FY 2017
Environmental Collaboration and Conflict Resolution (ECCR)

Policy Report to OMB-CEQ

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Executive Summary

This report highlights the Environmental Protection Agency's (EPA's) key achievements in environmental collaboration and conflict resolution (ECCR) in fiscal year (FY) 2017. Headed by the EPA's Conflict Prevention and Resolution Center (CPRC), the EPA continued to be a national leader in the use of ECCR. Facilitators and mediators helped the EPA address some of its most challenging cases, including West Lake Landfill, USS Lead, and state and tribal Clean Water Act 404 permitting. In total, the EPA used ECCR in 142 instances throughout every region and most program offices, in FY 2017. EPA staff and managers continued to report great benefits from using ECCR including timely outcomes, more efficient processes, better decisions, avoidance of litigation, and a furtherance of EPA's mission. ECCR is an essential approach that helps the Agency achieve its current strategic goal to "collaborate more efficiently and effectively with other federal agencies, states, tribes, local governments, communities, and other partners and stakeholders to address existing pollution and prevent future problems."[1] In FY 2017, the CPRC increased the capacity of EPA staff and managers to effectively resolve conflict and collaborate with the public by training over 520 participants during 24 sessions. During 2017, Harvard's Ash Center for Democratic Governance and Innovation recognized the CPRC as among the "Top 25 Programs for Innovations in American Government" for the quality and accomplishments of EPA's ECCR program.

[1] FY 2018-2022 EPA Strategic Plan, p. 7

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Introduction

Bringing people together to address environmental challenges is how the EPA does business. For decades, the EPA has sought input from the public, worked with stakeholders to reach common ground, and negotiated agreements on contentious issues as it strives to fulfill its core mission. Stakeholder involvement is now more relevant than ever as the Agency refocuses to work with more cooperatively with states, tribes, local communities, businesses and others to protect human health and the environment.

Each action the EPA takes to serve the public is the product of dialogue with a diverse set of stakeholders. Sometimes that dialogue goes smoothly; other times working together is a challenge and conflicts arise. In those cases, a neutral facilitator or mediator who specializes in ECCR is needed to help reach agreement. EPA's Conflict Prevention and Resolution Center (CPRC) supports EPA to meet these challenges and overcome environmental conflicts.

The EPA is a leader in federal government ECCR and uses ECCR more frequently than any other federal agency. It has a well-established ECCR program that is managed by the CPRC. The CPRC advises EPA on how to work better with the public and increase the transparency of its work. It also provides facilitators and mediators who help stakeholders have a voice in EPA's decisions, often resulting in more acceptable, cost-effective, and timely outcomes than traditional alternatives. Key to this work is the Conflict Prevention and Resolution Services Contract supported by CPRC. Every office at EPA has access to this contract to quickly hire professional neutral facilitators and mediators who specialize in ECCR. Neutral mediators also mediate cases before the Environmental Appeals Board and the Office of Administrative Law Judges, as well as for environmental civil rights complaints handled by the External Civil Rights Compliance Office.

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OMB and CEQ memoranda require annual reporting by departments and agencies on progress made each year to increase the effective use and institutional capacity for ECCR. In the memoranda, ECCR is defined 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." This report follows the template provided by OMB and CEQ.

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Section 1: ECCR Capacity Building Progress

OMB/CEQ Question 1: Describe steps taken by your department or agency to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2017, including progress made since FY 2017. 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.]

The EPA's well developed ECCR program effectively integrates ECCR objectives into EPA's mission, strategic goals, and organizational structure. This section highlights how ECCR contributes to the Agency's achievement of its priority goals and the Agency's activities to promote the use and understanding of ECCR.

An Organizational Focus on ECCR

ECCR is built into and supports EPA's mission, strategic plan, goals, and policies.

EPA Mission – The EPA's mission is to protect human health and the environment. The EPA's ECCR program enables the Agency to achieve its mission by helping the EPA, its stakeholders, and the citizens it serves engage with one other to develop a common understanding of environmental problems, prevent conflict, and resolve problems in a mutually-agreeable manner.

EPA Strategic Plan – The EPA's ECCR program supports implementation of the Agency's strategic plan by helping the Agency work more effectively, strategically, and transparently with states, tribes, and local stakeholders to achieve better environmental outcomes.

The EPA's Strategic Plan identifies the measurable environmental and human health outcomes the public can expect from EPA and describes how we intend to achieve those results. Led by EPA's CPRC, ECCR contributes to the achievement of all three goals in the EPA's 2018-2022 strategic plan:

1. Core Mission: Deliver real results to provide Americans with clean air, land, and water.

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2. Cooperative Federalism: Rebalance the power between Washington and the states to create tangible environmental results for the American people.
3. Rule of Law and Process: Administer the law, as Congress intended, to refocus the Agency on its statutory obligations under the law.

In particular, EPA's ECCR program directly contributes to effective environmental protection by helping EPA programs and regions work with "its state partners … from a foundation of transparency, collaboration—including public participation—and a spirit of shared accountability for the outcomes of this joint work. This foundation involves active platforms for public participation, including building the capacity of the most vulnerable community stakeholders to provide input." [2]

In 2017, ECCR was deployed in 142 cases in nearly every EPA region and program, in situations including Superfund cleanups, brownfields redevelopments, permit disputes, policy development, and others summarized in Section 3.

As the Agency looks forward to FY 2018, ECCR will continue to be a tool to support cooperative federalism and overcome roadblocks to the achievement of EPA's **FY 2018-2019 Agency Priority Goals:**

1. Reduce the number of non-attainment areas.
2. Increase the percentage of water infrastructure projects funded through EPA grants, loans, or public-private partnerships that achieve or maintain compliance.
3. Make additional brownfields sites ready for anticipated use (RAU) and additional Superfund sites RAU site-wide.
4. Complete (1) EPA-initiated Toxic Substances Control Act (TSCA) risk evaluations for existing chemicals, (2) TSCA risk management actions for existing chemicals, and (3) TSCA pre-manufacture notice final determinations in accordance with the timelines set forth in the statute.
5. Increase the amount of non-EPA resources leveraged by projects receiving EPA infrastructure investments.
6. Accelerate permitting-related decisions.

The EPA's ECCR work also supports the Superfund Task Force's goals to engage partners and stakeholders while expediting cleanup and remediation, as highlighted by examples listed in Section 5.

EPA Alternative Dispute Resolution Policy – The EPA's Alternative Dispute Resolution (ADR) policy (65 FR 81858, December 2000), is the umbrella under which the Agency pursues its ECCR activities. It states the EPA's strong support for using a neutral third party to prevent and resolve potential environmental conflicts, and articulates the following expected benefits from ADR:

[2] FY 2018-2022 EPA Strategic Plan, p. 24

- 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 included in the OMB/CEQ ECCR policy memorandum:

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

Senior Leadership Support for ECCR – EPA senior leaders continue to strongly support using ECCR to help the Agency achieve its mission. Senior leadership actively engaged in and supported the use of ECCR in several high-profile cases in FY 2017, including:

- Clean Water Act Assumable Waters FACA Subcommittee
- Coeur d'Alene Basin/Bunker Hill Superfund Facilitation
- GE Housatonic Citizens Coordinating Council
- Federal Mining Dialogue
- Libby Asbestos Superfund Site Collaborative Planning
- Portland Harbor Southeast Superfund Facilitation
- Town of Marion Permit Appeal Mediation
- Trash Free Waters Facilitation
- USS Lead Superfund Facilitation
- West Lake Landfill Dialogue

In addition, senior leaders supported ECCR training for 520 staff and managers, which enabled them to more effectively and proactively identify situations which would benefit from ECCR approaches, and plan and implement effective strategies for conflict prevention and resolution.

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EPA's ECCR Infrastructure

EPA's strong ECCR Infrastructure provides the EPA with the means to prevent and resolve environmental resolve conflict.

The EPA's infrastructure provides a high degree of support for ECCR activities. EPA continues to serve as a government-wide model for effective use of ECCR; it has been a national leader in the practice, teaching, and evaluation of ECCR for close to two decades. In recognition for these accomplishments, the CPRC was among the "Top 25 Innovative Government Programs" by the Harvard Ash Center, Kennedy School of Government in FY 2017. CPRC was recognized for the innovative approach it has taken to provide EPA with environmental mediators and facilitators, its effectiveness in preventing and reducing environmental conflicts, the significant work that it has done over the past decade, its training of EPA employees, and the influence that it has had as a model to other federal agencies which have emulated its program.

