

**kavFY 2016 TEMPLATE**  
**Environmental Collaboration and Conflict Resolution (ECCR)<sup>1</sup>**  
**Policy Report to OMB-CEQ**

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

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

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

*“ . . . third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and water and land management.*

*The term Environmental Collaboration and Conflict Resolution encompasses a range of assisted collaboration, negotiation, and facilitated dialogue processes and applications. These processes directly engage affected interests and Federal department and agency decision makers in collaborative problem solving and conflict resolution.*

*Multi-issue, multi-party environmental disputes or controversies often take place in high conflict and low trust settings, where the assistance of impartial facilitators or mediators can be instrumental to reaching agreement and resolution. Such disputes range broadly from policy and regulatory disputes to administrative adjudicatory disputes, civil judicial disputes, intra- and interagency disputes, and disputes with non-Federal persons and entities.*

*Environmental Collaboration and Conflict Resolution can be applied during policy development or planning in the context of a rulemaking, administrative decision making, enforcement, or litigation with appropriate attention to the particular requirements of those processes. These contexts typically involve situations where a Federal department or agency has ultimate responsibility for decision making and there may be disagreement or conflict among Federal, Tribal, State and local governments and agencies, public interest organizations, citizens groups, and business and industry groups.*

*Although Environmental Collaboration and Conflict Resolution refers specifically to collaborative and conflict resolution processes aided by third-party neutrals, there is a broad array of partnerships, cooperative arrangements, and unassisted negotiations that Federal agencies may pursue with non-Federal entities to plan, manage, and implement department and agency programs and activities. The Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving are presented in Attachment B. The Basic Principles provide guidance that applies to both Environmental Collaboration and Conflict Resolution and unassisted collaborative problem solving and conflict resolution. This policy recognizes the importance and value of the appropriate use of all forms collaborative problem solving and conflict resolution.”*

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<sup>1</sup> The term ‘ECCR’ includes third-party neutral assistance in environmental collaboration and environmental conflict resolution

This annual report format below is provided for the seventh year of reporting in accordance with the memo for activities in FY 2016.

The report deadline is February 24, 2017.

We understand that collecting this information may be challenging; however, the departments and agencies are requested to collect this data to the best of their abilities. The 2016 report, along with previous reports, will establish a useful baseline for your department or agency, and collect some information that can be aggregated across agencies. Departments should submit a single report that includes ECCR information from the agencies and other entities within the department. The information in your report will become part of an analysis of all FY 2016 ECCR reports. You may be contacted for the purpose of clarifying information in your report. For your reference, prior year synthesis reports are available at <http://www.ecr.gov/Resources/FederalECRPolicy/AnnualECRReport.aspx>

## FY 16 ECCR Report Template

Name of Department/Agency responding:	U.S. Environmental Protection Agency
Name and Title/Position of person responding:	Jeanne Briskin Director
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Date this report is being submitted:	February 27, 2017
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- ECCR Capacity Building Progress:** Describe steps taken by your department or agency to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2016, including progress made since FY 2015. Include any efforts to establish routine procedures for considering ECCR in specific situations or categories of cases. To the extent your organization wishes to report on any efforts to provide institutional support for non-assisted collaboration efforts include it here. If no steps were taken, please indicate why not.

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

## Preface

The Office of Management and Budget (OMB) and Council on Environmental Quality (CEQ) policy memorandum on environmental collaboration and conflict resolution (ECCR), Attachment C, Section (a), describes mechanisms and strategies to increase the effective use of environmental collaboration and conflict resolution, and improve agency capacity in departments and agencies with existing ECCR programs. It describes four key types of mechanisms and strategies:

- Integration of ECCR objectives into agency mission statements, Government Performance and Results Act goals, and strategic planning
- Assurance that the agency’s infrastructure supports ECCR
- Investment in support of programs
- Focus on accountable performance and achievement

In order to reduce duplication, this report addresses the EPA’s progress with each of the four key mechanisms as follows:

- Section 1, “ECCR Capacity Building Progress,” discusses integration of ECCR objectives into EPA’s mission and goals, and assuring that agency infrastructure supports ECCR.
- Section 2, “ECCR Investments and Benefits,” discusses investment in support of programs, and focus on accountable performance and achievement.

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## ECCR Support for Agency Objectives

The U.S. Environmental Protection Agency (EPA) has engaged in and provided significant programmatic and institutional support for environmental collaboration and conflict resolution (ECCR) for decades. As a result, the Agency has one of the more advanced ECCR programs in the executive branch. The EPA continued to provide high levels of programmatic and institutional support for ECCR during FY 2016.

**EPA Mission** – ECCR supported the EPA’s mission “to protect human health and the environment” by bringing people together to prevent and resolve environmental problems. (See: <https://www.epa.gov/aboutepa/our-mission-and-what-we-do>). ECCR helped the public and the Agency engage with each other so all involved could develop a common understanding about environmental problems, prevent conflict and disagreements, and resolve problems in a mutually agreeable manner.

**EPA Strategic Plan** – The EPA’s ECCR program supported all five goals in the EPA’s 2014-2018 Strategic Plan:

- addressing climate change and improving air quality;
- protecting America’s waters;
- cleaning up communities and advancing sustainable development;
- ensuring the safety of chemicals and preventing pollution; and
- protecting human health and the environment by enforcing laws and assuring compliance.

The EPA’s Strategic Plan explicitly recognizes the importance of the Agency’s role in promoting dialogue and engagement on environmental issues. It states, “we will convene broad-based dialogue and engagement at the national, regional, and local levels to foster innovation and collaboration.” ECCR is an important way to encourage and facilitate this dialogue and engagement. As in previous years, in FY 2016 the Agency used ECCR in activities supporting each of the five Strategic Plan goals. The breadth of the EPA’s support for ECCR across the full range of the Agency’s business is reflected in the response to question 3, which reports 145 ECCR cases in FY 2016, covering all ECCR application contexts and decision-making forums.

**EPA Themes** – In September 2013, the EPA Administrator issued a memorandum about the Agency’s mission entitled “EPA Themes – Meeting the Challenge Ahead.” The memorandum defined seven themes:

- Making a Visible Difference in Communities Across the Country
- Addressing Climate Change and Improving Air Quality
- Taking Action on Toxics and Chemical Safety
- Protecting Water: A Precious, Limited Resource
- Launching a New Era of State, Tribal and Local Partnerships
- Embracing the EPA as a High Performing Organization, and
- Working Toward a Sustainable Future

ECCR is an important tool in furthering the EPA's work in each of these areas and the Agency used ECCR, as appropriate to address specific matters in each area. Examples of how ECCR addressed these themes are described later in this report.

**EPA ADR Policy** - The EPA ADR policy (65 FR 81858, December 2000) states the EPA's strong support for the use of ECCR and other forms of ADR to deal with disputes and potential conflicts. It articulates the following expected benefits from ADR/ECCR:

- Faster resolution of issues;
- More creative, satisfying and enduring solutions;
- Reduced transaction costs;
- Fostering a culture of respect and trust among the EPA, its stakeholders, and its employees;
- Improved working relationships;
- Increased likelihood of compliance with environmental laws and regulations;
- Broader stakeholder support for the EPA's programs; and
- Better environmental outcomes.

The EPA's ADR policy is intended to meet the following objectives, similar to those in the OMB/CEQ ECCR policy memorandum:

- Promote understanding of ADR/ECCR techniques;
- Encourage routine consideration of ADR/ECCR approaches to anticipate, prevent, and resolve disputes;
- Increase the use of ADR/ECCR in the EPA's business;
- Highlight the importance of addressing confidentiality concerns in ADR/ECCR processes;
- Promote systematic evaluation and reporting on ADR/ECCR at the EPA; and
- Further the agency's overall mission through ADR/ECCR program development.

Based on the ADR policy, the EPA adopted a broad perspective on what qualifies as ECCR -- any technique to address environmental issues that involves a neutral third party, whether or not the participants' goal is to reach agreement. In FY 2016, ADR/ECCR was used in many contexts at the EPA, including adjudications, rulemaking, policy development, administrative and civil judicial enforcement actions, permit issuance, administration of contracts and grants, stakeholder involvement, negotiations, and litigation.

**ECCR Strategy** - During FY 2016, the EPA's Conflict Prevention and Resolution Center (CPRC) began implementing its third strategic plan (2016 - 2020) which continued its commitment to bringing people together to solve their environmental problems. The CPRC approached this commitment in two ways. First, it responded to client requests for help with facilitation, mediation, training, or advice. Second, it worked to build the EPA's conflict prevention and resolution capacity. The CPRC maintained a strategic focus on providing excellent services, building knowledge and skills, cultivating opportunity, and demonstrating the results of the use of ECCR at the EPA. The strategy contains measurable performance objectives and describes the anticipated approach to reaching these objectives. In FY 2016, as in previous years, the CPRC developed and implemented an annual operating plan with specific action items and dedicated personnel and funding to further the objectives of the ECCR strategy.

Part of CPRC's strategy for providing ECCR services involved the acquisition of external third party neutral services. CPRC managed the Conflict Prevention and Resolution Services (CPRS) contract to provide a reliable and easy to use vehicle to any EPA staff member of manager requiring ECCR services. CPRC also managed an interagency agreement with the U.S. Institute for Environmental Conflict Resolution (USIECR) so that EPA staff and managers were able to access their unique expertise and services.

**Senior Leadership Support for ECCR Use** - Senior EPA leadership continued to provide encouragement and support for the use of ECCR, as it has for more than three decades. In FY 2016, EPA Assistant Administrators, Regional Administrators and their Deputies engaged in and supported the use of ECCR in high-profile matters, including the following cases and projects:

- Animas/San Juan Water Monitoring Discussion
- Children's Health Roundtable
- Clean Water Act Assumable Waters FACA Subcommittee
- Coeur d'Alene Basin/Bunker Hill
- GE Housatonic
- Gold King Mine After Action Meetings
- Kettleman Hills Title VI
- New England Citizens Science Forum
- Portland Harbor Southeast
- Southeast New England Coastal Watershed Restoration Program
- West Lake Landfill Dialogue

#### **ECCR Organizational Structure**

In FY 2016, the EPA provided a high degree of support for ECCR through the Agency's infrastructure. Four distinct offices provided ECCR services Agency-wide, and many more provided ECCR services on a program or regional level.

The **Conflict Prevention and Resolution Center (CPRC)** served as the lead component of that infrastructure. The CPRC is led by the EPA's Dispute Resolution Specialist (DRS), who is appointed pursuant to the Administrative Dispute Resolution Act of 1996 (ADR Act of 1996). The CPRC continued to provide policy support and access to neutral third party services for ECCR as well as alternative dispute resolution (ADR) used in other contexts.

The **Office of Administrative Law Judges (OALJ)** continued to make ADR a priority. Judges offered neutral mediation services in nearly all environmental cases filed with the Office, albeit on a time-limited basis. Over the course of the year, the parties in a majority of EPA cases affirmatively accepted ADR services from OALJ. ALJs mediated 24 cases from nine of ten EPA regions in FY 2016.

The **Environmental Appeals Board (EAB)** offered parties the option to resolve disputes through ECCR with the assistance of an EAB Judge acting as a neutral evaluator/mediator.

The EAB's ECCR program has proven highly effective and efficient in fostering negotiated settlements that speed up resolution of EAB cases and preserve government resources.

The **Office of Civil Rights (OCR)** encouraged the use of ADR in several ways. OCR consistently included language regarding informal resolution options in its initial communications with parties. The EPA's nondiscrimination regulations require informal attempts to resolve complaints, which may involve environmental issues, whenever possible. In appropriate cases, OCR offered parties the opportunity to engage in ADR to resolve complaints.

OCR referred three Civil Rights Title VI cases to ADR in FY 2016, one of which was resolved with an agreement. Two other matters are underway. The case in which parties reached an agreement, Kettleman Hills, is an historic settlement and is described below in the case highlight (question #4).

Each regional office and several EPA programs offices had at least one **ECCR Specialists**. These staff members served as liaisons for ECCR activities; supported ECCR education/training; drew on existing regional resources to resolve disputes; built expert knowledge, skills, and capacity; tracked requests for assistance/ECCR cases/projects; coordinated regularly with the CPRC; and contributed to the development of the ECCR annual report.

#### **ECCR Outreach, Training, and Capacity Building**

As in previous years, the Agency emphasized outreach, education, training, and career development activities to promote the increased use of ECCR in FY 2016.

