projects at our dams.
- The Corps' Wilmington NC District annually has a State/Corps/Agency/Stakeholder Navigation O&M Meeting to discuss the next year's maintenance dredging program. The meeting is heavily attended with issues collaboratively and openly discussed. Participation is open to all and information is made available through web-site postings.
- Corps field offices report efforts to increase the frequency of face-to-face meetings and issue resolution conferences with non federal sponsors, more regular interagency meetings on specific problematic issues with other organizations, and frequent interagency consultation to promote compliance with statutes (e.g. Fish and Wildlife Coordination Act, Endangered Species Act, Coastal Zone Management Act) and Executive Orders. Beyond traditional collaborative partners, the Corps offices are also spending significant energy towards building relations with resource agencies that were not previously fully engaged.
- The Corps works as a participating agency in collaborative processes for EIS's and to co-operatively produce Biological Assessments and Biological Opinions.

CONSENSUS BUILDING TOOLS

- CPC continues to support research and application of collaborative

modeling process called Shared Vision Planning (SVP). For a pilot test in the Corps regulatory program with Greeley and Fort Collins, Colorado are engaging stakeholders in a dialogue on the technical issues surrounding their Clean Water Act 404 permit application to the Corps to enlarge two reservoirs to increase water supply. The project team and stakeholders are collaboratively building a computer model of the system to support the permit application and review. In West Maui Hawaii CPC staff led a workshop on Shared Vision Planning for a reconnaissance study. CPC is also supporting application of SVP in the International Joint Commission's (US/Canada) Upper Great Lakes Study www.iugls.org/en/home_accueil.htm.

- SWT is working with the City of Tulsa, Oklahoma; the state of Kansas; and other stakeholders to model existing condition and future alternative land use practices in the Oologah Lake Watershed. Local stakeholders in Kansas are associated with the Watershed Rehabilitation and Protection Strategy "grass roots" groups. The "shared vision" model is helping stakeholders develop a common understanding of issues and identify potential next steps to improve water quality and associated aquatic ecosystems.
- CPC staff served on the organizing committee for the ECR & Technology Strategic Planning workshop in May 2007 and continue working with USIECR's national coordinating committee to guide efforts to facilitate the use of technology tools in environmental conflict resolution processes <http://sites.google.com/site/techechr/Home>. CPC, with Sandia National Lab, US EPA and USIECR developed a FY2010 workshop on Computer Aided Dispute Resolution. www.iwr.usace.army.mil/cadre/
- The Corps participated in National Academy of Science reviews including ones for Missouri River Sediment Management Study, and Water Science and Planning Issues on the Apalachicola Chattahoochee Flint & Alabama Coosa Tallapoosa River Basins.
- In multiple cases, independent scientific/technical advisors helped build consensus on technical issues. Examples include the Columbia River Channel Improvement Project's Adaptive management Team, and the San Clemente Shoreline project.
- Both the Sacramento-San Joaquin Delta Long-Term Management Strategy and selected partnering sessions in San Francisco District use third parties to facilitate executive-level strategy and partnering meetings.
- The Interagency Scientific team established to oversee implementation of the Mississippi Coastal Improvement Program comprehensive barrier islands restoration includes multi-agency staffing in the determination of studies and the development of specific restoration plans.
- Interagency Coordination Teams (ICT) in Galveston, TX are standing teams that attempt to reach consensus on all major General Investigation studies where an Environmental Impact Statement will be prepared. The ICT is chartered, and all state and federal resource agencies are invited to participate. The ICT is directly involved in the development and analysis of project alternatives and identification of sensitive or significant resources that must be addressed. It attempts to reach decisions by consensus. Since the routine

use of ICT's the Corps has not been sued over NEPA coordination and documents in Galveston, and has not faced protracted time delays in obtaining regulatory approval of our projects.

- The Tulsa District facilitated a collaborative “table top” exercise with local, state, tribal and federal organizations that simulated theoretical dam breaches. Some of these exercises also included professional organizations such as the Society of American Military Engineers and helped advance regional readiness programs.
- The Corps applied an interview and visualizing technique for capturing and integrating individual and community visions called Vision to Action. The Vision to Action Tool is geared to occur within an open community forum with the goal obtain diverse individual visions and assessments and integrate them into a community vision. In FY2009, the Corps assisted with six Brownfield Community Redevelopment Initiatives through the Vision to Action Tool.