In addition to the leadership role played by the CPRC, the Office of Administrative Law Judges (OALJ), the Environmental Appeals Board (EAB), and the External Civil Rights program provide ECCR services on a routine basis.

1) The Conflict Prevention and Resolution Center (CPRC), within the EPA's Office of General Counsel, is the lead office for ECCR services at the EPA. The CPRC supports the Agency's regulatory, enforcement, and voluntary programs by helping participants collaborate and resolve disputes by using ECCR processes. The CPRC is led by the EPA's Dispute Resolution Specialist (DRS), who is appointed pursuant to the ADR Act of 1996. The CPRC provides access to neutral third-party services for ECCR training, coaching, and related services. The CPRC manages the EPA's Conflict Prevention and Resolution Services (CPRS) contract to provide a reliable and easy-to-use ECCR services from private sector ECCR experts. These experts also regularly assist EPA in strategic planning and increasing office efficiency, thus setting up EPA programs and regions to more quickly and effectively achieve EPA's high priority goals. The CPRC manages an interagency agreement with the U.S. Institute for Environmental Conflict Resolution (USIECR) so that EPA may access their unique expertise and services, particularly for working with tribes. Although CPRC focuses its activities on ECCR, it also supports non-environmental ADR work across the Agency, pursuant to EPA's ADR Policy. This includes supporting the use of ADR for the Workplace Solutions and Equal Employment Opportunity programs.

In 2017, CPRC helped the Agency more effectively engage states, tribes, and local stakeholders to achieve better environmental outcomes. The CPRC achieves this by implementing its strategic plan to:

1. provide excellent ECCR services for the greatest possible number of projects and cases;

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2. build the EPA's ECCR knowledge and skills to enable EPA staff and managers to identify the value of ECCR, recognize opportunities to use ECCR in their work and decision making, and be effective participants in ECCR;
3. cultivate opportunity for ECCR by ensuring that EPA staff and managers understand what ECCR is, how to use it, and how to access assistance when needed;
4. demonstrate results by further developing EPA's ECCR evaluation system and regularly communicating results of EPA's ECCR efforts.

2) The Office of Administrative Law Judges (OALJ) is an independent office in EPA's Office of Administration and Resources Management. In accordance with the Administrative Procedure Act (APA), the administrative law judges conduct hearings and render decisions in enforcement and permit proceedings between the EPA and those regulated under environmental laws. Most enforcement actions initiated by the EPA are for the assessment of civil penalties. In addition, the Administrative Law Judges also conduct hearings and render decisions in appeals from determinations of the EPA's External Civil Rights Compliance Office (ECRCO) in complaints of violation of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

All litigants before the Administrative Law Judges are offered the opportunity to resolve enforcement cases through ADR, with an Administrative Law Judge serving as a neutral mediator. ALJs serving as neutrals utilize techniques of facilitation, mediation, or early neutral evaluation when appropriate. In FY 2017, the parties in a majority of EPA cases affirmatively accepted ADR services from OALJ. ALJs mediated 5 cases to resolution in FY 2017

3) The Environmental Appeals Board (EAB), located within the EPA's Office of Administration and Resources Management, primarily hears appeals from permitting decisions and administrative penalty decisions. Other significant matters include petitions for reimbursement of CERCLA cleanup costs and certain pesticide registration and cancellation proceedings. A wide range of stakeholders appeal to the Board, including companies, state and local governments, tribes, non-governmental organizations, citizens, and in the enforcement cases, the Agency complainant.

The EAB offers parties the option to resolve disputes through ECCR with the assistance of an EAB Judge acting as a neutral mediator. The EAB's ECCR program has fostered negotiated settlements that speed up resolution of EAB cases and conserved government resources.

4) The External Civil Rights Compliance Office (ECRCO) within the EPA's Office of General Counsel enforces several civil rights laws which prohibit discrimination by applicants for and recipients of federal financial assistance from EPA, notably Title VI of the Civil Rights

Act of 1964.

The EPA's nondiscrimination regulations, require informal attempts to resolve complaints, which may involve environmental issues. In appropriate cases, ECRCO offers parties the opportunity to engage in ADR to resolve complaints. In FY 2017, ECRCO consistently included language regarding informal resolution options in its initial communications with parties. ECRCO continued ADR with one Civil Rights Title VI case, and referred an additional case to ADR in FY 2017. Both continued into FY 2018.

In addition to the support for ECCR from these four offices, the EPA also has 20 skilled **ECCR Specialists** in its regional and program offices, some of whom work as fulltime Specialists, but most do this work as a collateral duty. Many are attorneys in the Offices of Regional Counsel, but others work in a variety of contexts, including public involvement, environmental justice, and enforcement. They have been trained in a variety of ECCR skills, including facilitation, mediation, negotiation, and conflict coaching. ECCR Specialists advance the use and understanding of ECCR at EPA by serving as liaisons for ECCR activities; supporting ECCR education and training; drawing on existing regional resources to resolve disputes; building expert knowledge, skills, and capacity; tracking requests for assistance, ECCR cases and projects; coordinating regularly with the CPRC; and contributing to the development of this annual report to OMB and CEQ. On occasion, they also serve the Agency as mediators, facilitators, and conflict coaches.

ECCR Outreach, Training, and Capacity Building

In FY 2017, the Conflict Prevention and Resolution Center (CPRC) continued to lead the Agency's ECCR outreach and training activities to strengthen skills and promote the increased use of ECCR throughout the Agency. In addition, the EPA's ECCR Specialists encouraged and supported the use of ECCR in EPA's regions and program offices, as discussed below.

During FY 2017 the CPRC implemented a renewed internal communication strategy. Actions taken under the communication strategy informed potential and current client offices about available ADR services and strengthened ties between the CPRC and the EPA's regional and program offices. As part of that communication strategy, the CPRC created a whiteboard video to teach EPA employees about mediation and facilitation (https://www.youtube.com/watch?v=IuGM9BMdbJQ&feature=youtu.be).

To cultivate additional opportunities for ECCR, the EPA Dispute Resolution Specialist visited regional offices to assess the use of ECCR, ensure that EPA regional staff and managers understand what ECCR is, how to use it, and how to access assistance when needed. She brought back feedback to the CPRC about how to improve ECCR services. In FY 2016 she visited Regions 1 and 6. In FY 2017, she visited Regions 2, 3, 4, 5, and 9. An increase in

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regional use of ECCR followed several of these visits. She plans to visit the remaining regions in FY 2018.

In FY 2017, the CPRC developed a training strategy, which included upgrading trainings to better serve the EPA. Training was delivered to build staff skills in interest-based negotiation, engaging in difficult conversations, and legal bargaining. In FY 2017 CPRC developed three new trainings: *Engaging Constructively in Difficult Conversations*; *Bridging Cultural Divides*; and *ADR for Advocates*.

The CPRC provided a series of ECCR training sessions to build the ECCR knowledge and skills of Agency staff. In FY 2017 the CPRC delivered 158 hours of ECCR training over the course of 24 sessions, a 71% increase in sessions over the previous year. More than 520 staff and managers attended trainings at EPA headquarters and in six regional offices. Audiences included the Office of General Counsel's Water Law Office, Region 9 Office of Regional Counsel, the Office of Pollution Prevention's Product Science Branch, and the Superfund program offices in Regions 3 and 4, and staff from all headquarters program offices for trainings open to the entire Agency.

To build capacity for collaboration among more EPA employees, CPRC provided Interest-Based Negotiation training in October, February, and July to full-capacity audiences that represented multiple program offices.

The CPRC organized is tenth annual Conflict Resolution Week event in October 2016. This event increased EPA staff and managers' awareness of ECCR services at the EPA and improved their ECCR knowledge and skills. The CPRC hosted four sessions with speakers which were accessible in all regions and presented 3 in-person trainings. Region 4 organized four webinars and Regions 2 and 3 organized in-person trainings. In total, over 180 people from HQ and all regions attended a session during the event.

The CPRC continues to host monthly conference calls where all regional and headquarters ECCR Specialists exchange information on opportunities to use ECCR opportunities at the EPA and to ways to develop their own skills.

The CPRC continues to conduct bi-weekly ten-minute presentations on ECCR services for all new EPA hires at headquarters.

The CPRC mentored a graduate student during the spring and fall semesters of 2017 to support education of the next generation of environmental ADR providers and to support enhanced diversity of practitioners in the field.