**Facilitation Community of Practice** – In FY 2016, the facilitators from several different program offices and regions developed and launched an online community of practice for internal facilitators. The community opened membership to all EPA employees, including individuals who facilitate meetings on an incidental or ad hoc basis. Membership grew to 113 EPA personnel, and the group has sponsored one 90-minute training event and several online discussions.

#### **Conflict Prevention and Resolution Center**

- The new EPA Dispute Resolution Specialist initiated an effort to visit each regional office to assess the use of ECCR, clarify responsibilities, assure succession planning, and explore potential opportunities for ECCR. In FY 2016 she visited Regions 1 and 6, and thus far in FY 2017, she has visited Region 4 and 9. An increase in the use of ECCR has followed several of these visits.
- The CPRC delivered 60 hours of ECCR training in FY 2016. There were 14 separate deliveries, and more than 550 training attendees in EPA headquarters and two regional offices.



- ECCR training topics included interest-based negotiation, communication skills, and legal bargaining. Audiences included internal EPA audiences from the Office of General Counsel's Water Law Office, the Office of Site Remediation Enforcement, EPA Region 5 Air and Radiation Division, EPA Region 10 Office of Compliance & Enforcement and Region 10 Superfund, and the National Association of Remedial Project Managers' 2016 conference.
- In November 2015, the CPRC hosted representatives from each of the 10 regional offices and staff from the headquarters program offices for training on advanced conflict resolution skills.
- The CPRC partnered with the Office of Sustainable Communities and an anthropologist in the Office of Research and Development to create and deliver two webinar-based trainings and one in-person training on cultural competence in conflict settings. The in-person training was delivered during the 2016 Making a Sustainable Difference in Communities Conference.
- The CPRC sponsored an exhibit, provided handouts, and delivered two presentations on environmental negotiation at the 2016 National Association of Remedial Project Managers Conference.
- The CPRC hosted (and continues to host) monthly conference calls where all regional and headquarters ECCR specialists exchange information on ECCR opportunities, skill development, and share techniques to improve and promote the use of ECCR at the EPA.
- The CPRC conducted (and continues to conduct) regular bi-weekly ten-minute presentations on ECCR services for all new EPA hires at headquarters.
- During FY 2016 the CPRC established a renewed internal communication strategy to be implemented beginning in FY 2017. The communication strategy is designed to enhance the CPRC's outreach Agency-wide in order to inform potential and current client offices about available ADR services and to strengthen ties between the CPRC and the EPA's regional and program offices.
- The CPRC also planned for FY 2017 training activities for EPA staff, including the possible introduction of new training topics, update and redesign of existing training, and the development of more opportunities to practice conflict resolution skills.
- The CPRC identified and made plans to mentor a graduate student volunteer intern from a nearby university in order to support education of the next generation of environmental ADR providers and to support enhanced diversity of practitioners in the field.

- All CRPC staff established Individual Development Plans containing customized training goals. The ultimate goal of these plans is to enrich skills and services provided by the CPRC.

The **Office of Air and Radiation (OAR)** used an external neutral third party facilitator to help plan, organize and deliver training and community involvement events in several EPA regional offices during the development and finalization of the Clean Power Plan. The facilitator's assistance provided a safe and effective environment in which communities learned more about the Clean Power Plan, became meaningfully involved in the rulemaking and permitting processes, and effectively engaged with the Agency, state, and local officials as the federal plan was proposed. OAR plans to continue assisting environmentally stressed communities to participate in the regulatory process.

**The Office of International and Tribal Affairs (OITA)** helped build the EPA's capacity for improved environmental collaboration and conflict resolution with tribes. It provided bi-annual training for all EPA employees using the online course "Working Effectively with Tribal Governments" (WETG). This training continued to be mandatory for all EPA employees. WETG provided EPA employees with the skills and knowledge to more effectively work with federally recognized tribal governments. The training supported the EPA's direct implementation work and work assisting tribes in assuming regulatory and program management responsibilities. The newest version of WETG included a new section complying with the January 2016 EPA Inspector General recommendation to train all EPA employees on the appropriate and ethical parameters of EPA assistance to tribes.

To improve the EPA's and its federal partners' ability to work with tribes, OITA also conducted training for EPA regional offices, other federal agencies (e.g. Forest Service), and NGOs (e.g. World Resources Institute) on public participation and how to use the tools in the EPA's Public Participation Guide.

**The Office of Land and Emergency Management's (OLEM) Office of Superfund Remediation and Technology Innovation (OSRTI), Community Involvement and Program Initiatives Branch (CIPIB)** worked closely with the CPRC to coordinate and assess the appropriate use of ECCR services for Superfund sites. Together, OSRTI and CPRC considered the degree of conflict at a given site; the types of technical assistance needed; the subject matter of the assistance; whether the support could be broken into separate discrete parts; and the timing of the various assistance needs. This vetting process indicated whether the CPRS contract or the Technical Assistance Services for Communities (TASC) contract would be the best vehicle for acquiring services.

**Office of Water (OW)** – Each of the OW's organizational subunits used or built program and institutional capacity for ECCR during FY 2016:

The Office of Water convened and facilitated Source Water Collaborative (SWC) meetings, developed materials to promote member communication about source water protection, developed effective partnerships, took collaborative source water protection actions, and offered training in source water topics. The SWC is comprised of 27 national

organizations representing federal, state, and local partners. Using ECCR achieves increased environmental and social program benefits by helping parties to focus on target audiences and actions. OW continued to fund an impartial third-party facilitator for this effort and benefited greatly from the guidance and skill the facilitator.

The Office of Water also implemented a consensus-seeking Federal Advisory Committee in FY 2016 that dealt with Clean Water Act (CWA) 404 Assumption. As part of that initiative, OW staff witnessed and learned from the third party neutral how to conduct stakeholder assessments, craft consensus-seeking committee guidelines, decision rules, charters, and facilitate consensus-seeking meetings. Staff actively supported the consensus process.

OW's wetlands program began a collaboration with the Office of Federal Activities to provide access to the CPRS contract. This access allowed the joint training of personnel in the regional wetlands and NEPA programs. These programs often collaborate on controversial projects. Each offering began with an assessment to tailor the training to the diverse needs of the EPA staff.

OW participated in an ECCR process by entering into settlement discussions under the auspices of the Second Circuit's Civil Appeals Mediation Program to reach agreement with environmental petitioners and industry intervenors over provisions to propose for the next issuance of the NPDES Multi-Sector General Permit (MSGP).

Finally, OW applied ECCR to advance technological innovation for the treatment and recovery of usable resources from wastewater. Clean Water Act regulations do not require resource recovery from wastewater and so ECCR was used to help stakeholders better understand the costs of establishing and maintaining an industry-wide process to test and confirm the performance of such technologies. Specific actions included using neutral parties to convene and facilitate stakeholder meetings, collaborate on report writing with the academic community, and develop pre-meeting surveys of attendees' goals and concerns.

**Region 1 (Boston, MA)** The culture of support for ADR remained strong throughout FY 2016 in Region 1. As in previous years, a full-time senior attorney-mediator managed the regional ADR program. Approximately ten additional regional staff from a variety of program areas and professional backgrounds provided support to the ADR program on a collateral basis by agreement of their managers. All but one of these staff served as in-house facilitators and mediators, the remaining person assisted with ADR contracting.

Region 1 leaders demonstrated awareness of the services that the Region's ECCR team provides; they frequently directed parties (both inside and outside of the Agency) to the team, and were generally receptive to the use of ADR when it was proposed for projects within their areas. Because of the proliferation of collaborative approaches to environmental problem-solving, there has been a growing demand for facilitation services, which has been addressed, in part, with in-house resources.

**Region 2 (New York, NY)** conducted internal training and outreach to build capacity for ECCR. Region 2's ECCR specialist participated in the Association for Conflict Resolution of Greater New York's monthly breakfast roundtables and raised awareness of Region 2's ECCR program with bar association members. With support from the CPRC, Region 2's ECCR program hosted a video connection to CPRC's Conflict Resolution Day panel featuring an EPA Environmental Appeals Board judge and a Part 22 Administrative Law Judge. Region 2's ECCR specialist applied skills learned in advanced conflict resolution skills training provided by the CPRC to facilitate an Open Space process in Region 2, further described in Section 5 of this document.

Region 2's ECCR specialist also used skilled facilitation to improve the quality of workgroups. Region 2's post-Hurricane Sandy work on Long Island involved multiple stakeholders (including FEMA, New York State, Nassau and Suffolk Counties, The Nature Conservancy and Stony Brook University), and represented a very successful example of how an effective collaborative process can help stakeholders identify approaches to make a coastal area more resilient. As a result, Region 2 was asked to speak about the partnership program at conferences and it has sought to promote the benefits of facilitated multi-stakeholder partnerships. For example, a Region 2 project coordinator spoke about the Long Island partnership at a five-day OMB training, attended by many federal agencies, and offered lessons learned about multi-stakeholder collaboration. The Region 2 speaker emphasized the importance of engaging a neutral facilitator for a multi-agency collaborative process and the benefit of having the Conflict Prevention and Resolution Services contract as a vehicle to hire an outside third-party neutral. The Region 2 ECCR specialist also highlighted the benefits of facilitation and lessons learned from the Partnership on a storm water/conflict resolution and prevention panel of the American Bar Association Dispute Resolution Section's annual meeting.

Region 2 also provided institutional support this year for non-third party-assisted collaboration by continuing its Effective Meetings training, which nearly all Region 2 employees have taken. Attendees reported to the trainers that after taking the course, they used skills from the training in their work.

**Region 3 (Philadelphia, PA)** One of Region 3's ECCR specialists participated in the Regional Training and Skills Development management workgroup. The workgroup created a framework for identifying critical competencies, trainings, and target audiences necessary for managers to lead a diverse and collaborative workforce. Chief among the competencies identified were managing conflict, improved negotiation skills, teamwork, communication and self-awareness.

One Region 3 ECCR specialist teamed with the regional training officer (RTO) to design, develop and present learning events to address these competencies. In addition, the RTO, ECCR Specialist, and others designed and facilitated retreats and workshops which assist in conflict management in intra- and inter-agency relationships as well as in enforcement contexts.

Region 3 promoted collaborative efforts to achieve environmental benefits. EPA Region 3 ECCR specialists consulted with Region 3 colleagues on environmental matters, served as liaisons between Region 3 programs and the CPRC, and helped identify and obtain third-party neutrals. Region 3 provided mediation, negotiation, collaboration, conflict management/resolution and facilitation training to regional employees in order to increase awareness, promote the use of ECCR, and enhance ECCR skills.

**Region 4's (Atlanta, GA)** Region 4 ECCR specialists disseminated information on the types of ECCR process and case support available at EPA (e.g., contracting/funding support, mediator services and training), provided training opportunities to the legal and regional staff, and provided support to regional programs, management and staff on ECCR activities, as well as to headquarters based ECCR efforts.

Though Region 4 does not have a formal consolidated ADR/ECCR program, various Region 4 programs supported the use of ECCR. For example, ECCR specialists provided training and case support, made efforts to improve interagency and intra-agency connections among the Superfund, environmental justice, civil right programs. The Region 4 NEPA office worked collaboratively with other federal lead agencies on NEPA activities. Finally, Region 4 worked internally to improve coordination of ECCR activities between its various offices.

To promote capacity building and expertise, Region 4 works with the Centers for Disease Control (CDC) and the Federal Executive Board (FEB) to provide training for staff to become mediators in the Federal Shared Neutrals program. The FEB training program and certification allows EPA staff to join and work with the FEB Board Mediation corps in the Southeast. While the Shared Neutrals program addresses workplace conflict, the skills gained by participants are equally applicable in environment-related conflict.

**Region 5 (Chicago, IL)** built programmatic and institutional capacity ECCR in FY 2016. Region 5:

- (1) drew on CPRC conflict resolution specialists to assist site teams with conflict assessment and to explain the process for using a neutral.
- (2) assigned staff in the Region 5 Office of Regional Counsel to support ECCR in regional programs.
- (3) worked to build partnerships with other agencies to resolve disputes via the Chicago Federal Executive Board shared neutrals program.
- (4) offered four training courses to regional staff including Introduction To Interest-Based Negotiation, Effective Advocacy In Mediation Of Administrative Environmental Cases, From Crisis To Community: The Power Of An Apology, and The World Café: Shaping Our Futures Through Conversations That Matter.

**Region 6 (Dallas, TX)** invested in additional support and training for ECCR. One employee participated in training provided by the CPRC and, late in the year, an additional employee was assigned to assist in building awareness of opportunities and to improve

tracking instances of ECCR use. In August 2016 regional community involvement staff participated in training on Effective Public Participation.