Section 4: Demonstration of ECR Use and Value

- 7 Briefly describe your department's/agency's most notable achievements or advances in using ECR in this past year.

This year's notable achievements in ECR range from private third party engagement, to the U.S. Institute for Environmental Conflict Resolution, to the Corps itself serving as a third party neutral. Some Corps Divisions reported no use of ECR this year, either because they were not the lead federal agency (and therefore not responsible for pursuing or leading the federal conflict resolution activities), or because their projects simply did not warrant the involvement of a neutral third party (Lakes and Rivers Division, Pacific Ocean Division).

This year's range in responses are quite similar to those of last year's report with the exception of cases where the Corps itself acted as a third party neutral to help resolve a dispute (Southwest Division Tulsa District and Assistant Secretary of the Army engagement in Mississippi Valley Division, Rock Island District).

Below is a list of this year's notable achievements as reported from Corps Divisions and Districts:

Dallas Floodway Project

Southwestern Division faced significant challenges while undertaking a project that considered non-traditional joint uses (i.e. roadway within the levees and recreation) for federal flood control levees in the City of Dallas. An Interagency Coordination Team formed among federal, state and local governments to resolve conflicts and ensure the project was planned in a technically sound and environmental acceptable fashion, while maintaining project flood control benefits to the City of Dallas. The benefits of this initiative included 1) the involvement of all interested stakeholders in a transparent and well understood process that led to successful completion; 2) improved roadway and recreation capacity for the City of Dallas; and 3) sustained and/or improved flood control benefits from the Federal project.

Lake Texoma Reallocation Study

This study was conducted in response to a Congressional mandate to provide water supply storage from Lake Texoma's conservation (hydropower) pool. The water supply storage reallocation study included the assessment of potential adverse impacts to hydropower interests. The conflict resolution process began in 2004 when Tulsa District began facilitating a series of meetings between the federal agencies, power agency, hydropower stakeholders and other stakeholders. These discussions included the

valuation of hydropower and the selection of storage reallocation alternatives. The issues were resolved and the planning process has proceeded to the point where the decision document has been submitted to the Assistant Secretary of the Army for approval. Tulsa District adds: "Had there been sufficient funding, we would have considered opportunities to seek out professional facilitators which possibly could have accelerated the process."

Improving Regulatory Support to the Iowa Conservation Reserve Program

Rock Island District is responsible for providing regulatory support to the Iowa Conservation Reserve Program, which naturally treats water from farmland runoff and tile drain systems. Ineffective communication early on regarding the treatment program eventually resulted in the State of Iowa requesting help from the Corps Hypoxia Task Force. At a meeting in early 2009, a member of the Task Force from the Assistant Secretary of the Army's office (ASA), addressed the conflict by hammering out details for a programmatic agreement between Corps regulatory, Iowa CREP, and the Iowa State Historic Preservation Officer. This case was not about incompatible programs, but a matter of open communication and exploring various support options available by both parties. Rock Island District notes: "Having a 'neutral' third party, ASA, step in and help was instrumental in reaching agreement. The Corps permit process is now better focused on supporting this Iowa program and permits take less time to review and approve." The district also notes the lessons of communicating in advance of activities while in the planning phase; and being open, listening, and exercising flexibility as allowed within programs. This is an interesting example of the Corps itself playing the role of third party neutral.

Southeast Parkway and Greenbelt Road Project Mediation

North Atlantic Division is participating in mediation with EPA and the Federal Highway Administration to resolve a conflict pertaining to a road project in Virginia Beach. FHWA disagrees with EPA and the Corps of Engineers whether their Final Environmental Impact Statement for the Southeast Parkway and Greenbelt road project in Virginia Beach is adequate in addressing their NEPA responsibility to evaluate all reasonable alternatives in sufficient detail so that they can be compared. FHWA Headquarters asked Corps Headquarters and EPA to participate in neutral third party mediation in hopes of avoiding a pre-decision referral of their FEIS to CEQ. This project is ongoing.

8. ECR Case Example

- a. Using the template below, provide a description of an ECR case (preferably completed in FY 2009). Please limit the length to no more than 2 pages.

1. Third-party facilitation for an Individual Permit Application/Environmental Impact Statement for a bypass on Eglin Air Force Base (South Atlantic Division).