Highlights of ECCR Capacity Building in EPA's Regional Offices

Region 1 (Boston, MA) - Region 1's culture of support for ECCR remained strong throughout FY 2017. The region maintains an environmental ADR Program, which

addresses ECCR cases, managed by a full-time senior attorney-mediator. Approximately ten other regional staff from a variety of program areas and professional backgrounds provide support to the ADR Program on a collateral basis by agreement of their managers. Most of them are trained mediators and facilitators with varying degrees of experience who serve as in-house neutrals when they are needed and available. The group also includes a contracts specialist from the Superfund branch who handles ADR contracting issues and paperwork.

Because of the proliferation of collaborative approaches to environmental problem-solving, there has been a growing demand for facilitation services, which Region 1 is addressing, in part, with in-house resources. Workload permitting, staff with mediation and facilitation skills participate in the regional ADR program. Regional management supports their efforts to develop and hone their skills to address this demand. Several staff members have taken community mediation training. Some of them have also participate in Boston's Federal Executive shared neutral program to hone their skills and to assist other agencies' needs for mediation.

Region 1 also supports building the ECCR capabilities of staff in several other areas. With the assistance of CPRC, the Regional Specialist put in two day-long trainings on interest-based negotiation for the Region's superfund program. After seeing that training, another manager requested that Region put on a conflict management in the field brownbag for enforcement inspectors.

Region 2 (New York, NY) - Region 2's ECCR program is led by an ECCR Specialist with decades of ADR experience who led several activities to increase ECCR capacity in Region 2. First, Region 2 conducted internal training 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 Conflict Prevention and Resolution Center (CPRC), Region 2's ECCR program promoted and hosted a videoconference connection to CPRC's Conflict Resolution Day events and had 19 attendees from Region 2 staff. As an extension of Conflict Resolution Day, Region 2 hosted a program titled, "The Right to Water: Environmental Fact-Finding in Company-Community Conflicts in Papua New Guinea" featuring two Columbia University Professors who work in Papua New Guinea to address conflicts related to water scarcity and mining in indigenous communities. The event was moderated by Region 2's ECCR Specialist and broadcast to HQ and the other Regions. Approximately 50 people attended this session in person and via webinar.

Region 2's ECCR Specialist served on a panel at the New Jersey Attorney General's Advocacy Institute titled "How to Be an Effective Advocate in Mediation" and began developing an internal full-day mediation for advocates training with CPRC. EPA's Dispute Resolution Specialist visited Region 2 in FY 2017 and met with all of the region's senior leaders. Her visit helped raise awareness about CPRC ECCR services and Region 2's ECCR program.

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Region 2's ECCR Specialist also built institutional capacity for ECCR by collaborating with Region 2's Office of Policy and Management in FY 2017 to create the Region 2 Facilitation Network. The Network was established with the recognition that the Region has a growing number of staff who have received basic facilitation training but have had little or no experience serving as a facilitator. To ensure the integrity of our ECCR program which seeks to provide facilitators who are adequately skilled, the Facilitation Network meets bimonthly to support newly trained as well as experienced facilitators in Region 2. Participants discussed many things and shared experiences, discussed difficult facilitation situations, introduced facilitation tools, and exchanged information about facilitation opportunities.

Region 3 (Philadelphia, PA) - EPA Region 3 has two active ECCR Specialists who consult on ECCR matters within the Region, serve as liaisons between Region 3 and the EPA Conflict Prevention and Resolution Center (CPRC), and help identify and obtain third-party neutrals. In FY 2017, Region 3 ECCR Specialists increased institutional capacity for ECCR by assuring that the framework developed by the Regional Training and Skills Development management workgroup included critical competencies, learning events, and target audiences in order to further the goal of leading a diverse and collaborative workforce. The specialists ensured that chief among the competencies identified are aspects of ECCR, including managing conflict, improved negotiation skills, teamwork, communication and self-awareness.

Region 3's ECCR Specialists teamed with the Regional Training Officer (RTO) to enhance the design, development and presentation of learning events. In addition, the RTO, ECCR Specialists and others are designing and facilitating retreats and workshops which, among other things, assist in conflict management in intra-Agency relationships as well as in inter-agency relationships and in environmental enforcement contexts.

Region 4 (Atlanta, GA) - Region 4 built ECCR capacity by supporting and sponsoring ECCR training in the Region. Regional training opportunities this year included: Promoting and participating in EPA's Annual Conflict Resolution Day and week events (); "Facilitating Effective Public Meetings and Events," "Basic Facilitation Skills for Classroom and Meeting Facilitators," and "Introduction to Mediation Training,". Region 4 also collaborated with CPRC and trained 19 Region 4 Superfund managers on negotiation. Additionally, EPA Region 4 worked with the Centers for Disease Control and the Federal Executive Boards (FEB) to provide training for federal shared neutrals to promote capacity building and ADR expertise within the Region. The FEB certification allows EPA staff to join and work with the FEB mediation corps in the Southeast U.S. Several Region 4 personnel are active in the FEB mediation corps. This experience not only assists other agencies to meet their ADR needs, but also improves the Specialists' mediation abilities, which they can use in a variety of areas including for environmental ADR cases.

Region 5 (Chicago, IL) - In FY 2017, Region 5 took several steps to build programmatic and institutional capacity for ECCR. In addition to collaborating with dispute resolution specialists at the CPRC to address ECCR cases, Region 5 Office of Regional Counsel (ORC) has two regional staff who support ECCR activities. Region 5 improved its specialists' skills and built partnerships with other agencies via the Chicago FEB shared neutral program. Finally, leadership from all the divisions met with the EPA Dispute Resolution Specialist in Chicago in September 2017 to take stock of the Region's current ECCR activities and discuss ways to expand use of ECCR in the Region.

Region 6 (Dallas, TX) - In Region 6, ECCR continued to be integrated into the enforcement program, both administrative and judicial. Many cases are resolved using informal ADR in this context. Region 6 makes use of these ADR services offered by the Administrative Law Judges. However, in most cases informal negotiation resolves the matter without the need for a neutral.

Region 7 (Lexana, KS) - In FY 17, Region 7 continued to routinely consider and support the use of ECCR to address a wide range of agency matters, both in the Region and across the nation. The Region continued to regularly participate in the ADR opportunities offered by EPA's Office of Administrative Law Judges in contested administrative cases. In addition, the Region 7 ECCR Specialist assisted the outgoing and incoming Regional Administrator, as well as managers, design helpful processes to engage stakeholders and communities. The goal was to consider the application of ECCR where appropriate at the earliest phases, particularly using tools of upstream collaboration. Region 7's ECCR Specialist directly provided high level ECCR practice to Region 4 in facilitation, conciliation, mediation, coaching, and ADR training.

Region 7 also worked to build ECCR capacity in several ways. The ECCR Specialist further strengthened interregional initiatives to promote region-to-region ECCR opportunities by working closely with Region 4. In Region 4, he performed ADR services in three states (Tennessee, Mississippi, and Georgia), and continued to help build internal ECCR capacity within Region 4 staff with trainings and mentoring. This Specialists also mentored an internal team of skilled ECCR staff at Region 7. Unfortunately, the ECCR Specialist retired from the EPA in October 2017 and due to FTE employee cutbacks, Region 7 no longer has a dedicated employee to fill this capacity.

Region 8 (Denver, CO) - Region 8's ECCR work is supported by its expert ECCR Specialist who devotes half of her hours to serving as the Region's ADR Coordinator. To promote and support Region 8's ongoing commitment to build institutional ECCR capacity, the Region sponsored two training programs in FY 2017 that reached out to different audiences. The first course was a two-day Introduction to Environmental Conflict Resolution presented by experts from the Udall Center. This tuition-based course attracted over 20 people, not just personnel from Region 8, but engaged individuals from other federal agencies and state

offices as well. The second training program was a half-day course presented as one of many kinds of courses offered to Remedial Project Managers during the 25th NARPM Training Program held this year in Denver. It also was attended by approximately 20 people. Region 8 is currently in the planning stages for bringing an environmental collaboration course, focusing on NEPA-related issues, to the Region in 2018.

Region 9 (San Francisco, CA) - Region 9 built ECCR capacity by conducting one day-long training in FY 2017. The Region 9 ECCR Specialist and the Office of Regional Counsel worked with the CPRC to develop training for 15 regional attorneys entitled Mastering Challenging Communications. The training was delivered in November 2017 and included modules on overcoming cultural communication barriers, interest-based negotiation problem-solving techniques, communicating bad news and explaining complex legal analyses.