**Region 7 (Lexana, KS)** continued to encourage and support the use of ECCR to address a wide range of EPA matters, both in Region 7 and across the nation. Region 7 programs regularly used ECCR programs. Senior staff in Region 7 are familiar with ECCR and opportunities to use this approach in their work.

In addition, the Region 7 ECCR Specialist served as Acting ADR Counsel in the Alternative Dispute Resolution Law Office in the EPA's Office of General Counsel (OGC) after the retirement of the previous ADR Counsel. After a permanent attorney was hired by OGC, the Region 7 ECCR specialist mentored him. The Region 7 ECCR specialist informed regional counsel senior management and regional programs about the application of ECCR in cases EPA-wide, the benefits of ECCR, and new ideas on how ECCR can be integrated and used in non-traditional ways within the EPA.

The Region 7 ECCR specialist strengthened and promoted interregional initiatives for ECCR. He worked closely with Region 4 to perform needed ADR services in 3 states and continued to help build internal ECCR capacity with Region 4 staff. Region 7's ECCR specialist directly provided facilitation, conciliation, mediation, coaching, and ADR training across Region 4.

In FY 2016, the Region 7 ECCR specialist's activities included the Hinkson Creek TMDL Collaborative Adaptive Management Process (CAM). In this case, the ECCR specialist performed mediation, stakeholder committee lead facilitation, CAM process design, and coordination with other CAM Teams answering to the Stakeholder Committee. The CAM process, used Appreciative Inquiry (AI) and Adaptive Management principles within a collective three level process.

Region 7 continued its general promotion of ECCR through LAN Bulletin Board notices, informational e-mails targeted at regional managers, active engagement in regional facilitator roles, and building an increasing body of successful cases that "ground truth" the value of such processes.

Region 7 explored the use of more contract ECCR services to better meet regional needs and this will be monitored in FY 2017.

**Region 8 (Denver, CO)** woven the use of ECCR approaches into the fabric of its day to day basis. Most recently, the Region 8 ECCR specialist built programmatic and institutional capacity in the use of ECCR through the use of organizational development experts trained as third party neutrals who were instrumental in enhancing intra-organizational communication and effectiveness in the Denver office.

One such effort involved the reorganization of the Region 8 water program. A third party neutral was brought in to perform an initial assessment of how to bring the two existing water organizational units together into a single unit and then work with the new Assistant

Regional Administrator and her management team to create a collective vision and set mutual goals and objectives for this fiscal year. This effort took place in FY 2016 while the reorganization was underway. Today, Region 8 has a fully functioning Office of Water Protection thanks in part to the efforts of the management team's work with a third party neutral.

**Region 9 (San Francisco, CA)** In FY 2016, the Office of Regional Counsel worked with the CPRC to develop training for regional attorneys entitled Mastering Challenging Communications. The training was delivered in FY 2017 and included modules on overcoming cultural communication barriers, interest-based negotiation problem-solving techniques, communicating bad news and explaining complex legal analyses.

**Region 10 (Seattle, WA)** The Office of Regional Counsel in Region 10 encouraged routine use of ECCR in both administrative and judicial cases. In addition, other programs within Region 10 routinely considered the use of ECCR tools when issues were contentious or where multiple stakeholders were involved.

**International ECCR Outreach** – EPA headquarters staff worked to develop international capacity and expertise in ECCR during FY 2016:

- In September 2016, the CPRC made presentations to a visiting delegation from Russia on environmental alternative dispute resolution. The visitors were guests of the U.S. Embassy in Moscow and were examining U.S. efforts to support local environmental protection and policy-making.
- Staff from the Office of General Counsel (OGC) met with the Minister of Environment of Cambodia and with Cambodia Ministry of Environment officials in support of a U.N. Development Program - U.S. AID project to develop a new Cambodia Environmental Code in September 2016, and continued to provide input in October 2016. OGC staff met with Cambodian officials to discuss, among other topics, dispute resolution, public participation, and other key principles of environmental governance, and laid groundwork for potential consultation and training on these topics.

**Interagency Partnerships** – In addition to its IA with the USIECR, the EPA continued to strengthen its partnerships with other federal agency ECCR programs during FY 2016. Approximately 35% of the EPA's ECCR cases involved other federal agencies, including those in which the Department of Justice represented the EPA in a litigation context.

## 2. **ECCR Investments and Benefits**

- a) Please describe any methods your agency uses to identify the (a) investments made in ECCR, and (b) benefits realized when using ECCR.

Examples of investments may include ECCR programmatic FTEs, dedicated ECCR budgets, funds spent on contracts to support ECCR cases and programs, etc.

Examples of benefits may include cost savings, environmental and natural resource results, furtherance of agency mission, improved working relationship with stakeholders, litigation avoided, timely project progression, etc.



## Quantitative Methods

The EPA used three methods for gathering quantitative data about the use of ECCR throughout the agency. While none of these three methods of tracking ECCR use is sufficient by itself, and each presents unique data quality challenges, together they provide the EPA with the information it needs to track and understand trends in ECCR use.

The first method used the CPRS contract to quickly and regularly identify ECCR cases where external service providers served as neutral third parties, and identify the nature of the cases, and the amount of money expended. The EPA's IA with USIECR provided similar information for shared cases.

The second method used the annual ECCR reporting process to gather information from EPA headquarters and regional staff members. These individuals reported their own activities and reviewed, confirmed, and supplemented preliminary ECCR case data generated by the CPRC.

The third method drew information from the CPRC's request tracking system, in which CPRC staff members log requests received for ADR and ECCR services.

The EPA used these methods to measure the following quantitative indicators to assess the level of investment in ECCR at the EPA in FY 2016:

- 1) dedicated FTEs for personnel who provided ECCR services in the CPRC and for the EPA staff members in similar functions in the regions.
- 2) the dollar amount invoiced through the Conflict Prevention and Resolution Services (CPRS) Contract;
- 3) the number of active task orders under the CPRS Contract; and
- 4) the number of ECCR cases that the EPA sponsored and the number of cases in which the EPA participated.

Census: In FY 2016 the EPA conducted a one-time census of lead attorneys involved in litigation-related ECCR cases that occurred between FY 2011 and FY 2014 to estimate the time to reach a decision, number of staff members involved, and the hours the lead attorney spent on the ECCR cases. These estimates were compared to estimates from alternatives such as litigation or settlement without third party neutrals that might have occurred for these cases if ECCR had not been used.

## Qualitative Methods

The EPA used three methods to gather qualitative information about ECCR investments and results.

- 1) For many years the EPA has collaborated with other federal and state agencies in the development and use of common evaluation instruments (surveys and questionnaires) to assess the practice of ECCR. In FY 2016, the EPA obtained OMB approval on a fifth generation of evaluation instruments developed collaboratively with the DOI and the USACE. OMB approval under OMB Control Number 2010-0042 is valid through FY 2018, at which time the EPA

intends to request that OMB renew its approval. The EPA continues to use these instruments to collect data and then analyze it to account for the ECCR program's performance and achievement.

- 2) The CPRC continued to evaluate training sessions in FY 2016. The CPRC measured both the satisfaction of participants with presentations and logistics and the participants' views about whether the training achieved the learning goals set out in the courses. The CPRC used the results of the training session evaluation to make regular improvements in training delivery. In FY 2017, the CPRC plans to continue the evaluation process for CPRC-sponsored training.
- 3) As part of the effort to gather data for the ECCR annual report, CPRC included a question in a qualitative survey to EPA offices and regions concerning their views of the benefits associated with ECCR cases that occurred in FY 2016. To minimize the burden on the responding offices and regions, the CPRC asked about collective benefits of the ECCR cases in which they participated, rather than individual case benefits.

- b) Please report any (a) quantitative or qualitative investments your agency captured during FY 2016; and (b) quantitative or qualitative results (benefits) you have captured during FY 2016.

## Quantitative Results

### 1) Dedicated FTEs

In FY 2016, the CPRC was staffed by seven full time professionals. A new permanent EPA Dispute Resolution Specialist (DRS) was competitively selected to backfill in the wake of the retirement of the previous DRS. She served as the director of both the Alternative Dispute Resolution Law Office and the CPRC. Regions 1, 7, and 8 provide an additional two and a half FTEs devoted to ECCR. One FTE, a senior facilitator based in Region 9 (San Francisco) retired in FY 2016, but was not replaced. In addition, over 30 other EPA personnel supported the ECCR program as part of their job responsibilities or on a collateral duty basis.

### 2) Expenditures on the CPRS Contract and USIECR Interagency Agreement (IA)

The EPA continued providing services under the seventh Conflict Prevention and Resolution Services (CPRS) Contract which has a ceiling of \$51,000,000 over five years. In FY 2016, EPA paid approximately \$7.4 million on CPRS contract invoices. Of this amount, 86%, or about \$6.8 million was for ECCR and related services (e.g., neutral third parties for ECCR, ECCR training). The remainder was spent on non-environmental ADR (1%), non-environmental organizational development (12%), and overall management of the contract (0.4%).

The IA supported a project involving an assessment of tribal wetland capabilities and needs in the arid southwest and Rocky Mountains and preparation for a workshop in FY 2017 to address these needs. In FY 2016 the EPA provided about \$90,000 through the IA for this effort.

### 3) Number of active task orders on the CPRS contract

ECCR work occurred on 71 active task orders and nearly 100 subprojects over the course of the year. EPA contracting staff processed more than eight actions a week to support initiation, modification, continuation, closeout, and funding of the EPA's ECCR work.

### 4) Number of ECCR projects or cases that EPA sponsored or participated in

EPA participated in 145 ECCR cases or projects. EPA provided funding or in-kind support (such as facilitation or mediation services) for 131 of those projects or cases. It participated in an additional 14 ECCR projects or cases in which no EPA funds or in-kind services were used.

### 5) Lead Attorney Census: Comparing ECCR to Alternative Decision Making Processes

The findings from this study included:

- ECCR processes required 45% fewer weeks to reach a decision than litigation. ECCR and unassisted settlement required about the same amount of time to reach a decision.
- ECCR processes required 30% fewer staff members than litigation. ECCR and unassisted settlement required roughly the equivalent amount of staff members.

- ECCR processes required 79% fewer lead attorney hours than litigation and 38% fewer lead attorney hours than settlement without third party neutrals.

These results suggest that in these litigation-related cases at the EPA, ECCR can produce time and cost savings compared to alternative decision making processes such as litigation and settlement without third party neutrals.

## Qualitative Results

### 1) Case evaluation data

Case evaluations were conducted by an external third party to ensure that all appropriate steps were taken to keep specific case findings and participant views confidential. Aggregate findings for agreement seeking ECCR cases can be accessed by contacting the CPRC.

### 2) Training evaluation data

FY 2016 training evaluation data showed that the CPRC continued to receive excellent reviews (average scores of greater than 8 out of 10) on nearly all measures of training content and instruction. Specific participant comments are anonymous, and shared only with the instructors and the CPRC training coordinator.

### 3) Views of ECCR Benefits

Key themes present in responses to the question concerning the collective benefits of FY 2016 ECCR cases in each EPA office and region include:

- Efficiency: Nearly all offices and regions stated that the use of ECCR resulted in more efficient processes. The reported efficiency had two primary dimensions:
  - Maintaining timely progress: Use of a neutral third party to provide structure and focus to negotiations and conversations helped keep the parties' attention on the case and moved cases along more quickly. One particular result was that the agency could better meet required case or project deadlines.
  - Resource savings: This was most often cited in the context of ECCR used for enforcement cases – e.g., the early resolution of cases resulted in cost savings (compared to the expense of litigation), quicker case resolution (compared to the time required to litigate a case), and reduction of wasteful gamesmanship, posturing, and delays between counter-offers. Resource savings was also seen as a benefit with respect to upstream, collaborative (rather than agreement seeking) cases.
- Avoidance of litigation: While efficiency was cited as a reason to avoid litigation in enforcement matters, the uncertainty associated with litigation outcomes in some cases was also cited as a reason for using ECCR. Thus, the use of ECCR is considered beneficial in such situations.