Name/Identification of Problem/Conflict
Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance
The project was a proposed roadway on federal lands that are managed for federally listed species, specifically the flatwoods salamander and the red cockaded woodpecker. Third-party assistance was needed during the scoping phase of the proposed EIS because all alternatives proposed by the applicant were in conflict with habitat management and USFWS was prepared to issue a jeopardy opinion at the conclusion of the EIS.
Summary of how the problem or conflict was addressed using ECR, including details of how the principles for engagement in ECR were used (See Appendix A of the Policy Memo, attached)
This ECR case utilized the principles of informed commitment; balanced, voluntary representation; information process; openness; and timeliness.
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 ECR
The key beneficial outcome was the development of alternatives that could be studied in the EIS that were unlikely to result in a jeopardy opinion. These alternatives were not reached through “work group” meetings. Sound alternatives only came from third-party facilitation.
Reflections on the lessons learned from the use of ECR
The use of ECR prevented lengthy negotiations on EIS alternatives and likely avoided the issuance of a “jeopardy” Biological Opinion from FWS.

	Check <u>all</u> that apply	Check if	
		Not Applicable	Don't Know
Protracted and costly environmental litigation;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unnecessarily lengthy project and resource planning processes;	×	<input type="checkbox"/>	<input type="checkbox"/>
Costly delays in implementing needed environmental protection measures;	×	<input type="checkbox"/>	<input type="checkbox"/>
Foregone public and private investments when decisions are not timely or are appealed;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lower quality outcomes and lost opportunities when environmental plans and decisions are not informed by all available information and perspectives; and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Deep-seated antagonism and hostility repeatedly reinforced between stakeholders by unattended conflicts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Northwestern Division

The following case has been included in the previous two ECR reports. Each year we record how ECR has been used to achieve different accomplishments and complete different phases of ongoing programs on the Missouri River. In 2007 we reported on the Missouri River Recovery Implementation Committee (MRRIC), in 2008 we added the Missouri River Ecosystem Restoration Plan (MRERP), and this year we add the Missouri River Authorized Purposes Study (MRAPS).

Name/Identification of Problem/Conflict
Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance
<p>MRRIC: The Missouri River Recovery Implementation Committee established in WRDA 2007 to advise the Secretary on MRERP and MRAPS is composed of 70-members representing basin States, Federal Agencies, Tribes, and interest groups. MRRIC meetings and workgroups are facilitated by a third party neutral hired through the USIECR.</p> <p>MRERP: In 2009 the MRERP study was at the stage where an overall purpose and needs statement needed to be completed so that the study could move forward in the feasibility study process. Without the jointly agreed upon purpose and needs for restoration of the basin (achieved with third-party assistance) there would be an inherent danger that stakeholders within the basin would reject the study objectives and the results in the future.</p> <p>MRAPS: The Missouri River Authorized Purpose Study is an additional pre-planning effort started in FY09. This study is a review of all the authorized purposes on the Missouri River: Flood Risk Management, Navigation, Hydropower, Water Supply, Irrigation, Water Quality, Recreation, and Fish and Wildlife. This study is likely to be contentious based on historic and current differences among interest groups and basin states.</p>
Summary of how the problem or conflict was addressed using ECR, including details of how the principles for engagement in ECR were used (See Appendix A of the Policy Memo, attached)
<p>MRRIC: ECR set the stage and opportunity for stakeholders to meet in the basin on a repeating basis to discuss the study objectives and needs. The 3rd party neutral facilitator works to achieve informed commitment, group autonomy, accountability, openness, and develop an informed process between cooperating agencies.</p> <p>MRERP: USIECR hired 8 local Public Policy Institutes (PPI) to identify and invite participants for 8 Public Scoping focus group meetings throughout the Missouri River Basin. The PPIs made specific selections based on their roles in the community and ties to the resources of the Missouri River. This included a facilitated visioning exercise.</p> <p>MRAPS: MRAPS is utilizing the USIECR and a third party neutral to conduct a basin</p>

assessment of interest/concerns and assist in developing a public engagement strategy for the study.

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 ECR

MRRIC: The development of agreed-upon and approved purpose and needs statement by the group for the MRERP study was a significant step forward in the Recovery program and for the MRRIC collaborative process. More generally, the use of ECR is allowing a large group of multiple agencies and various interests to work in a facilitated framework. This forum and ECR facilitation is a very positive step for the basin, bringing various interests and states together to better learn about each others' issues and perspectives and explore options for joint support.