Region 9 has one ECCR Specialist in the ORC who is active in supporting ECCR on a collateral duty basis. Region 9 used to have an ECCR Specialist who was devoted entirely to facilitation practice, but she retired in FY 2016 and her position has not been replaced. However, in FY 2017, Region 9 established a list of available in-house facilitators, trained by the now-retired Regional Facilitator, and posted this list on its Intranet web page. In FY 2017, these individuals facilitated a range of internal meetings and negotiations from interpersonal staff matters to events for special emphasis groups. The facilitators in this group are available to facilitate meetings between EPA and outside entities and among outside entities.

Region 10 (Seattle, WA) - In FY 2017, Region 10 continued to encourage, support, and promote the use of ECCR throughout the Region, by hosting trainings, doing more outreach, and working with management to find appropriate uses for ECCR. Region 10 saw a significant increase in the number of matters benefiting from the use of ECCR and from the use of facilitation services in particular. Region 10 staff are becoming increasingly familiar with the myriad ways in which ECCR can be incorporated into their work, and ECCR is routinely considered by Region 10 staff and management.

Region 10 provided two ECCR-related trainings in FY 2017. With the support of CPRC, Region 10 provided an ECCR training to the Office of Regional Counsel for 23 participants for and a training on ECCR techniques that was available to the entire Region and attended by 35 people.

Highlights of ECCR Capacity Building in EPA's Program Offices

Office of International and Tribal Affairs (OITA) - OITA helped build the EPA's capacity for improved environmental collaboration and conflict resolution with tribes. It provided mandatory bi-annual training for all of EPA's employees using the online course "Working Effectively with Tribal Governments" (WETG). WETG provided EPA employees with the skills and knowledge to more effectively work with federally recognized tribal governments.

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The training supported the EPA's direct implementation work of environmental programs with appropriate tribes. The training also enhanced EPA's work to assist tribes to assume regulatory and program management responsibilities.

In FY 2017, OITA refined and used the EPA's Public Participation Guide in multiple instances. The guide provides tools for public participation and public outreach in environmental decision-making. OITA beta tested and finalized the development of an online public participation training based on the EPA Public Participation Guide and in-classroom trainings. For example, OITA delivered a training on public participation using the EPA Public Participation Guide to representatives from Jordan's national government, local government, and NGOs in August 2017. OITA also conducted a video training for EPA Region 6 and various US-Mexico Border 2020 partners on use of the guide.

Office of Land and Emergency Management's (OLEM) - OLEM's Office of Superfund Remediation and Technology Innovation (OSRTI) and EPA's Conflict Prevention and Resolution Center (CPRC) continue to provide institutional support for ECCR by working closely in coordinating and assessing third party neutral ADR services for Superfund sites through EPA's Conflict Prevention and Resolution Services (CPRS) contract. Through this contract and in consultation with CPRC, OSRTI engages neutral third parties to provide ECCR services for key projects and programs. The contracted mediators and facilitators assist in implementing consultation, collaboration, public engagement, dispute prevention, dispute resolution activities so that difficult issues and controversies can be avoided, where possible, and constructively discussed, addressed or resolved when they do occur.

Region 1 Superfund Community Involvement Coordinator (CIC) Facilitation Workshop: OLEM assisted Region 1 to develop and conduct a one-day workshop for the Regional CIC team in the first quarter of FY 2017. While many of the CICs had taken facilitation training, actively participated in process design and had served on facilitation teams, the CIC team wanted to gain advanced knowledge and skills. They wanted to enhance their conceptual and practical knowledge of how these process tools have been and can be applied to Region 1 Superfund challenges and to strengthen their skills at interacting with community members effectively through hands-on practice.

Through the CPRS contract, a neutral facilitation trainer assisted the regional ADR program director to design the workshop, develop the agenda, and conduct the workshop for the CICs, Superfund program managers, and Site Remedial Project Managers (RPMs). The facilitator actively engaged veteran RPMs and Superfund managers in both agenda development and delivery of key segments of the workshop, including an improvisational demo and a panel discussion. This intra-regional, cross-generational knowledge-sharing emerged as a central aspect of the workshop.

Office of Research and Development (ORD) – The ORD Sustainable and Healthy Communities National Research Program (SHC) has built program capacity for

environmental collaboration through the development of the Decision Analysis for a Sustainable Environment, Economy, and Society (DASEES) and Health Impact Assessment (HIA) tools.

DASEES is a decision-support tool that allows ORD scientists to work with community stakeholders to follow a structured decision-making process for environmental and infrastructure planning, explore the costs and tradeoffs, and create a record of how those planning decisions were made. DASEES was used by the community of Dania Beach, FL used DASEES on resilient design. EPA Region 6 addressed issues of environmental compliance associated with small dairy farms, and in incorporating ecosystem services into Superfund remediation and site restoration planning with DASEES.

The HIA tool helps identify how proposed decisions may impact health and well-being. ORD scientists have collaborated with EPA Regional staff on HIAs designed to make decisions on multiple scales including planning renovations to address environmental health in a school and community center, a multi-Agency and community-engaged infrastructure upgrade project, and planning for recovery from Superstorm Sandy in New York and New Jersey.

International ECCR Outreach and Interagency Partnerships

International ECCR Outreach – EPA headquarters staff worked to develop international capacity and expertise in ECCR during FY 2017. 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 renewed interagency agreement (IA) with the USIECR. The EPA also continued to strengthen its partnerships with other federal agency ECCR programs during FY 2017. In line with the Goal 1 of EPA's current strategic plan to collaborate more efficiently and effectively with other federal agencies, approximately 39% 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.

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Section 2: ECCR Investments and Benefits

OMB/CEQ Question 2

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.

b. Please report any (a) quantitative or qualitative investments your agency captured during FY 2017; and (b) quantitative or qualitative results (benefits) you have captured during FY 2017.

The EPA is a leader in the federal government in evaluating and understanding the uses and the benefits of ECCR. The EPA uses both quantitative and qualitative methods to assess the investments made in ECCR as well as to assess the benefits realized when using ECCR. In this section, we discuss these methods and then report on the investments and results captured during FY 2017.

Methods to Identify Investments in and Benefits Realized from ECCR

The EPA Conflict Prevention and Resolution Center (CPRC) uses three methods to gather quantitative data about the use of ECCR throughout the Agency. CPRC uses the data to track and understand trends in ECCR use. First, the CPRC reviews use of the CPRS contract to identify the number of ECCR cases that employed external neutral third-party facilitators and the amount of money expended for each case. Similar information is extracted from periodic reports on the EPA's Interagency Agreement with the U.S. Institute for Environmental Conflict Resolution (USIECR). Second, ECCR Specialists in EPA headquarters and regional offices submit annual information on ECCR use to the CPRC. Third, the CPRC draws information from its request tracking system, which is used to log requests received by the CPRC for ADR and ECCR services.

Using these data sources, the CPRC used the following quantitative indicators to assess the level of investment in ECCR at the EPA in FY 2017:

1) dedicated FTEs who provided ECCR services in the CPRC and EPA program and regional offices;
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

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4) the number of ECCR cases that the EPA sponsored and the number of cases in which the EPA participated.

In addition, 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.

The EPA complemented these quantitative methods with additional activities to gather qualitative information about ECCR investments and results. These included using surveys and questionnaires to assess the practice of ECCR in the Agency, as well as questionnaires used to evaluate training sessions presented by the CPRC in FY 2017. In addition, 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 2017. 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.

Report on Investments in and Benefits Realized from ECCR in FY 2017

Investments

1) Dedicated FTEs

In FY 2017, EPA dedicated up to 10.5 FTE to ECCR nationally, with an additional 20 staff supporting the ECCR program on a collateral duty basis (i.e. ECCR Specialists). Of the 10.5 FTE, CPRC initially had 8 FTE including the EPA's Dispute Resolution Specialist. In FY 2017, attrition from CPRC was temporarily addressed by hiring a detailee. However, 2 additional ECCR specialists retired in FY 2018, one from CPRC and another from Region 7. With the uncertainties of the FY 2018 budget, it is unclear whether these positions will be permanently backfilled.