- More productive conversations: In addition to efficiency gains, the use of ECCR produced more productive conversations in both enforcement and non-enforcement contexts. The use of a neutral third party resulted in better-designed processes; improved communication of all parties' interests, goals, and concerns; more efficient use of time; and more focused outcomes from conversations. Involving neutral facilitators and mediators also helped overcome language barriers, cultural differences, and challenges in communicating about risk. Even in enforcement cases where the parties did not reach agreement, offices and regions reported that ECCR resulted in a better understanding of the issues and perhaps narrowed the range of disagreement.
- Better outcomes: Many offices and regions stated the use of ECCR resulted in better outcomes, some of which could not have been achieved without neutral third party assistance. These include:
  - Outcomes that have improved environmental conditions when compared to non-ECCR cases: These include direct environmental benefits from decisions reached and also indirect outcomes from settlements achieved (e.g., enforcement settlement proceeds significantly increased the pace of remedy implementation).
  - More creative outcomes: In both enforcement and upstream non-litigation cases, the use of ECCR allowed for more creative outcomes and thoughtful decisions than could have been achieved otherwise.
  - External ownership and mutual satisfaction: Outside stakeholders are more likely to take ownership in the EPA's initiatives, programs and agreements.
- Improved relationships: Nearly all offices and regions stated that the use of ECCR resulted in enhanced collaboration and improved working relationships among participants, and, in particular relationships between the agency and its broad range of stakeholders. These improved relationships were exhibited during the course of the ECCR process, and also enabled more productive conversations among stakeholders following the conclusion of the ECCR process.
- Capacity building: The use of ECCR professionals helped build the capacity of the EPA and external participants to engage in collaborative processes. These capacity building measures enhanced the parties' abilities to identify common interests and develop mutually satisfactory policies or action plans. Moreover, capacity building activities enabled partnerships and workgroups to work together more effectively after neutral facilitation support ended.
- Reduced stress levels: The EPA offices and regions reported reduced stress levels among staff due to the support they received from neutral third parties, particularly with respect to difficult processes, complex issues, and challenging personalities.
- Furtherance of the EPA's mission: Nearly all offices and regions reported that the use of ECCR helped further the agency's mission to protect human health and the environment.

Additional responses from offices and regions regarding their views of the benefits of ECCR are provided below.

**Region 1** - The benefits from Region 1's use of ECCR in FY 2016 varied depending on the nature of the process and the specifics of each matter. The use of OALJ-sponsored ADR helped to move administrative penalty negotiations toward more efficient resolution in terms of both time and resources expended.

With increasing regularity, EPA in-house neutrals and outside facilitators helped stakeholders frame and conduct dialogues addressing sustainability issues, especially in vulnerable coastal areas and other watersheds. Examples from FY 2016 included facilitation of coastal acidification workshops, the Southeastern New England Program, the Long Island Sound-related facilitations, Mystic River Watershed Partnership, and the Mattapoissett Regional Applied Research Effort and Regional Sustainable Environmental Sciences project.

In collaborative, non-agreement-seeking processes, such as the "Feed the People, Feed the Soils" facilitation, the Lawrence Making a Visible Difference Stakeholder discussions, Durham Meadows waterline facilitation, and GE-Housatonic Citizens Coordinating Council, among others, facilitators helped participants clarify goals, be more inclusive, make more thoughtful decisions, and maintain focus.

In the Citizen Science Forum, the facilitation team introduced a dynamic, stakeholder-driven format that allowed a diverse group of participants to convene discussions on the topics and questions of greatest relevance to them. In the spirit of recognizing and advancing the role of citizens in contributing to the science underlying environmental protection, the meeting design placed citizen-based knowledge, observations, and curiosity on an equal footing with more traditional notions of expertise.

In most of these examples, the neutrals assisted with meeting design and agenda development to give form to meetings that were goal-oriented and realistic in their scope. Whether in the context of mediated settlement negotiations or facilitated collaborative processes, these neutrals helped parties make more productive use of their time to achieve their purposes.

These efforts have not gone unnoticed by process participants, who regularly expressed gratitude for the role that mediators and facilitators played in promoting constructive, efficient engagement. In commenting on the unorthodox approach introduced by the Citizen Science facilitation team, a self-described skeptic reported, "I wound up really enjoying and valuing the experience. I loved the format which allowed me to connect with others and engage in meaningful and relevant conversations..." The positive reviews from parties involved in ECCR with the EPA contrasted favorably with the common assumption that parties are often frustrated at their dealings with the federal government.

**Region 2** - ECCR provided great benefits to Region 2. While it did not apply quantitative metrics to evaluate the benefits of ECCR or sought formal feedback upon

conclusion of ECCR matters, staff and managers reported both resource-related and substantive benefits. Engaging third-party neutrals in Region 2 saved staff time in several ways. Mediators in enforcement cases provided focus and organization to negotiations, which reduces wasteful gamesmanship and posturing as well as delays between counter-offers. Enforcement cases were less likely to end up in costly trials and hearings, and discovery time and costs could often be reduced. Even where cases did not settle, parties reported that ECCR benefited them in that issues were clarified during the mediation. Region 2 users of facilitators for non-litigation upstream matters (e.g., matters that arise before a clear conflict emerges) also reported significant benefits including improved working relationships with other stakeholders, more productive conversations, better designed processes, better agendas, more efficient use of their time, and better outcomes. They indicated that facilitated processes led to better environmental results and built capacity within established groups, such as partnerships and workgroups, for more productive conversations post-facilitation. The growth in the number of upstream ECCR matters led to adoption of ECCR strategies in non-neutral contexts by individuals who have experienced ECCR. For example, in Region 2, EPA staff and participants ran meetings in a variety of community engagement endeavors using facilitation techniques.

**Region 3** – Numerous benefits resulted from the use of ECCR. Avoidance of litigation was a primary benefit identified for administrative and judicial litigation matters. With regard to matters that involved third-party neutral facilitation, primary benefits included enhanced relationships between the EPA and stakeholders and significant improvement in communication of interests, concerns, and desired goals of parties. Other benefits associated with litigation and facilitation matters included cost savings, furtherance of agency mission, and positive environmental results.

**Region 4** – ECCR provided Region 4 with cost savings and reduced litigation costs. Every case that was fully or partially resolved through an ECCR process reduced the time and expense the regional attorneys and staff expended on the case. See e.g., In re: MTJ American, LLC. Additionally, community outreach activities helped facilitate a greater understanding of the issues and concerns both by the Agency and the community and stakeholders. Examples include the Community-Based Composting Collaborative [aka Region 4 Organics Meeting Facilitation (Atlanta)]; Solid Waste Management Planning with EPA Region 4 and Region 4 States; and Midlands Organic Diversion Partnership.

**Region 5** - Region 5 used mediators to resolve or help resolve several enforcement cases in FY 2016 (Probst). Early resolution of enforcement cases resulted in costs savings compared to the expense of litigation and quicker case resolution compared to the time required to fully litigate a case. Use of facilitation (Velsicol; R5 & R7 Sustainable Materials Management) helped make discussion of difficult issues more amicable, and preserved a working relationship between the EPA and community stakeholders.

**Region 6** - The Alexandria-Pineville Making a Visible Difference team worked with local creosoting companies (Colfax Treating Company, L.L.C., Stella-Jones Corporation, and Kisatchie Treating, L.L.C.) to develop best management practices

(BMPs) for communication strategies and treated timber storage. Representatives from all three private parties agreed to the BMPs on September 17, 2016. Additional BMPs for other operational procedures may be developed in the future.

Also in FY 2016, an external neutral facilitated a state-wide summit in Texas to explore some of the biggest issues facing municipalities, recycling processors, and manufacturers with regards to complex package recycling. Participants discussed how changes in the waste stream impact the way in which the industry handles and markets certain materials. The summit provided participants with information on the current state of package recycling, both nationwide and in Texas; provided a broader understanding of the challenges brought on by modern product development, and assessed the interest among participants in continuing the conversation and in developing strategies for collective action to move forward on particular topics. Several work groups were formed as a result of the summit, and these groups continued to meet and move forward on action items identified during the summit.

**Region 7** - Benefits of FY 2016 cases correlated to the types of processes employed during the year. For more traditional cases mediated by ALJs, the traditional benefits of furtherance of agency mission, timely project progression, and striving to avoid litigation were apparent. In several cases, successful ADR directly achieved results for the environment as well.

In the more upstream collaborative cases noted this year, the benefits were different but equally important. These benefits included environmental and natural resource results, furtherance of agency mission, improved working relationships with stakeholders, and timely project progression.

The Collaborative Adaptive Management (CAM) process used to settle litigation over the Hinkson Creek Total Maximum Daily Load (TMDL) case in Missouri illustrated key ECCR benefits. As the CAM stakeholders took on more substantive issues dealing with the watershed, it became clear that the long-term benefits of collaboration far outweighed what could be achieved through litigation. All participants reported a strong willingness to collaborate as the process moves ahead.

**Region 8** – Region 8 often used of third party neutrals in order to get ahead of anticipated environmental conflicts. This was the case with the Colorado Smelter Superfund site community advisory group facilitation and the Peru Creek voluntary clean-up stakeholder involvement effort. EPA Region 8 forged and deepened important alliances with communities located near these contaminated sites. The establishment of trust and open lines of communication critical to the success of both efforts would not have been possible without the use of third party neutrals.

**Region 9** - Under the Making a Visible Difference program, the EPA sponsored a successful facilitated meeting among several cities, counties and transportation agencies in Southern Nevada. This meeting initiated coordinated regional transportation development planning, which furthered the Agency's goals of supporting regional environmental collaboration and enhancing the local governments' and agencies' collaboration for regional transportation planning.



**Region 10** - Region 10 achieved benefits in cases where it used a facilitator to better engage the public. Relations between the Region and stakeholders have improved. Participants appeared to have a better understanding of the Agency's mission, and the Region acquired a refined understanding of stakeholder needs. For example, in the Makah Warmhouse Beach case, the facilitator helped the Region and the Makah Tribe improve their working relationship after it had soured over the past few years. She did this by helping both parties clarify expectations about roles and responsibilities for their meetings as well as finalizing a mutually agreed-upon Community Involvement Plan for the cleanup of the Warmhouse Beach landfill.

**EAB** - In FY 2016, the EAB continued to use ECCR and successfully assisted parties to fully resolve two complex matters. In one Clean Air Act permit matter, the parties reached a final settlement, including a permit modification that effectuates their agreement. The second ECCR process resolved a complex, multi-party dispute regarding four Clean Water Act permits. The process involved two Indian tribes, two environmental NGOs, two regulated entities, and EPA Region 8. With the assistance of an EAB settlement Judge and attorney, the parties reached a settlement resolving all issues in dispute. Both of these complex and potentially resource intensive matters were removed from the EAB's docket in FY 2016. In FY 2017, the EAB will continue, where appropriate, to offer parties the option to participate in, and attempt to resolve their disputes through, ECCR.

**OAR** – The EPA used facilitated community workshops to inform impacted communities about the finalized version of the Clean Power Plan. The workshops helped communities engage with their states and with the EPA during the comment period for the proposed federal plan.

**OITA** - The use of ECCR benefitted the Peru Trash Free Waters Participation case. A highly qualified facilitator familiar with the Trash Free Waters initiative in the U.S. was hired through the CPRS contract. He successfully enhanced public participation in this case.

**OLEM** found the use of ECCR to be very helpful identifying areas of agreement and shared goals during complex multiparty projects.

In FY 2016, the use of ECCR enabled OLEM to hold a U.S. hosted workshop under the G7 Alliance on Resource Efficiency. The workshop examined the use of life cycle concepts in the supply chain to achieve resource efficiency (also known as sustainable materials management). The workshop needed to creatively balance the interests of participating governments and the new G7 President. With so many interests at play OLEM sought contractor support from the CPRS contract. OLEM plans to use the results of the workshop as the foundation for subsequent Sustainable Materials Management program efforts to further the EPA's mission.

OLEM's collaborative projects with the CPRC increased from three projects in FY 2015 to seven in FY 2016. During that time the CPRS contract supported:

- Community Advisory Group (CAG) capacity building and leadership consultation for the newly formed CAG at Lower Darby Creek Area site in Region 3;
- consultation and community engagement conversations at the Grenada, MS site in Region 4;
- training and facilitation at the Anniston PCB, AL site in Region 4;
- convening and facilitation a community dialogue framework and related meeting facilitation at West Lake Landfill in Region 7;
- consultation and facilitation services at the Coeur d’Alene/Bunker Hill site in Region 10;
- meeting facilitation and other related meeting support for the Federal Mining Dialogue an inter-agency workgroup; and
- facilitation services in support of a one-day strategic planning meeting for OLEM’s Assessment and Remediation Division managers.