MRERP: Valuable information was gathered at the focus group meetings due to the participants' intimate ties to and knowledge of the Missouri River. The PPIs created an environment for genuine input, in-depth discussion, and participants left encouraged.

MRRAPS: While only study preparation tasks were completed in FY09, the process of utilizing ECR to do a basin assessment and assist in developing a public engagement strategy should result in a collaborative process to evaluate existing authorized purposes and infrastructure.

Reflections on the lessons learned from the use of ECR

MRERP: Lessons include a heightened awareness of the public's desire to be educated, informed, and engaged; and the need to not over utilize technology at the expense of engaging meeting participants.

MRRIC: Because USIECR allowed MRRIC to be involved in selecting a third party neutral facilitation group, there is strong support for the facilitation group. Another lesson is to be patient with the process and let facilitators lead the groups through the process.

	Check <u>all</u> that apply	Check if	
		Not Applicable	Don't Know
Protracted and costly environmental litigation;	X	<input type="checkbox"/>	<input type="checkbox"/>
Unnecessarily lengthy project and resource planning processes;	X	<input type="checkbox"/>	<input type="checkbox"/>
Costly delays in implementing needed environmental protection measures;	X	<input type="checkbox"/>	<input type="checkbox"/>

Foregone public and private investments when decisions are not timely or are appealed;	<input type="checkbox"/>	<input type="checkbox"/>	X
Lower quality outcomes and lost opportunities when environmental plans and decisions are not informed by all available information and perspectives; and	X	<input type="checkbox"/>	<input type="checkbox"/>
Deep-seated antagonism and hostility repeatedly reinforced between stakeholders by unattended conflicts.	X	<input type="checkbox"/>	<input type="checkbox"/>

9. Please comment on any difficulties you encountered in collecting these data and if and how you overcame them. Please provide suggestions for improving these questions in the future.

As was done last year, the CPC led the effort to collect responses from the field and to analyze and synthesize the data for a final report. The CPC revised the questionnaire that was sent to the field so that the questions in the template were more relevant to the audience that would be responding to the data call. The CPC also took advantage of the data call and included questions that would provide insight as to what the field would like the CPC to focus on, technological tools that have been used to support ECR processes and the best way to for the CPC to share success stories and lessons learned from around the Corps. Immediately following dissemination of the questionnaire, the CPC held a conference call with the Corps Divisions representatives to provide guidance on how to respond to the questionnaire and to answer any questions they had. This proved helpful in receiving a more timely response from the field and improved data.

This year the CPC used the annual reporting requirement as an opportunity to collect additional information to guide USACE's efforts to promote collaborative solutions. The questions focused on obstacles to collaboration, use of technology in ECR, and ways of sharing collaborative successes across the agency. The responses help identify field needs beyond the questions in the report. In addition, our survey added information to add clarity and inform the responses to the questions. Our survey template is attached for your reference and consideration as the 2010 survey is developed (Attachment 1).

Many of the Divisions still felt that the time allowed to respond to this questionnaire was too short. Additional lead time would be helpful in allowing for coordination across the many districts and the various functional elements. It is also during a busy time of year when it is difficult to get key personnel engaged in a data call.

In reviewing the responses from Corps field offices, there remains a lack of consistency and confusion over what "counts" as an ECR case. Inconsistencies stem from the following areas: 1) the interpretation of "preferably completed in FY 2009"; 2) the intensity of the 3rd party intervention - is an ECR case one hour of

facilitation or a multi-year multi-meeting facilitation effort? 3) the intensity of the environmental conflict – does 3rd party facilitation during a non-conflictive, but multi-party planning process “count” as an ECR case? and; 4) does the Corps have to be the one to initiate the ECR process, or is participating in a process initiated by others ok?.

Finally, as stated in previous USACE ECR Reports, much of the Corps’ activities are focused on anticipating and preventing environmental issues by means of collaboration and partnering processes. The term “Environmental Conflict Resolution” is not seen as relevant because collaborative processes (including using a third party) are employed long before relationships deteriorate to the level of a “conflict”. As exposure to ECR and its meaning increases, so should the consistency and efficiency of the annual reporting.