2) Investments in Contracted Services

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 2017, EPA invested approximately $5.5 million on ECCR and related services (e.g., neutral third parties for ECCR, ECCR training). The CPRC provides "Just in Time" contacting services and some start-up funds to help the EPA quickly address conflicts which require immediate attention. The Just in Time feature is particularly valued by programs and regions across EPA because it allows for fast provision of locally appropriate, highly trained experts to assist in the most visible hot spots

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across the nation. Programs and regions often supplement the initial startup funds provided by CPRC to retain longer term assistance to fully address important issues.

The Interagency Agreement with the U.S. Institute for Environmental Conflict Resolution supported a project involving an assessment of tribal wetland capabilities and needs in the arid southwest and Rocky Mountains, as well as preparation for a workshop in October 2017 to address these needs. In FY 2017 the EPA provided about $39,000 through the IA for this effort.

3) Number of projects on the CPRS contract

ECCR work occurred on 79 projects with support from the CPRS contract during FY 77.

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

EPA participated in 142 ECCR cases or projects. EPA provided funding or in-kind support (such as facilitation or mediation services) for 123 of those projects or cases. It participated in an additional 11 ECCR projects or cases in which no EPA funds or in-kind services were used.

Results

1) ECCR saved time and money compared to alternative decision-making processes

A census of lead attorneys in ECCR cases found:

- 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 faster resolutions, FTE savings, and direct cost savings compared to alternative decision-making processes such as litigation and settlement without third party neutrals.

2) Case evaluation

As part of its commitment to continuous improvement, CPRC conducted its 10th year of evaluating cases. An external third party conducted case evaluations to ensure that specific

case findings and participant views were kept confidential. The EPA uses this data to provide feedback to EPA staff and practitioners about how to improve future services and to build understanding of the benefits of ECCR. CPRC is fortunate to have years of baseline data as some of these measures will now be used for the EPA's Lean Management System.

3) ECCR training evaluation

Review of training evaluation data over the last 10 years shows important continuous improvement in CPRC's delivery of training nationwide. The CPRC has been using the training evaluations to improve their trainings over the years. As a result, FY 2017 training evaluation data showed that the CPRC continued to provide excellent services (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 to support enhancement of training.

4) ECCR benefits described by regions and program offices

The following are key themes in the responses of EPA program and regional offices to this annual survey requesting their views of the benefits associated with ECCR cases over the past several fiscal years:

- Furtherance of the EPA's mission and strategic goals: Nearly all offices and regions reported that the use of ECCR helped further the Agency's mission to protect human health and the environment by helping them establish collaborative processes to resolve environmental problems. These processes also help the Agency carry out its current strategic goals. Such processes often facilitate creative solutions and strategies to solve problems that would otherwise be held up in litigation, and enable the agency to plan effectively for potential future environmental problems.

- Improved relationships: Nearly all offices and regions stated that the use of ECCR resulted in enhanced collaboration and improved working relationships among participants. ECCR improved relationships between the Agency and its broad range of stakeholders as it supported cooperative federalism. These relationships improved not only during the ECCR process, but also enabled more productive conversations among stakeholders after the ECCR process ended.

- 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 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[3], 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, as it gives participants more control of over the creation of the outcome.

- More productive conversations: In addition to efficiency gains, the use of ECCR produced more productive conversations in both enforcement and non-enforcement contexts. When parties used a neutral third party, they reported experiencing: 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 often 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: When parties reached agreements, there were not only direct benefits, but indirect benefits too (e.g., enforcement settlements 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.

[3] "Upstream" refers to matters that arise before a clear conflict emerges, often before an Agency decision is made.

- External ownership and mutual satisfaction: Outside stakeholders are more likely to take ownership in the EPA's initiatives, programs and agreements.

- Capacity building: Using ECCR professionals helped the EPA and external participants build their capacity 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.

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

Region 1 (Boston, MA) - The benefits from Region 1's use of ECCR in FY 2017 vary depending on the nature of the process and the specifics of each matter. For example, the use of OALJ-sponsored ADR helped to move administrative penalty negotiations towards resolution more efficiently in terms of both time and resources expended than might otherwise have been possible.

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

Both in-house EPA neutrals and outside facilitators also helped stakeholders frame and conduct dialogues to address sustainability issues, especially in vulnerable coastal areas and other watersheds. Examples from FY 2017 include the Southeastern New England Program, the Mystic River Watershed Partnership, the Mattapoisett RARE and RESES project, and the Taunton watershed stakeholder group.

With increasing regularity as the Region worked to promote cooperative federalism, Region 1's in-house facilitators assisted with coordination and collaboration efforts between the Region and its state partners across New England. Facilitators helped promote efficiency, creativity, and goodwill among the agencies. Examples include: NE States/EPA Enforcement and Compliance Committee facilitation, RCRA TSDF Compliance Workshop, and the Green Infrastructure and Drought Resilience dialogue.

As in previous years, at the request of tribal and agency participants, Region 1 also continued to assist with negotiations and dialogues involving tribal matters. The Region assisted to secure funding and a contract mechanism to support the engagement of an outside neutral for the St. John River cross-boundary mediation. The Region also facilitated the annual New England Tribes/EPA conference, including being on the planning team, which was led by the host tribe. Region 1 also worked closely with a consortium of Federal agencies to convene and facilitate an inter-agency dialogue on the implementation of the Tribal trust responsibility. Approximately 13 federal agencies participated in this ongoing process.

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

Region 2 (New York, NY) - ECCR provided important benefits to Region 2, in FY 2017. While the Region has not applied metrics quantify the benefits of ECCR or sought formal feedback upon conclusion of ECCR matters, staff and managers have reported both resource-related and substantive benefits. Engaging third-party neutrals in Region 2 has saved staff time in several ways. Mediators in enforcement cases have provided focus and organization to negotiations, which reduces wasteful gamesmanship and posturing as well as delays between counter-offers. Enforcement cases are less likely to end up in costly trials and hearings, and discovery time and costs can often be reduced. Even where cases do not settle, parties report that ECCR benefited them by clarifying the issues of a conflict during the mediation. People in Region 2 who used 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 have also indicated that facilitated processes lead to better environmental results and build capacity within established groups, such as partnerships and workgroups, for more productive conversations post-facilitation. The growth in upstream ECCR matters has led to adoption of ECCR strategies in non-neutral contexts by individuals who have experience in ECCR. For example, in Region 2, EPA staff and ran meetings in a variety of community engagement endeavors using facilitation techniques.

Region 3 (Philadelphia, PA) - The use of ECCR resulted in many benefits in Region 3. Avoidance of litigation is a primary benefit identified for administrative and judicial litigation matters. With regard to matters that involved third-party neutral facilitation, primary benefits of ECCR include enhanced relationships between EPA and stakeholders and significant improvement in communication of interests, concerns, and desired goals of parties. Other benefits associated with litigation as well as facilitation matters included cost savings, furtherance of agency mission, and positive environmental results.

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Region 4 (Atlanta, GA) - Region 4 noted that ECCR processes benefitted the Region through cost savings and reduced litigation costs. Every case that was resolved through the ADR process, or even had issues addressed, reduced the time and expense that the Regional attorneys and staff expended on the case. Additionally, community outreach activities helped bring about a greater understanding of the issues and concerns involved (both by the Agency and the community / stakeholders).

Region 5 (Chicago, IL) - Region 5 used mediators to resolve or help resolve several enforcement cases in FY 2017. 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 helped make discussion of difficult issues more amicable, thus preserving a working relationship between EPA and other community stakeholders.

Region 6 (Dallas, TX) - Third party neutral facilitators working for Region 6 helped keep public meetings for the clean-up of the Chevron mine near Questa, New Mexico calm and productive. Public meetings related to Superfund sites can be emotionally charged, and community meetings with the EPA at this site had a history of being contentious. As a result, EPA had been reluctant to hold more public meetings. However, the presence of third-party neutrals helped by providing a fair and unbiased forum. Facilitators also helped the parties maintain focus on the objectives of meetings, and led questions and answers toward resolution, rather than further conflict. Looking ahead, several judicial and administrative cases entered mediation in FY 2018, and more are anticipated.

Region 7 (Lexana, KS) - For more traditional mediations through the ALJs, the benefits included furtherance of agency mission, timely project progression, and striving to avoid litigation were apparent. In several cases, successful ADR achieved results for the environment as well.

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

Region 8 (Denver, CO) - In each reported instance where Region 8 used environmental collaboration tools and techniques, relationships with its state and local partners enhanced and solidified significantly. Non-governmental stakeholders at each of these cleanup sites had greater opportunities to engage the Agency around issues that are important to them and to be active agents in making a difference in their communities. Using third-party neutrals at these sites freed the participants involved in these cleanup

efforts to consider alternatives and produce innovative results that would not have been possible if these groups were self-facilitated.