Lower Darby Creek Area: In FY 2016, a neutral facilitator continued to work with the Community Advisory Group (CAG) Leadership Team and the EPA on solving emerging issues related to effectively managing CAG meetings and working groups, and continuing to improve communication with stakeholders. The facilitator helped the CAG Leadership Team prioritize its interests and agenda for the year. The EPA worked with the CAG and a Technical Assistance Grant team to co-host and co-sponsor a community event in July, 2016. Everyone worked together to develop the health and safety approach for the fall 2016 residential soil removal action. In FY 2017, EPA will continue to use ECCR to support building and maintaining leadership capacity and to achieve a functioning and sustainable CAG. The use of ECCR made a significant difference in communications and community involvement activities for this site.

Grenada, MS: In May 2016, EPA Region 4 used conflict coaching services to support getting past an impasse in working with the community. This case is described in more detail in question 5 – “Notable Cases”

Anniston PCB, AL: The Community Advisory Group for the Anniston PCB Site in Anniston, AL was formed under a Consent Decree in November 2003. Tense relationships existed between the EPA, the PRP and the CAG as well as tensions within the CAG. These persisted for years. Over time, new CAG members were appointed. These new members were not familiar with the various roles and responsibilities of the various stakeholders, including the EPA, the PRP, the CAG, and the Court. Because the proposed plan and the Record of Decision were planned to be released in 2016, the Court ordered training for the CAG on three topics:

- the Superfund cleanup process,
- CAG basics, and
- collaborative problem solving and consensus building.

After discussions within the EPA and with stakeholders at the site, the EPA selected to address the required training for collaborative problem solving and consensus building

through a training called Building Cultural Competence, which was acquired using the Community Involvement University task order on the Conflict Prevention and Resolution Services contract. The remaining two trainings (Superfund cleanup process and CAG basics) were offered under OLEM's Technical Assistance Services for Communities (TASC) program contract). The coordination between TASC contract and the CIU task order, and the use of trainers and facilitators skilled in conflict resolution made a difference. Region 4 reported that the CAG is working more effectively with since the training. The work under this case is complete.

**West Lake Landfill:** In December 2015, EPA Region 7 requested ECCR services under the EPA's CPRS contract for the purpose of convening, designing, and facilitating on-going meetings for a community dialogue. An ECCR facilitator was contracted to assist the EPA and various stakeholders in the design of an appropriate and effective dialogue process. The goal of this process was to improve communications and support collaboration, to the maximum extent possible, regarding issues relating to the cleanup of the site. The facilitator worked with the site team to improve internal team collaboration and to enhance the community's opportunities for involvement at the site on an on-going basis. In early spring 2016, the EPA began hosting Community Dialogue meetings for the West Lake Landfill Superfund site. Meetings included technical information assistance presentations on the Superfund process and site updates supported under the Technical Assistance Services for Communities (TASC) contract.

**Coeur d'Alene/Bunker Hill:** In October 2015, EPA Region 10 requested neutral facilitation services for a one-day interagency meeting with the Coeur d'Alene Trust (CDA) Trust, and the Idaho Department of Environmental Quality (IDEQ), and subsequent small group meetings on an as needed basis. The EPA works in close partnership with the IDEQ. IDEQ has run several aspects of the EPA Superfund cleanup and receives EPA funding in order to do this work. IDEQ also provides state funds, project staff, and public outreach to support cleanup work on the site. The CDA Trust was established as part of a court settlement. The CDA Trust administers settlement funds and conducts work at the EPA's direction and pursuant to the EPA's decision documents. The CDA Trust hires local engineering and construction firms. The Trust is now taking on a bigger part of the EPA's cleanup work. Funding to the state is changing and therefore its roles and responsibilities must as well. The facilitator led a productive day-long meeting in December 2015. Her planning and meeting facilitation enabled the EPA/State cleanup team to work through sensitive issues associated with reduced funding and changing roles and to identify next steps. The neutral facilitator was instrumental in helping the EPA complete a Memorandum of Agreement with IDEQ in June 2016. Region 10 has requested continued ECCR support to allow the EPA/State Team to collectively work on the identified next steps and continue planning in FY 2017.

**Federal Mining Dialogue:** From September 2015 through January 2016, facilitation services and meeting support were acquired through the CPRS contract to support the Federal Mining Dialogue (FMD), an inter-agency workgroup with participation from the EPA, Department of the Interior, Army Corps of Engineers, National Park Service, Office of Surface Mining, Department of Agriculture, and Department of Energy, and

others. The FMD meets on a quarterly basis and provides a structure for agencies to work collaboratively on abandoned mine issues, share information on best management practices, discuss and design future studies, and develop guidance documents that cut across the federal government. Through the years, the FMD has fostered collaborative discussions on sensitive and controversial topics and created joint federal agreements on difficult issues such as reaching a national agreement for joint repositories for mining waste. The EPA plans to continue to be involved in this effort. The agencies that comprise the FMD rotate responsibilities. The EPA's responsibility to fund facilitation and meeting support was completed in January 2016.

**OW** observed many benefits associated with using the ECCR in our surface water and drinking water programs. ECCR ensures that a streamlined and coordinated approach is taken to engage all participants in developing and conducting a process by which consensus-based decision making can take place. Facilitators create an evenhanded and transparent process that holds all parties to the mutually agreed upon principles and strategies that lead to action and investment by key parties and their members. This improves protection of our public health and protection/restoration of our nation's waters. It also helps to maintain good working relationships with all our stakeholders.

Example: CWA Section 303(d) Program Training Workshop (June 1-3, 2016) – The EPA jointly organized this training workshop with states, territories and tribes through a cooperative agreement with the Environmental Law Institute (ELI). The lead staff from ELI provided facilitation support for the training workshop. Approximately 120 participants attended. This improved our working relationship with stakeholders.

- c) What difficulties have you encountered in generating cost and benefit information and how do you plan to address them?

As the largest user of ECCR in the Executive Branch, the EPA sees the value of evaluating ECCR and has invested significantly in such efforts over many years. The CPRC's previous evaluation work and experience in compiling information for this year's ECCR annual report suggest a number of challenges in generating cost and benefit information.

The overarching challenge concerns resources. Collecting valid and reliable quantitative information on costs and benefits for the large population of EPA ECCR cases on an annual basis is a costly endeavor, drawing from resources that would otherwise be devoted to supporting the actual use of ECCR. This applies both to creating and administering assessment tools, as well as the burden imposed on EPA staff members to provide data on costs and benefits at the individual case level. Inadequate resources cause the EPA to favor qualitative data collection at an organizational level and simpler quantitative indicators of costs. Faced with tight budgets, the EPA will continue to allocate some resources to assessing the costs and benefits of ECCR, but the ability to support more rigorous evaluations may be limited and timeframes for implementing them will be extended.

There are also several methodological challenges related to generating cost and benefit information, some perhaps particular to ECCR. One such challenge is establishing a fair baseline for comparison at the individual case level. For example, should ECCR be compared to litigation, unassisted negotiation, or something else? This is a particular concern because ECCR often runs parallel to and is influenced by other decision-making processes for the same matter. Another challenge related to the baseline issue, once a comparison scenario has been established, is to identify an appropriate source of data for the relative costs and benefits of the alternative decision making process. For example, ECCR cases can be matched to non-ECCR cases, but a failure to match on important variables – such as those that influence parties’ self-selection of ECCR – can produce invalid results. A third methodological challenge is retrospective reporting on ECCR and comparison cases. It is cognitively complex for case participants to reliably provide estimates on time and resources spent after the fact, sometimes years later. A final methodological challenge is capturing the benefits, particularly environmental benefits for individual ECCR cases. Issues here concern how such benefits can be feasibly measured and the timing of data collection.

The CPRC, in collaboration with the U.S. Army Corps of Engineers Collaboration & Public Participation Center of Expertise and the U.S. Department of the Interior Office of Collaborative Action and Dispute Resolution, built on its earlier work to capture the comparative results and costs of agreement-seeking ECCR cases by obtaining approval for a new questionnaire by submitting an Information Collection Request to the Office of Management and Budget that is addressing these challenges. The EPA will use the questionnaire to collect data on comparative process costs and the magnitude and probability of a set of substantive outcomes. The questionnaire is designed to be applied in a wide range of agreement-seeking ECCR cases.

Planning for staff succession also poses a challenge for the continued delivery of high quality ECCR services nationwide. In headquarters, during FY 2016, the EPA successfully backfilled in the wake of the retirement of the ADR counseling attorney. But hiring challenges government wide affect the EPA’s ability to bring on a highly qualified senior ECCR specialist and project officer to train under the guidance of our soon to retire most senior ECCR specialist. In Region 9, a nationally acclaimed facilitator who provided services not only in region-wide but throughout the nation, retired. The Region has chosen not to backfill this critical position due to lack of resources. Other regions face similar challenges in the next few years.

3. **ECCR Use:** Describe the level of ECCR use within your department/agency in FY 2016 by completing the table below. An ECCR “case or project” is an instance of neutral third-party involvement to assist parties in a collaborative or conflict resolution process.

<i>Context for ECCR Application</i>	Total FY 2016 ECCR Cases	Decision making forum that was addressing the issues when ECCR was initiated:					ECCR Cases or projects completed <sup>2</sup>	ECCR Cases or Projects sponsored <sup>3</sup>	Interagency ECCR Cases and Projects	
		Federal Agency Decision	Administrative Proceeding/ Appeal	Judicial Proceeding	Other (Specify)	Federal Only			Including non-federal participants	
Policy Development	21	4	0	0	17	EPA internal policy dialogue, interagency policy dialogue, stakeholder input	14	18	3	10
Planning	29	6	0	1	22	Support of tribal, state, regional, municipal dialogue & decision-making, voluntary stakeholder action	12	26	1	14
Siting and Construction	10	9	0	1	0		2	10	0	0
Rulemaking	4	4	0	0	0		2	4	1	1
Permit Issuance	3	2	1	0	0		2	3	1	0
Compliance and Enforcement Action	53	19	26	7	1	Assessment of multi-agency enforcement program	32	46	3	8
Implementation/ Monitoring Agreements	6	5	0	0	1	Stakeholder Dialogue regarding access agreements.	3	6	0	4
Other: Site Remediation	2	2	0	0	0		2	2	0	0
Other	17	2	0	1	14	Stakeholder collaboration, process improvements, situation assessment, stakeholder input, voluntary programs	8	16	0	5
<b>Grand Total</b>	<b>145</b>	<b>53</b>	<b>27</b>	<b>10</b>	<b>55</b>		<b>77</b>	<b>131</b>	<b>9</b>	<b>42</b>

<sup>2</sup> A “completed case” means that neutral third party involvement in a particular ECCR case ended during FY 2016. 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.

<sup>3</sup> Sponsored - to be a sponsor of an ECCR case means that an agency is contributing financial or in-kind resources (e.g., a staff mediator’s time) to provide the neutral third party’s services for that case. More than one sponsor is possible for a given ECCR case.

**Note:** Subtraction of the number of completed ECCR cases from Total FY 2016 cases should equal total ongoing cases. Subtraction of the number of sponsored ECCR cases from Total FY 2016 ECCR cases should equal the total number cases in which your agency or department participated but did not sponsor. If you subtract the combined interagency ECCR cases from Total FY 2016 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

#### 4. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably completed in FY 2016). Please limit the length to no more than 2 pages.

Name/Identification of Problem/Conflict
<p>Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance, and how the ECCR effort was funded</p>
<p>El Pueblo Para el Aire y Agua Limpia (El Pueblo), a grassroots community group in Kettleman City, CA, and the non-profit organization Greenaction for Health and Environmental Justice (Greenaction) filed a Title VI complaint with the Office of Civil Rights (OCR) at the United States Environmental Project Agency (US EPA) against the California Environmental Protection Agency (CalEPA) and the California Department of Toxic Substances Control (DTSC) on March 19, 2015. The Title VI Complaint alleged that DTSC and CalEPA violated Title VI of the Civil Rights Act of 1964 (Title VI) when it approved the Kettleman Hills Facility permit to expand the B-18 landfill.</p> <p>Title VI, 42 U.S.C. § 2000d et seq., was enacted as part of the Civil Rights Act of 1964 and prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.</p> <p>The U.S. Environmental Protection Agency’s Office of Civil Rights (OCR), working with the EPA Conflict Prevention and Resolution Center (CPRC), offered the parties the opportunity to resolve this complaint through Alternative Dispute Resolution (ADR). Both the complainants (El Pueblo and Greenaction) and the recipients (CalEPA and DTSC) agreed to attempt to resolve the dispute through mediation. Through a competitive contracting process, the parties expressed a preference to work with Betsy Daniels, of Triangle Associates, Inc. as the principle mediator for the case. Using funding from the Office of Civil Rights, the EPA contracted for the mediation services through the Conflict Prevention and Resolution Services contract.</p>
<p>Summary of how the problem or conflict was addressed using ECCR, including details of any innovative approaches to ECCR, and how the principles for engagement in ECCR outlined in the policy memo were used</p>
<p><b>Building Trust through Confidentiality and Thoughtful Process</b></p> <p>The mediation team started by scheduling and conducting in -person individual interviews with the parties to assess their interests and concerns and to explore opportunities for developing common ground and joint problem solving.</p> <p>The mediator then worked with the parties by phone and email to develop a draft mediation agreement. This agreement provided an updated confidentiality agreement and mediation protocols for the joint meetings and negotiation of a settlement agreement. The confidential mediation environment allowed the parties to work together to brainstorm ideas for addressing common interests. When parties are considering ADR to resolve a Title VI case, the ability to have a confidential negotiation that enables problem-solving is significant, as the OCR</p>

investigation process does not allow for collaborative problem-solving amongst the parties in a confidential setting.