Region 9 (San Francisco, CA) - ECCR was very useful for determining the factual strengths and weaknesses of a case, the legal issues that could be problematic, and the degree of litigation risk should the case go to hearing. It was also very useful to hear the respondent's views on a case so that the parties could work their way toward resolution that satisfies both parties' needs. The benefits of ECCR use also include improved working relationship between the federal parties and stakeholders.

Region 10 (Seattle, WA) - Region 10 experienced significant benefits from using ECCR. The primary benefit reported in nearly all of the Region's ECCR cases for FY 2017 was increased meaningful stakeholder participation in agency decision-making. ECCR improved stakeholder engagement and helped to facilitate successful outcomes that benefited human health and the environment in furtherance of EPA's mission. Even where the Agency's position did not change as a result of ECCR, ECCR allowed for meaningful stakeholder involvement.

Office of Land and Emergency Management (OLEM) - The Office of Land and Emergency Management has found that in instances where there are multiple parties involved, often approaching an issue with different perspectives and constituencies, the use of ECCR can be very helpful to identify and areas of agreement and reach shared goals. In FY 2017 OSRTI supported and collaborated with CPRC on 7 cases, which include neutral facilitation services at the Lower Darby Creek Area site in Region 3; USS Lead and Velsicol sites in Region 5; Lowry Landfill site in Region 8; Coeur d'Alene/Bunker Hill Superfund site in Region 10; Federal Mining Dialogue; and the Region 1 Superfund facilitation workshop. Please see Section 5 - Notable Cases for further descriptions of these cases.

The Office of Water (OW) - OW experienced many benefits associated with using the ECCR in our surface water and drinking water programs. ECCR ensured that a streamlined and coordinated approach was taken to engage all participants in developing and conducting a process by which consensus-based decision making took place. Facilitators created 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.

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 for many years. However, a number of challenges in generating cost and benefit information face CPRC.

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 and other activities at the Agency. 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 routine staff turnover and reduced budgets, which may limit long-term availability of expert staff and reduce funding available for all ECCR activities, the EPA will continue to allocate some resources to assess the costs and benefits of ECCR. However, the ability to support more rigorous and innovative evaluations is likely to 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 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, an appropriate source of data for the relative costs and benefits of the alternative decision-making process must be identified. 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 the necessary retrospective reporting on ECCR and comparison cases. It is difficult for case participants to reliably provide estimates on time and resources spent after the fact, sometimes years later. A final methodological challenge is estimating the benefits, particularly environmental benefits for individual ECCR cases, which are complex and may take years to see. These issues demonstrate how such benefits can be challenging to measure and report on in a timely manner.

Planning for staff succession also poses a challenge for the continued delivery of high quality ECCR services nationwide. In headquarters, during FY 2017, the CPRC's evaluation program manager left the Agency and one of its most senior conflict resolution specialists left (another retired at the beginning of FY 2018). These individuals had significant institutional knowledge about the costs and benefits of ECCR. Although the CPRC backfilled one position, and has detailees temporarily filling the second and third positions, there has been a significant loss of detailed institutional knowledge. Hiring challenges government-wide affect the EPA's ability to bring on highly qualified specialists in ECCR, particularly those who have experience in evaluating ECCR.

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Section 3: Table of ECCR Cases in FY 2017

OMB/CEQ Question 3 - ECCR Use: Describe the level of ECCR use within your department/agency in FY 2017 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. Note: Tables 1-4 at the end of this report provide key sections of this table in an easier to read format.

Context for ECCR Application	**Total FY 2017 ECCR Cases**	**Decision making forum that was addressing the issues when ECCR was initiated:**					ECCR Cases or projects **completed**[4]	ECCR Cases or Projects **sponsored**[5]	**Interagency** ECCR Cases and Projects	
		Federal Agency Decision	Administrative Proceeding/ Appeal	Judicial Proceeding	Other (Specify)				Federal Only	Including non-federal participants
Policy Development	**12**	4	0	0	8	EPA internal policy dialogue, interagency policy dialogue, stakeholder input	4	11	0	9
Planning	**38**	10	0	1	27	Support of tribal, state, regional, municipal dialogue & decision-making, voluntary stakeholder action	18	34	1	21
Siting and Construction	**14**	13	0	1	0		5	14	0	1
Rulemaking	**5**	5	0	0	0		3	5	1	2
Permit Issuance	**7**	4	1	2	0		3	3	1	4
Compliance and Enforcement Action	**37**	10	11	9	7	Assessment of multi-agency enforcement program	20	28	4	6
Implementation/ Monitoring Agreements	**5**	4	0	0	1	Stakeholder Dialogue regarding access agreements.	1	5	1	4
Other	**24**	4	0	2	18	Stakeholder collaboration, site remediation, process improvements, situation assessment, stakeholder input, voluntary programs	9	23	1	6
Grand Total	**142**	**54**	**12**	**15**	**61**		**63**	**122**	**9**	**52**

[4] 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.

[5] 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.

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Section 4: ECCR Case Example: Helping States and Tribes Protect Their Waters

The Assumable Waters FACA Subcommittee

Summary: From FY 2014 to FY 2017, the EPA took a cooperative federalism approach and effectively used ECCR to bring clarity to an area of Clean Water Act (CWA) implementation which had been unresolved for decades. At issue was the identification of which waters a state or tribe can assume permitting responsibility for under section 404(g) of the CWA – known as "assumable waters" – and which waters remain under the permitting authority of the U.S. Army Corps of Engineers (USACE). The EPA's Office of Water (OW) tapped the expertise of the EPA's Conflict Prevention and Resolution Center (CPRC) to design a stakeholder assessment, establish a balanced federal advisory subcommittee, and engage a neutral facilitator to lead discussions among experts from states, tribes, academia, interest groups, the regulated public, and federal agencies. The professional facilitator helped all parties converge on an understanding of the issue, the process improved relationships with stakeholders, and a super-majority reached a timely agreement on recommendations to the EPA. If adopted by the EPA, the recommendations will make it easier for states and tribes to assume 404 permitting responsibility as Congress had intended.

OMB/CEQ Question 4: Using the template below, provide a description of an ECCR case (preferably completed in FY 2017). Please limit the length to no more than 2 pages.

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

Section 404(a) of the CWA authorizes the USACE to issue CWA permits for the discharge of dredged or fill material into navigable waters. Section 404(g) requires a cooperative federalism approach, and authorizes states and tribes,[6] with approval from the EPA, to assume authority to administer the 404 program in some but not all navigable waters. However, only two states and no tribes have assumed implementation of the 404 program, and none since 1994.

In 2014, EPA's federalism partners, the Association of Clean Water Administrators, the Environmental Council of the States, and the Association of State Wetland Managers asked EPA to clarify which waters are assumable under the statute. EPA's Office of Water (OW) worked with CPRC to hire a neutral facilitator to assess the intricacies of the issues, advise on how to articulate the Subcommittee's charge, and create a report to on who might best serve on the Subcommittee. In June 2015, EPA convened a subcommittee of 22 experts representing states, tribes, academia, interest groups, the regulated public, and federal agencies, to address the issue under its existing National Advisory Council for Environmental Policy and Technology (NACEPT), an established Federal Advisory Committee Act (FACA) committee. The

[6] Tribes were not specifically called out in the 1977 CWA amendments but can assume authority to administer a 404 program as provided in statute in Section 518(e) of the CWA, 33 U.S.C. 1378(e), which authorizes the Administrator to treat an Indian Tribe as eligible to apply for numerous CWA programs, including the 404 permit program under section 404(g).

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professional neutral facilitator guided the members through the process and addressed conflicts as they arose. Both the assessment and the facilitation were funded by the EPA's OW and the CPRC.

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

This issue had been lingering for decades and because of the controversy around the newly proposed Clean Water Rule and pressure from various associations of state regulators, EPA needed to act wisely and in a timely manner. It could have chosen a more standard approach, by issuing its own guidance or developing a draft regulation through the standard administrative process. However, given EPA staff's long engagement with states seeking greater clarification on assumable waters, EPA took a cooperative federalism approach. EPA realized that states, tribes, and others would bring a level of nuance, depth, skill, and decades of experience in administering programs that would ensure a final product that better reflected the realities on the ground and the diversity of situations across the U.S.