The foundation of successful mediation is constructed through building trust and a new relationship between the parties and with the mediator so that they can work together on an agreement in a collaborative problem-solving atmosphere. To achieve this foundation in this case, both electronic/online mediation (conference calls, emails, desktop sharing) and live, in-person joint mediation sessions were used. This allowed the mediation to move forward outside of in person joint meetings.

#### **Zone of Potential Agreement<sup>4</sup>**

The mediator structured the first joint session as a nonjudgmental information-sharing opportunity so that parties could understand the zone of potential agreement, which in this case was partly defined by California laws that govern the operations of the state agencies involved in the mediation. All information sharing and discussions were oriented around whether the parties could find common ground that would resolve the complaint.

#### **Crafting a Settlement Agreement with a Party-driven Single Text Procedure<sup>5</sup>**

In this mediation, the parties took ownership of crafting the agreement by each taking turns with a draft agreement. The draft development took place between live joint sessions, and allowed the live sessions to focus on relationship building, defining the zone of potential agreement, and creative problem solving,

#### **Best Alternative to a Negotiated Agreement (BATNA)**

As in any mediation, it was essential for all parties to effectively contemplate their “Best Alternative to a Negotiated Agreement” or BATNA.<sup>6</sup> This happens at the start of the mediation and throughout the negotiations. This is essential for the parties to consider in all mediations and critical to Title VI cases in that the alternative would be an investigation by EPA OCR. This helps to clarify what was possible as a result of the mediation.

Identify the key beneficial outcomes of this case, including references to likely alternative decision making forums and how the outcomes differed as a result of ECCR

When Title VI complaints are accepted by OCR, OCR may choose to offer the parties the choice of mediation with a third-party mediator or an investigation by OCR. The EPA may explain to the parties that the mediation process allows for discussion and negotiation among the complainant and recipient parties, and that this interaction is not a component of an investigation.

An investigation by OCR is bound by the complaints accepted for investigation by OCR. Parties are met with separately and do not interact with each other. An investigation may be warranted for some cases and may not be appropriate for mediation. Therefore, criteria for determining

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<sup>4</sup> Roger Fisher and William Ury. *Getting to Yes: Negotiating Agreement Without Giving In*, 3rd ed. (New York: Penguin Books, 2011).

<sup>5</sup> Fisher and Ury, 2011.

<sup>6</sup> Fisher and Ury, 2011



which cases are suitable for ADR and which for investigation need to be applied to identify candidates for mediation.

In the Kettleman mediation, the parties chose the mediation path and were, therefore, able to meet face-to-face. The parties were successful in that they were able to build on confidential information-sharing discussions to develop a new relationship of trust and to engage in creative problem-solving and agreement-seeking discussions. This led to a consensus agreement on actions the parties committed to. The complaint was withdrawn because of the consensus agreement. This in-person approach between the complainant and the recipient allowed for the joint development of a resolution that would not have been possible through the investigation.

## Reflections on the lessons learned from the use of ECCR

### **Party Size and Structure**

Each party had two organizations participating, and each organization had its own legal counsel. The structure of this mediation was to work with each party as a “caucus,” which worked well in that it allowed for effective communications during joint sessions whereby there was one spokesperson for each of the caucuses. Effective legal counsel for the complainants was essential to successfully concluding this settlement agreement. In future cases, the intake process must consider whether the complainant has adequate and effective legal counsel to communicate and negotiate with the recipient’s legal counsel.

The parties were not given limits on whom to bring to the table, but were coached by the mediator to consider their most effective party size and makeup. Over the course of the mediation, the parties each honed their membership down to essential participants, which led to more opportunities to build trust between key people and greater message clarity from both sides.

This case was “simple” in its construction in that the only parties to the ADR/confidentiality agreement were representatives from the complainants and the recipients. In some Title VI cases, the mediator may need to work with the parties to determine if community members or other participants, who are not employees of either the complainant or the recipient, would be receiving information about the case and at what time in order for the parties to reach an agreement.

### **Equal Access**

Title VI ADR cases may require special attention to the ability of all parties/participants to the mediation having equal access to information and travel regardless of socio-economic status, language, location, etc. This is due to the increased likelihood of community members participating as a party to the mediation. Needs for equal participation and access to information, travel abilities, etc. will be important to flesh out during the intake process for each case, and for the mediator to consider and address throughout the mediation. In order to facilitate access in cases like this, which often involve environmental justice participants, the EPA may need to provide funding for the parties to travel to joint mediation locations.

**5. Other ECCR Notable Cases:** Briefly describe any other notable ECCR cases in the past fiscal year. (Optional)

**Region 1** - The Wells G & H mediation involved the enforcement of a consent decree at the Woburn, Massachusetts Superfund Site that was the subject of "A Civil Action," the acclaimed movie starring John Travolta and the Jonathan Harr national best-seller on which it was based. Occurring far from the Hollywood limelight is the drudgery of ensuring that the settling parties comply with the terms of the painstakingly negotiated cleanup agreement. At issue were disagreements internally among the PRPs as well as between the PRPs and the EPA regarding payments due under the consent decree. The initial controversy related to a relatively discreet portion of costs and responsibilities but it threatened to unravel a much larger set of understandings and commitments going forward. After a long period of stalled negotiations, the PRPs and the Agency reached agreement on the issues in dispute over the course of just two (non-consecutive) days of mediated discussion.

A number of factors likely contributed to the success of the process. First, all parties participated in the mediator selection process and chose a neutral in whom they all had confidence. Second, though initially reluctant to invest in the mediation process, the PRPs were encouraged to give it a try by the EPA's offer (through the CPRS contract) to fund one full day of mediation services and associated preparation. The PRPs then willingly funded a second day of the mediator's time to conclude what by then appeared to be a process worth continuing. Third, each party, for its own reasons, was motivated to reach agreement—a condition that it is not always easy to assess at the outset of a negotiation. In addition, the mediation process itself created a momentum that helped the parties focus on--and put a timeframe on--resolution. While other factors undoubtedly contributed as well, this narrative errs on the side of avoiding any inappropriate disclosure given the confidentiality of the process.

**Region 2** - Region 2's case example this year highlights the benefit of increasing capacity through training and the importance of building a community of ECCR practitioners within the EPA. In September 2016, Region 2's ECCR specialist served as a facilitator for an Estuary Research Workshop sponsored by the New England Interstate Water Pollution Control Commission (NEIWPC). The purpose of the Workshop was to bring together estuary research professionals to discuss the important research and monitoring questions including nutrients, harmful algal blooms, climate change monitoring, and resilience. The roughly 40 attendees were from NEIWPC, EPA Region 2, New York State Department of Environmental Conservation, Scenic Hudson, and several estuary programs, among others. Four hours of the full-day workshop were run in the Open Space format, which made it possible for the participants to have deep conversations about the most important questions they wanted to address together. A more traditional conference format would have resulted in a missed opportunity for these experts to fully engage with one another.

Region 2 was able to use the Open Space approach thanks to training provided by the CPRC and support resulting from a strong community of EPA's ECCR specialists. In November 2015, the CPRC hosted a 3-day workshop for ECCR specialists in Washington D.C. where training was provided on Open Space and Appreciative Inquiry facilitation processes. A senior facilitator from Region 9 taught the Open Space session.

As a result of the training, the Region 1 ECCR specialist suggested using the Open Space format at a citizen science program that Region 1 planned for July 2016. She engaged the Region 9 facilitator to co-facilitate the process. A member of the NEIWPCCC attended the citizen science program and, soon after, requested that Region 2 provide facilitation support for an Open Space process at the NEIWPCCC Estuary Research Workshop.

By the time of the request, the Region 9 facilitator had retired and there was no funding to hire an outside facilitator. Region 2's ECCR specialist agreed to facilitate the Open Space process with support from Region 1's ECCR specialist, who offered to guide him through all the steps in the process. This support from Region 1 provided the necessary skills and confidence for Region 2's ECCR specialist to undertake the Open Space facilitation for the first time, without the support of an experienced co-facilitator. The result was excellent, with participants very satisfied with the Workshop and the planners quite pleased with the Open Space facilitation.

In order to pay forward Region 1's assistance, Region 2's ECCR specialist offered on a recent ECCR specialists monthly call to provide telephone support to another region that wants to undertake its first Open Space facilitation. Region 1's support consumed a significant chunk of time for their ECCR specialist, involving multiple phone calls over a number of weeks, but her willingness to assist was, in part, a result of the community-building and personal relationships that form when the ECCR specialists have opportunities for face-to-face meetings.

**Region 3** - In one FY 2016 matter in Region 3, a facilitator was instrumental in encouraging a community group to engage in initial communications with a local government agency. The parties came together to plan for and address a common interest - community preparedness in response to extreme weather concerns. Had additional funding been available, facilitation of this process would have continued, so that the parties could work together to finish the preparedness plan.

**OAR** – During the development of the Clean Power Plan (CPP), the EPA hosted listening sessions in environmental justice communities such as Port Arthur, Texas in order to get their input, potentially improve the plan, and engage the community early in order to prevent future conflict. The CPP is expected to provide broad benefits to communities across the nation. However, it is expected

to be particularly beneficial to low-income communities of color that are already overburdened with pollution and that are more likely to be disproportionately affected by, and less resilient in the face of the impacts of climate change. The listening session also allowed the community to voice their concerns and have their questions answered.

A third party facilitator to help plan, organize and deliver a workshop about the Clean Power Plan to communities. See:

(<https://www.epa.gov/cleanpowerplan/training-and-agenda-port-arthur-tx-community-training-clean-power-plan>) The facilitator's assistance was crucial for communities to learn more about the Clean Power Plan and effectively engage with the Agency as it was proposed.

**OLEM** - In the fall of 2015, residents of the Eastern Heights neighborhood of Grenada, Mississippi grew alarmed at possible trichloroethylene contamination from a RCRA clean-up occurring at the Grenada Manufacturing, LLC (now Grenada Stamping) facility. Residents mistrusted the EPA and were resistant working with the EPA to conduct vapor intrusion sampling in their homes.

A neutral facilitator hired through the Conflict Prevention and Resolution Services contract provided coaching and consultation for the EPA site team. The facilitator coached the EPA site team on approaches to interacting with community members and homeowners in preparation for a three-day ambient air sampling event of community residences. The facilitator remained available for real time coaching and consultation during the event and met with the site team for a follow-up debrief after the event. The site team reported back to the CPRC and OSRTI headquarters that during the three-day period they were able to have good, productive interactions with residents and had made significant progress in changing the dynamics between the EPA and community members.

## 6. Priority Uses of ECCR:

Please describe your agency's efforts to address priority or emerging areas of conflict and cross-cutting challenges either individually or in coordination with other agencies. For example, consider the following areas: NEPA, ESA, CERCLA, energy development, energy transmission, CWA 404 permitting, tribal consultation, environmental justice, management of ocean resources, infrastructure development, National Historic Preservation Act, other priority areas.

The U.S. Environmental Protection Agency (EPA) has used ECCR in all its environmental program areas for many years. This outcome has been achieved by relying on the EPA offices and regions to identify a need for the use of ECCR in particular cases, rather than by specifying priority areas for the use of ECCR as a matter of policy. ECCR is widely used to support the agency's public health and environmental mission, and makes a contribution in most of the priority areas of interest to OMB and CEQ. The following examples illustrate the use of ECCR in OMB/CEQ priority areas in FY 2016:

- ECCR was used most frequently to address issues under the CWA (approximately 35% of cases) and CERCLA (about 28% of cases).
- The EPA was involved in at least two ECCR cases addressing ESA issues, including (1) an interagency dialogue on pesticides involving the agency, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the U.S. Department of Agriculture, and (2) the Missouri River Recovery Committee led by U.S. Army Corps of Engineers.
- There were two NEPA-related ECCR cases; both reported by the EPA Region 1 office.
- ECCR cases involving the CWA 404 Program included a FACA subcommittee making recommendations to clarify state and tribal assumption of the CWA 404 permitting program and an underground mining case.
- The EPA sponsored or participated in a number of ECCR cases with an emphasis on tribal relations. Tribal ECCR cases included general relationship building, and Superfund and water quality matters in Regions 1, 8, and 10.