The ECCR services provided were (1) An *initial assessment report* prepared by the neutral facilitator to assist EPA in *convening* the Subcommittee, (2*) five multi-day, facilitated in-person Subcommittee meetings and three webinars with on-screen editing,* beginning with the first meeting on October 6-7, 2015 and ending with the last webinar on April 17, 2017, (3*) Calls with members* prior to the first meeting to orient them to the process; *support to work groups between sessions*; drafting of *meeting summaries* and assistance drafting *the final report*.

The Subcommittee effectively engaged in a collaborative process to effectively deal with several complex situations, ultimately making clear, but flexible recommendations which can be applied anywhere in the US. Workgroups, coaching, and having the neutral facilitator write when necessary, all helped the Subcommittee reach its goal.

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

The subcommittee benefited from *external neutral facilitation*, to avoid appearing to direct the Subcommittee. The facilitator's status as a neutral party allowed all involved to see EPA only as providing technical and policy expertise while allowing the members themselves to control the direction of the Subcommittee. The facilitator was a nationally recognized expert in ADR with experience in complicated, high profile FACA processes, which earned him the respect of all involved. The facilitator maintained a productive environment where the members worked diligently to engage in positive and constructive dialogue with the U.S. Army Corps. Without the facilitator's guidance, the Subcommittee would not have been able to achieve the comprehensive and clear recommendations that it did.

Relationships with some of EPA's key partners were maintained or improved using this collaborative process. First, use of a FACA subcommittee to request the input of key stakeholders rather than unilaterally issue guidance (the most likely alternative forum), showed stakeholders that the EPA took their issue seriously. EPA showed that it wanted the issue addressed through cooperative federalism, thereby gaining the stakeholder's trust. Also, the Agency accepted the stakeholders' recommendation, so they knew that EPA had heard their views.

While EPA and/or the U.S. Army Corps could have sought to develop unilateral or bilateral guidance from the agencies only, the extensive participation of tribes, states, and key interest groups brought a level of knowledge, history, and experience to inform nuanced recommendations accounting for a diversity of views of states and tribes, geographies and hydrologies. The outcome recognizes the challenges facing state and tribal entities seeking to manage permitting programs. The Subcommittee produced a thoroughly researched, rationalized, and detailed report to provide the EPA Administrator with a clear background and guidance on paths forward with this issue.

Although the Subcommittee did not come to full consensus on the final recommendations, the outcome was nevertheless a major achievement for all but one member to agree to one set of recommendations. The dissenting USACE position was significantly closer to the majority recommendation compared to its starting position. As the co-chair of the Subcommittee (and professor of public policy) noted, the process exemplified cooperative federalism in action.

Reflections on the lessons learned from the use of ECCR

Several key lessons emerged from this process, including:

- Because the process was initiated by states and tribes themselves, there was significant ownership in both the process and outcome. Members were diligent in preparing for and participating in meetings, and deeply engaged in all aspects of the process, reflecting a partnership between stakeholders and federal agencies.
- The EPA with the assistance of the neutral facilitator's convening report, assembled qualified, geographically distinct stakeholders with diverse interests, skills, experience who could work together in an effective manner and resulted in strong, engaged, and able Subcommittee.
- EPA members and staff exercised the appropriate amount of both agency influence and deference. EPA provided the Subcommittee meaningful process expertise, legal counsel, policy, and with the USACE, technical expertise. EPA did not influence the facilitator, Committee members, or writing any of the final product, which ensured appropriate and distinct advice informed but not controlled by, the agency's views and interests.
- The Committee, particularly toward the end of the work, effectively used webinars to review and revise drafts of the final report. While participants were somewhat skeptical of this approach, once they participated, found the format and technology to work well. The

document was projected via webinar so everyone could see the sections under discussion and the potential changes. The designated federal officer and facilitator also allowed members to send real time “texts” to make sure issues or concerns were addressed in dialogue. While not a substitute for meeting in-person, webinars allowed the Subcommittee to make progress while saving the EPA’s funds.

Section 5: Other ECCR Notable Cases

OMB/CEQ Question 5: Briefly describe any other notable ECCR cases in the past fiscal year. (Optional)

EPA regions and program offices highlighted cases which show how ECCR at the EPA involved stakeholders and helped overcome conflict to help achieve better protections for human health and the environment.

Region 1 (Boston, MA) - Region 1 had two cases which represent different ends of the spectrum of neutral-assisted processes. The unifying theme is that, in both instances, a skilled neutral helped the parties make informed choices and achieve their most important objectives. The first case involved the use of a judge/mediator to resolve administrative litigation arising out of a permit appeal. In the second matter, a neutral facilitator helped engage citizens in the pursuit of preparedness for the extreme weather events that threaten to batter their coastal community with increased frequency and intensity. Both matters resulted in a more efficient use of EPA's limited resources to achieve environmentally beneficial outcomes than would otherwise have been possible.

Town of Marion National Pollution Discharge Elimination System (NPDES) Permit Appeal Mediation: Region 1 issues five-year NPDES permits for municipal wastewater treatment plants, known as "publicly-owned treatment works" (POTWs). A recent permit for the Town of Marion, MA included an unusual condition, for which there was statutory authority, but little case law, and which would have been very expensive to implement. In the Town's view, this permit was yet another example of a commonly-expressed municipal frustration that every time EPA issues a new permit, the Agency imposes costly new limits. Unsurprisingly, the Town appealed the permit to EPA's Environmental Appeals Board ("EAB"). A local environmental advocacy group, which had been interested in the Town's POTW for years and had been prodding EPA to regulate it more stringently for a long time, also appealed the permit. The three parties agreed to participate in EAB-sponsored ADR, which included two days of face-to-face negotiations and numerous follow-up telephone conferences with the EAB judge-mediator and the parties.

Several factors contributed to the success of the process. First, during the initial day of ADR, the mediator provided neutral case assessments individually to each of the parties. These thoughtfully presented and highly credible assessments set the stage and helped each party see the advantages of avoiding litigation. Second, during extensive technical discussion over the course of the entire ADR process, the parties uncovered new factual information about the facility and impacts to the environment. These discussions allowed the parties to focus on those areas that might yield the biggest environmental benefit, while providing potential avenues for cost savings to the town. Third, by the end of the second day of ADR, the parties had reached conceptual agreement on a potential settlement that the mediator helped them

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reduce to a one-page list of bullet points. This simple, one-page document helped keep the parties on track in subsequent weeks as they worked out the details of the final settlement.

Finally, the resolve, professionalism, and subject area expertise of the EAB judge-mediator were crucial. The judge-mediator and her staff attorney went deep into the record and became fully conversant in the facts and law of the case. In addition, they continuously urged the parties to move forward. They were endlessly willing to meet individually with the parties, or as a group, to explore areas of potential agreement and to encourage everyone towards reaching a settlement. At times, the differences between the town and the environmental advocacy group seemed insurmountable, but the Judge and her staff attorney remained positive, focused, and tireless, which led the three parties to create a mutually acceptable agreement.

Mattapoisett Community Preparedness Facilitation: Mattapoisett, Massachusetts' water infrastructure is particularly vulnerable to storm surge and flooding. In 1991, Hurricane Bob's storm water inundated one of the community's drinking water well fields and the wells never recovered. In recent years, Region 1 worked with EPA's Office of Research and Development (ORD) to develop an understanding of the vulnerabilities of the drinking water and wastewater systems to extreme weather and to identify adaptation measures with an eye towards actively engaging the community to contribute to the science. The EPA scientists had several ideas about how the community could participate by providing data that would be included in the modeling to estimate the extent of storm surge. Despite the Agency's good intentions, deep technical knowledge, and relevant tools, its proposals did not resonate with the residents. The EPA experts were unable to capture community members' attention or mobilize their capacities. A skilled neutral facilitator was hired to help the Region organize the public involvement process and get valuable input from the community. The facilitator helped the Region break through the disconnect and identify a number of projects that engaged the community and allow them to better understand the impacts of storm surge from extreme weather events.

The project culminated with a well-attended, neutral-facilitated community "PrepareAthon" to raise awareness about potential impacts of storm water inundation and how to prepare for extreme weather. The event showcased the results of the community projects. The project was a success because of several services that the facilitator provided. She conducted an in-depth assessment that gathered the viewpoints of all the key stakeholders. She then facilitated several productive community meetings with a diverse set of local representatives. As a result, the community took several effective actions to raise awareness, prepare, and plan for severe weather events.