**7. Non-Third-Party-assisted Collaboration Processes:** Briefly describe other significant uses of environmental collaboration that your agency has undertaken in FY 2016 to anticipate, prevent, better manage, or resolve environmental issues and conflicts that do not include a third-party neutral. *Examples may include interagency MOUs, enhanced public engagement, and structural committees with the capacity to resolve disputes, etc.*

The U.S. Environmental Protection Agency (EPA) has a long history of working collaboratively with its stakeholders to further the Agency's human health and environmental mission. For disputes, the use of unassisted negotiation is very common and successful. Best efforts are made to resolve environmental conflicts without litigation, whether those conflicts arise with states, tribes, public interest groups, or facilities. EPA headquarters and regional offices provided examples of collaboration in FY 2016 that used methods other than ECCR as defined in the OMB/CEQ ECCR policy memorandum, described below:

**Region 1** continued to recognize the necessity of fostering and sustaining collaborative approaches with key stakeholders and partners to address New England's most significant environmental issues. At all levels of the organization, Region 1 employees have embraced these approaches as producing creative solutions, better outcomes, and the promise of longer-term gains.

For example, Region 1 continued to support the New England Municipal Sustainability Network (NEMSN), which began six years ago. The NEMSN is comprised of a group of sustainability directors from across the Region who have created an active peer network of towns and cities. The goal of the Network is to provide training, share ideas, and leverage knowledge and experience in common areas of interest to improve community sustainability throughout the Region.

Continuing its work in cooperation with HUD, DOT, FEMA, and USDA, through the Sustainable Communities Partnership, Region 1 leveraged substantial resources to help New England communities become more livable and sustainable. Much of this work with communities and other regionally-based stakeholders has been through collaborative problem-solving and working to find creative solutions to complex problems through negotiation and compromise. For example, the Region is currently working with FEMA and the Commonwealth of Massachusetts to consider green infrastructure for flood control and drought resilience.

Region 1 continued to be significantly engaged in the E-Enterprise for the Environment initiative, aimed at modernizing the business of environmental protection through groundbreaking collaboration with ECOS and our state partners. The Region 1 Regional Administrator represented the EPA's perspective on the E-Enterprise Executive Leadership Council. The Region's emphasis on collaborating with our state partners has been the cornerstone of this effort.

Finally, while many of the neutral assisted collaborative efforts in Region 1 during FY 2016 involved discrete facilitated events, other ongoing collaborative efforts are proceeding without ongoing facilitation assistance. For example, the regional team working on the Southeastern New England Program for Coastal Watershed Restoration engaged in an on-going multi-faceted collaboration. The neutral-facilitated work group meetings represented only a small part of this collaboration. The FY 2016 facilitated discussions among Region 1 and its state partners regarding enforcement and compliance assistance also represented a small fraction of a longstanding EPA/states collaboration that has evolved over time.

Similarly, many collaborations have grown out of Region 1's initial facilitation. For example, the facilitated stakeholder meetings and community engagement in the Region's "Making a Visible Difference in Communities" initiative in Lawrence, MA, were a cornerstone effort. As a result of these initial sessions, a multi-party stakeholder group is becoming self-sustaining and is working to develop and implement plans to address community concerns and priorities in order to achieve short and long-term goals related to water, solid waste, public engagement concerns, and jobs.

**Region 2** continued its post-Sandy recovery partnerships in FY 2016. This innovative interagency collaboration made progress under the leadership of the NY/NJ Federal Leadership Resilience Collaborative. The Collaborative met monthly to share information and synchronize projects across the federal community to lead, promote, and realize increased regional resilience in a sustainable manner. The goals of the Collaborative were advanced in FY 2016 through the multi-agency Sandy Regional Infrastructure Resilience Coordination Group (SRIRC) and associated Technical Coordination Teams (TCTs). The agencies involved include, among others, the EPA, DOE, DOT, HUD, FEMA, New Jersey, New York State, Connecticut, New York City, USACE, DOI, NOAA, USDA, and the Port Authority of NY and NJ. The TCTs afforded project applicants an opportunity to discuss project plans and permitting requirements. Each TCT worked on a different project area in an unprecedented collaboration among federal, state, and local governments to build resilience. Examples of the projects now under review by the SRIRC and TCTs include, (1) easements to build resilience in Mastic/Shirley, Stony Brook, and Amagansett, New York; (2) the Fire Island Inlet to Montauk Point (FIMP) Reformulation Study in New York; (3) a residential buyout program in several areas in New York and New Jersey; (4) a repair and mitigation project of the Bayshore Regional Sewage Authority in New Jersey; and (5) home elevations in the Raritan Bayshore Area in New Jersey.

Other important collaborative interagency projects included the HUD Rebuild by Design projects, for example, in the Meadowlands and Hoboken. Region 2's representative on the Wastewater TCT continued to serve this year as a non-neutral facilitator for project meetings. The facilitation helped the partners to achieve their objectives, which included identifying and overcoming obstacles to the projects and finding opportunities for coordination and efficient staging and implementation of the projects.

Region 2 also continued its collaborative engagement through the Making a Visible Difference in Communities program and its partnership with Antioch University which was established to foster resilience in communities. In FY 2016, Region 2 along with Regions 1 and 3, implemented our MOU with Antioch by holding a two-day summit, titled "The Second Local Solutions Conference: Northeast Climate Preparedness." Region 2 also began implementing another MOU with Antioch and Region 1 that renews our joint webinar series on local resilience.

**Region 3** sought to engage in facilitative and collaborative activities involving the EPA, states, local communities, NGO's, and other federal agencies where appropriate within the Region. Region 3 also sought opportunities to minimize potential disputes with responsible parties in matters, when possible, through negotiation. One such example was the practice of various programs within Region 3 to issue "Show Cause" letters to responsible parties, intended to apprise such parties of statutory violations and penalty assessments and provide an opportunity for the parties to negotiate a resolution of the matter without the need of litigation.

**Region 6** staff have a great deal of experience in negotiating with outside entities, whether they be industry, states or other federal agencies. In FY 2016 Region 6 negotiated with states regarding planning under the Clean Air Act and with industry in permitting or enforcement contexts. There were a number of instances of enhanced public engagement, such as in the Camp Minden Superfund Removal Action. In that case, involving explosive materials stored improperly near a community, Region 6 initially followed a traditional ECCR process to develop a course of action. The community had significant concerns with the plan. In response to these concerns, Region 6 engaged members of the community and conducted an unprecedented level of outreach. The result was an effective plan that resolved the public's concerns while cleaning up the materials in a safe manner. In another instance, concern regarding ambient air quality in and around Houston, TX led the Region to negotiate an MOU with the City of Houston regarding the placement of air monitors to better assess the air quality.

The Region entered into a partnering agreement with the Corps of Engineers to examine the review process for large water supply projects in Texas and to identify actions that will make the process clearer and more predictable for permit applicants and stakeholders. The Texas Water Development Board (a State entity) was not a signatory, but was heavily engaged as a contributor. The main areas of coordination were CWA 404 permitting and NEPA compliance. The agreement addressed large or major water supply projects where predictable impacts were significant enough to require an Environmental Impact Statement. Under this agreement, the partnership will develop materials to assist water suppliers calculate population growth, water use, water conservation, reuse measures, industrial water demands, water supply reserves, and impacts.



**Region 7** continued its practice of using pre-filing negotiations in all administrative enforcement actions seeking a monetary penalty. Many actions continue to be settled in the pre-filing stage.

The presence and continued high profile of ECCR projects in Region 7 has built an solid understanding of the spectrum of processes available in the Region. In FY 2016, Region 7 divisions participated in some form of ECCR process or training with the ECCR specialist. Most interactions were consultative, coaching, and advisory in nature. In FY 2016, the process design consultative work increased from FY 2015, continuing a prior trend. This was due to ongoing internal recognition of “ground-truthed” ECCR methodologies, a blending of ECCR into Lean Six Sigma projects, and the higher profile of ECCR with the Senior ADR Counsel working closely with OGC and multiple regions.

An ECCR mentoring effort to build an internal team at Region 7 took further strides this year as a few individuals continued to develop their skills and training to help address growing interest in ECCR.

The other major development that has shifted some focus to ECCR is the reorganization of the community involvement role from Public Affairs to the Enforcement Coordination Office, which houses environmental justice and similar programs. This has allowed new strategies and new approaches to take hold that will help strengthen training and other collaborative opportunities that involve ECCR at earlier stages.

**Region 10** began negotiating a Memorandum of Understanding with the Idaho Department of Water Resources and Idaho Department of Environmental Quality which would resolve contentious and complex issues related to whether the EPA’s withdrawal and treatment of contaminated waters must comply with Idaho State water law. Successful negotiation of this MOU will avoid potential litigation regarding the EPA’s withdrawal and treatment of contaminated waters.

**OAR** - The U.S. EPA and the Ghana Environmental Protection Agency worked together under the Africa Megacities Partnership to develop an integrated air quality action plan for Accra. The project will demonstrate the applicability and utility of decision support tools developed for use in a wide variety of contexts and data availability situations. The result of the project will develop and apply an approach that can be modified and applied across African cities. The project led to investments by the World Bank Pollution Management and Environmental Health Program due to the air quality improvements achieved from the collaboration.

**OITA** - 1) The EPA’s Policy on Consultation and Coordination with Indian Tribes (May 2011) is based on a Federal government to Tribal government relationship. Under its Consultation Policy, the EPA identifies actions and/or decisions that may affect tribal interests. Tribal government officials are given an opportunity to provide input directly to the EPA prior to an EPA final decision. The Agency defines its

consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes. The EPA's policy on consultation with tribes does not use neutral third parties in its processes. EPA programs and regions consulted on 64 activities in FY 2016.

2) Under the EPA Indian Environmental General Assistance Program (GAP), the EPA successfully reached 316 individual EPA-Tribal Environmental Plans (ETEPs) with tribes, representing 62% of all tribes receiving GAP funding. ETEPs are planning documents developed collaboratively between the EPA and individual tribal grantees. They represent a shared understanding and commitment of long term environmental priorities and the associated roles and responsibilities of the EPA and the tribal grantee. ETEPs define long-range tribal environmental program development priorities and inform funding decisions by linking ETEP goals to annual GAP assistance agreement work plans. The ETEPs and resulting grant work plans provide a mechanism for measuring tribal progress in meeting tribally defined program development goals, consistent with EPA administered programs. The EPA plans to expand ETEPs to COVER 85% of tribes by the end of FY 2017 and 100% by the end of FY 2018.

3) In support of effective implementation of the Minamata Convention on Mercury, the EPA worked with global partners to support the development and implementation of National Action Plans to reduce or eliminate the use of mercury in artisanal and small-scale gold mining. These plans are required to include approaches to formalization and regulation of the sector and strategies for involving stakeholders in the implementation of the plans. In FY 2016, the EPA continued to support the development and use of guidance to assist countries in establishing these cross-ministry, multi-stakeholder plans to address the largest source of global mercury emissions.

4) In FY 2016, OITA successfully worked with ORD, Region 10 and the Alaska Native Tribal Health Consortium (ANTHC) to expand the use of the Local Environmental Observers (LEO) network, a traditional ecological knowledge (TEK) tool that facilitates the sharing of information on changes in the arctic environment witnessed by trained tribal elders, across the North American arctic. A new LEO hub in the Canadian Arctic was launched through this project and linked with ANTHC's hub, thus providing more communication among tribes that reside in both the U.S. and Canadian arctic. Furthermore, the hub was endowed with resources from the Canadian government to sustain operations beyond the project end date, and work has begun to establish a second Canadian hub in the Northwest Territories. The information gathered through LEO Observations not only allowed for more and better communication among Arctic communities, but also connected them with government officials and academics who can provide technical assistance or even use this data as part of Agency decision-making. Through funding provided by the U.S.-Canada-Mexico Commission for Environmental Cooperation (CEC), OITA's project for circumpolar expansion of the LEO, or CLEO, is institutionalizing this important TEK tool in communities outside of Alaska and has made TEK and citizen science a formal part of the U.S. Chairmanship of the Arctic Council.

5) In FY 2016, OITA refined and used the EPA's Public Participation Guide in multiple instances. First, OITA continued the development of an online public participation training based on the EPA Public Participation Guide and in-classroom trainings. The online training, the Guide, and the in-classroom trainings, were enhanced in FY 2016 with environmental justice/social inclusion concepts, tools, and resources, and social media practices. The online component of study provided a similar experience to the training that the EPA conducts related to its Guide, with videos, exercises, and other tools to provide self-study in public participation that can be done in groups throughout the world. This will also help to establish a cadre of facilitators around the world that can help train participants in public participation methods.

OITA used the Public Participation Guide in several projects, including:

At the request of Department of Commerce's Commercial Law Development Program, OITA delivered a training on public participation and using the EPA Public Participation Guide to representatives from Colombia's national government, private companies, and industry in the oil and gas sector in Bogota, Colombia from December 13-15, 2016. The approximately 45 participants will use the methods shared to engage various stakeholders in Colombia in the development of oil and gas regulations.

OITA used the Public Participation Guide under the EPA CAFTA-DR interagency agreement with Department of State to train 25 Central American participants from NGOs and Peace Corps as part of a train-the-trainer workshop in San Jose, Costa Rica in July 25-27 2016. The EPA will continue to provide support to the participants, coaching them on how to deliver the workshop for communities in their country.

6) Under an EPA-USAID interagency agreement to strengthen environmental impact assessment (EIA) in the Lower Mekong Region, the EPA continued to serve as a technical advisor to the Regional Technical Working Group (RTWG) on Environmental Impact Assessment (EIA) in FY 2016. The RTWG, which was launched in 2015, is a group of government and civil society representatives collaborating to strengthen the policy and practice related to EIA in the Mekong countries in order to enhance cooperation for inclusive and sustainable development of the region. The EPA participated (either in-person or remotely) in several meetings of the RTWG and provided content and process assistance as needed in between meetings. Technical guidance primarily focused on public participation mechanisms in the EIA context, as well as development of training/role play modules for public participation capacity building.

7) In September 2016, the EPA co-sponsored Peru's first stakeholder workshop on Trash Free Waters, which included a large and diverse set of stakeholders ranging from local students to federal, regional, and local government officials, teachers, women's group leaders, Afro-Peruvian community representatives, recycling

associations, human rights leaders, and the private sector. Workshop participants worked together to identify solid waste management strengths and weaknesses in the coastal city of Chincha and to catalogue ongoing regulatory and non-regulatory programs on solid waste management in order to help identify specific projects that they will implement to help Chincha prevent and reduce its land-based sources of marine litter. Stakeholders generated project ideas in six separate categories, with a government point of contact and local NGO champion listed for each for follow-up. Project ideas ranged from reconstituting local solid waste advisory councils to formalizing informal recyclers in Chincha to developing environmental education materials on recycling. Stakeholders highlighted the fact that this was the first time they had been given a platform to work with different stakeholders to address this issue. Under Peru's Trash Free Waters initiative, the EPA will partner with USAID and State Department, the Government of Peru, subnational governments, private companies, and civil society, including Afro-Peruvian community organizations, on a pilot Trash Free Waters effort in the coastal cities of Chincha and Ica.

8) Building on the EPA's 2015 work with members of the Reciclação (Recycle Action) project, the EPA worked with the project partners to reapply the project methodology in other overburdened and underserved communities in Rio and other cities in Brazil. Reciclação uses a successful participatory approach to community-based solid waste management in the Prazeres community in Rio de Janeiro, Brazil. Project partners chose to use the attributes and lessons learned from the EPA's 2005-2011 Community Action for a Renewed Environment (CARE) to help them communicate and reapply the Reciclação methodology. This work culminated in a workshop where over 40 people, representing existing and potential partners, adapted and replicated the CARE Roadmap step-by-step to the work they are currently achieving in the Reciclação Project. This redesigned Reciclação Project Roadmap will be used to apply Reciclação in other communities in Rio and in other cities throughout Brazil. This is the first time that the CARE Roadmap Model has been used on an international level.

9) Since early 2014, EPA Region 10, with the encouragement and facilitation of OITA, State Department and the U.S. Consulate in Vancouver, has taken steps to have more concerted discussions with their counterparts in Environment Canada and the Canadian Environmental Assessment Agency (CEAA) about new projects in Canada with potential transboundary impacts to the states of Alaska, Washington and Idaho. These discussions allow Region 10 to share with their Canadian counterparts' information concerning new projects and to anticipate the release of EIAs of Canadian projects, such as new or expansions of existing mining projects; new or expanded pipelines for transmitting Canadian oil sands; or, new or expanded facilities and transportation mechanisms for the expanded pipelines, LNG facilities, and mining projects. Understanding the Canadian process and timing not only allows the Region to prioritize their work for commenting on the EAs, but also provides opportunities for the EPA to raise concerns of the tribes affected by these activities and helps to mitigate the transboundary impacts resulting from them. Related to this cooperation, in November 2015, the Governor of Alaska and the Premier of British Columbia signed a

memorandum of understanding that included a draft statement of cooperation on protection of transboundary waters. The agreement established a bilateral working group and a technical working group on water quality monitoring.

**OLEM** - In January 2016, OLEM completed and posted the revised Superfund Community Involvement (CI) Handbook. The CI Handbook supports community involvement as conflict prevention, an effective and important ECCR tool. The CI Handbook provides guidance to EPA staff on how the EPA typically plans and implements community involvement activities at Superfund sites; effective community involvement is a key to conflict prevention at these sites. This guidance document is intended to help promote consistent implementation of community involvement regulations, policies and practices. The CI Handbook is intended primarily for members of EPA Superfund site teams with a role in community involvement. Superfund site team members may include remedial project managers (RPMs), on-scene coordinators (OSCs), community involvement coordinators (CICs), site assessment managers, risk assessors, and enforcement staff. EPA site team counterparts in other federal, state, and tribal agencies also may find the handbook useful. The handbook might be particularly useful to anyone who is new to planning and conducting Superfund community involvement activities.

This updated 2016 version of the CI Handbook replaces the version published in 2005. It reflects current regulations, policies and practices, and includes new information about technical assistance, site reuse, environmental justice, new media technologies and social media, National Contingency Plan amendments regarding information repositories and public notices, and other topics that have come to the forefront since the 2005 edition. The revised handbook also includes expanded chapters about community involvement during enforcement actions and at federal facilities.

**OW** – The Office of Water has a number of ongoing collaborative efforts with various stakeholders to support sustainable management of the Nation’s water and wastewater utilities and infrastructure. Four notable examples include:

- The EPA-State Clean Water State Revolving Fund (CWSRF) workgroup continued to facilitate discussion amongst co-regulators of the CWSRF programs about emerging issues and policies and provided a venue for the exchange of information. Additionally, in 2016 the CWSRF program worked with USDA to identify best practices for the environmental review of co-funded projects to help streamline these requirements and avoid duplication of effort. The EPA and USDA anticipate issuing a joint memorandum to states that summarizes these best practices in 2017.
- Working with a coalition of water and wastewater utility leaders and major trade associations like NACWA, WEF, AWWA, and others, OW completed a document called Taking the Next Step on Effective Utility Management (EUM). This document describes a series of attributes of effectively managed wastewater utilities and keys to management success. These attributes include a series of goals which utilities across the water sector are encouraged to achieve to ensure sustainable operations of all aspects of their enterprise. It is

the most comprehensive guide to wastewater utility management in the nation. Working with this same coalition, OW will also soon complete the Effective Utility Management Primer, which provides utilities with a step-by-step guide for assessing their operations by identifying priorities for improving their performance.

- In collaboration with USDA's Rural Utility Service (RUS) and the National Rural Water Association (NRWA), OW began leading an effort specifically focused on managers of rural and small utilities. Based on guidance developed by the EPA and USDA, workshops were held in states around the country, along with national webinars to help small system managers assess the overall sustainability of their operations and develop action plans for addressing their most pressing challenges. To date, over 200 workshops in all 50 states have been held, involving more than 1000 small and rural utilities.
- The EPA's Water Infrastructure and Resiliency Finance Center (the "Center"), created in 2015, served as a technical and financial advisory service to decision-makers engaged in the critical business of delivery and effective management of water infrastructure. The Center engaged in a number of collaborative efforts, including partnering with EPA regional offices, hosting five regional Water Finance Forums across the country. The forums brought together communities with water infrastructure financing needs in an interactive peer-to-peer networking format, shared how local utilities have financed resilient water infrastructure projects, and provided attendees with the opportunity meet with representatives of key regional funding sources. Topics included state funding for planning and construction, funding resilient and sustainable infrastructure, disaster preparedness and recovery, communicating the value of water to the public, identifying financial indicators, partnering opportunities for financial success, and successful technical and financial planning.

- 8. Comments and Suggestions re: Reporting:** 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.

The U.S. Environmental Protection Agency noted specific challenges related to collecting cost and benefit information on ECCR in our response to question #2. Otherwise, collecting these data posed little difficulty. However, our ability to continue to properly evaluate cases and produce the quality reports that we have a history of producing is directly linked to the funding that our office receives.

***Please attach any additional information as warranted.***

Report due February 24, 2017.

Submit report electronically to: [kavanaugh@udall.gov](mailto:kavanaugh@udall.gov)

**Basic Principles for Agency Engagement in  
Environmental Conflict Resolution and Collaborative Problem Solving**

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



Table 1: Use context and decision-making forum for EPA ECCR cases in FY2016

Agency Purpose	Decision making forum addressing the issue when ECCR was initiated:				Total FY 2016 ECCR Cases	
	Federal Agency Decision	Administrative Proceeding/ Appeal	Judicial Proceeding	Other (Specify)		
Policy Development	4	0	0	17	EPA internal policy dialogue, interagency policy dialogue, stakeholder input	21
Planning	6	0	1	22	Support of tribal, state, regional, municipal dialogue & decision-making, voluntary stakeholder action	29
Siting and Construction	9	0	1	0		10
Rulemaking	4	0	0	0		4
Permit Issuance	2	1	0	0		3
Compliance and Enforcement Action	19	26	7	1	Assessment of multi-agency enforcement program	53
Implementation/ Monitoring Agreements	5	0	0	1	Stakeholder Dialogue regarding access agreements.	6
Other: Site Remediation	2	0	0	0		2
Other	2	0	1	14	Stakeholder collaboration, process improvements, situation assessment, stakeholder input, voluntary programs	17
<b>Grand Total</b>	<b>53</b>	<b>27</b>	<b>10</b>	<b>55</b>		<b>145</b>

Table 2. Breakdown of EPA ECCR cases by completion year.

Agency Purpose	Total FY 2016 ECCR Cases	ECCR cases or projects completed in FY 2016	ECCR cases or projects continuing in FY 2017
Policy Development	21	14	7
Planning	29	12	17
Siting and Construction	10	2	8
Rulemaking	4	2	2
Permit Issuance	3	2	1
Compliance and Enforcement Action	53	32	21
Implementation/ Monitoring Agreements	6	3	3
Other: Site Remediation	2	2	0
Other	17	8	9
<b>Grand Total</b>	<b>145</b>	<b>77</b>	<b>68</b>

Table 3. Breakdown of case/project sponsorship

Agency Purpose	Total FY 2016 ECCR Cases	ECCR Cases or Projects sponsored	ECCR cases or projects in which EPA participated, but provided no funds or in-kind services.
Policy Development	21	18	3
Planning	29	26	3
Siting and Construction	10	10	0
Rulemaking	4	4	0
Permit Issuance	3	3	0
Compliance and Enforcement Action	53	46	7
Implementation/ Monitoring Agreements	6	6	0
Other: Site Remediation	2	2	0
Other	17	16	1
<b>Grand Total</b>	<b>145</b>	<b>131</b>	<b>14</b>

Table 4. Breakdown of interagency participation in ECCR cases and projects.

Agency purpose	Total FY 2016 ECCR Cases	Interagency ECCR Cases and Projects		
		Federal Only	Including federal and non-federal participants	Including no other federal participants
Policy Development	21	3	10	8
Planning	29	1	14	14
Siting and Construction	10	0	0	10
Rulemaking	4	1	1	2
Permit Issuance	3	1	0	2
Compliance and Enforcement Action	53	3	8	42
Implementation/ Monitoring Agreements	6	0	4	2
Other: Site Remediation	2	0	0	2
Other	17	0	5	12
<b>Grand Total</b>	<b>145</b>	<b>9</b>	<b>42</b>	<b>94</b>