Region 2 (New York, NY) – Facet Superfund Site: In FY 2017, Region 2 used in-house mediation to resolve a dispute between two potentially responsible parties (PRPs) at the Facet Enterprises Superfund site in Elmira Heights, NY. EPA was not able to settle the matter with the two PRPs because the PRPs could not agree on an allocation of costs. Region 2's ECCR Specialist, acting as convener, discussed with the parties whether, and under what terms, they would be willing to use a mediator to resolve their dispute. Considering the limited funds of one

of the PRPs, the convener suggested several options including use of an in-house mediator. The PRPs decided to go forward with an in-house mediator but wanted to have the opportunity to select among several in-house candidates just as they would have done if they had selected an outside neutral through CPRS contract. The convener provided them with information on three Agency neutrals, and the parties ultimately selected an ECCR Specialist from Region 5 to mediate their case. The mediation between the PRPs was successful which made it possible for EPA to later settle the case with them. This is perhaps the first time that a Region has provided access to several in-house candidates to parties interested in mediating an environmental dispute. It could be a model for enhancing options for parties interested in mediation. Provision of in house mediators from regional offices increases collaboration between the Regional and HQ ECCR offices. It also highlights for Regional staff and management that there is a network of ECCR Specialists who are working together to serve their needs.

Region 2 Confidential Mediation Case: Region 2 also had a case this fiscal year that illustrates how best to use a mediator when one party is dissatisfied with the conduct of another party during a mediation. In this case, the mediator designed an effective process that both parties were satisfied with, and the negotiations resulted in an agreement in principle by the end of one of the mediation sessions. However, after reaching the agreement in principle, the respondent, in EPA's view, attempted to alter the agreement. EPA felt that the respondent was acting in bad faith and asked for a caucus with the mediator to complain about the respondent's conduct. The mediator, also concerned about the respondent's apparent effort to alter the agreement in principle, discussed with EPA the options for conveying a strong message to the respondent without using the term "bad faith." After the mediator followed-up in caucus with the respondent and because of the mediator's coaching, the parties were able to sign a final agreement consistent with the agreement in principle.

With this case, the mediator also helped the parties understand the facts of the case. Prior to engaging the mediator, the case was stalled because the respondent lacked experience with EPA's statutes and EPA's negotiation norms. As a result, the respondent did not trust EPA's assertion that some language in the model agreement is not open to negotiation. Given the respondent's lack of experience with EPA, it had no frame of reference for determining when EPA has flexibility with the language and when it does not. This created an impasse between the parties which, in part, led EPA to pursue mediation. In a caucus during the mediation, EPA discussed this problem with the mediator, and the mediator suggested that EPA provide models of other agreements to the mediator. The mediator then used those other agreements in a caucus with respondent to demonstrate the consistency of certain clauses in the agreements. This demonstrated to the respondent that some clauses in the model language are indeed inflexible. Although the respondent was not able to trust EPA's direct assertions regarding the immutability of some agreement clauses, the mediator's neutrality combined with the respondent's opportunity to review other agreements, led the respondent to soften its position. The parties then achieved settlement.

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Region 3 (Philadelphia, PA) - Eastern Lancaster County Source Water Collaborative (ELANCO): ELANCO is comprised of a variety of members, including water suppliers, local, state and federal agencies, non-profit organizations, and community members, with a mission to work together on issues of mutual interest and promoting practices that protect drinking water sources and providing co-benefits protecting Chesapeake Bay waters. ELANCO seeks to achieve its mission while maintaining and supporting Eastern Lancaster County's economy and unique culture. ECCR was used to support ELANCO during FY 2017 with facilitation, strategic planning, identifying potential partners, marketing and communications, and meeting design. ELANCO identified two specific ECCR tasks that they needed assistance with: 1) meeting facilitation and support to launch a Residential Subcommittee with a goal of 2) collaboratively producing outreach materials to educate local citizens about each party's role in protecting drinking water sources.

The use of ECCR led to several key results. First, the EPA gained important insights by doing a situation assessment and analysis before the initial meeting. This provided a foundation for EPA to craft a strategic agenda for a general ELANCO meeting.

Second, having a professional facilitator lead the half-day meeting allowed parties to develop a clear mission for ELANCO and garnered consensus on the residential subcommittee's objectives. These objectives included education for residents on actions they can take to protect their source waters and setting clear next steps required to pare down a focal area for the subcommittee. Finally, skillful facilitation also helped ELANCO develop outreach materials. ELANCO developed a logo to convey its brand.

Another key Region 3 case, Lower Darby Creek Area, is discussed below under OLEM's cases.

Region 7 (Lexana, KS) - Meadowvale Dairy LLC: The Department of Justice, on behalf of EPA Region 7, filed a judicial complaint against Meadowvale Dairy LLC and Sjerp Ysselstein for Clean Water Act violations at defendants' dairy facility in Rock Valley, Iowa. As part of the settlement negotiations, the parties agreed to participate in mediation with an outside mediator in October 2016. During the mediation, the mediator successfully helped the parties to agree to a basic framework for settlement, including a proposed civil penalty. The terms of the settlement were then drafted into a consent decree, which was finalized in March 2017.

For the Hinkson Creek total maximum daily load (TMDL) Collaborative Adaptive Management Process (CAM), the ECCR Specialist facilitated the stakeholder committee, designed the CAM process, and coordinated with other CAM Teams answering to the Stakeholder Committee. The CAM process, which uses Appreciative Inquiry (AI) and Adaptive Management principles within a collective three-level process, is the first hybrid, place-based process blend of its kind in the nation.

Through creative use of ECCR, the CAM obtained several benefits. First, was the settlement of litigation over the Hinkson Creek TMDL case in Missouri. Second, as the CAM stakeholders

took on more substantive issues dealing with the watershed, it became clear that the long-term benefits of collaboration provide an opportunity to meet the water quality standards for the creek and improve its aquatic habitat going beyond what would be achieved through litigation alone.

Region 9 (San Francisco, CA) - On behalf of the Red Hill underground storage tank site, the mediator reviewed drafts of key deliverables prepared by Navy to improve those documents before they were delivered in final format and became a public record. This greatly improved the working relationships between the parties and stakeholders.

Region 10 (Seattle, WA) - Idaho Fish Consumption Survey: With the assistance of CPRC and a neutral third party, Region 10 convened a collaboration consisting of Idaho tribal governments, Columbia Basin tribal governments, and Idaho Department of Environmental Quality. The purpose of this collaboration was to share information as Region 10 managed the completion of the Idaho Tribal Fish Consumption Survey, which was intended to support tribal capacity building and Idaho's development of Human Health Criteria under the Clean Water Act. The neutral third party facilitated the collaboration between EPA, the Tribes and the State, and helped to resolve difficult decisions necessary to finalize the survey.

The Port Communities Collaboration is another example where Region 10 particularly benefited from the use of ECCR. Region 10 used a facilitator to better prepare partners for a pilot project. The EPA selected Seattle as one of the sites for a pilot project to test capacity-building information developed by Office of Transportation and Air Quality (OTAQ). Using a facilitator, relations between the Region and stakeholders, as well as amongst the stakeholders themselves, have improved. Participants gained a better understanding of the Agency's goal with the pilot project, and the Region acquired a refined understanding of issues faced by stakeholders and their needs. For example, during the team-building meeting, the facilitator helped all involved parties realize that they shared a similar set of goals for the project. This was instrumental in helping establish a basis of trust between the project partners and supported effective testing and implementation of the tolls developed by OTAQ.

Finally, Region 10 used ECCR in the Making a Visible Difference (MVD) Portland project, with the support of CPRC. Facilitators supported four Portland steering committee meetings. These meetings provided an opportunity for increased networking opportunities and substantive developments within the group's four focus areas: Green Infrastructure, Green Workforce, Environmental Justice Capacity-Building, and East County Equitable Development. As a result of this collaboration, two groups joined to receive funding from the Meyer Memorial Trust to pilot a program to recruit and train African American and Native American individuals for careers in Portland's green workforce, a highly successful outcome.

Office of Chemical Safety and Pollution Prevention (OCSPP) - Toxic Substances Control Act (TSCA) Negotiated Rulemaking: OCSPP established a Negotiated Rulemaking Committee

(Committee) under the Negotiated Rulemaking Act as required by the TSCA, as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg Act). The CPRC provided guidance on establishing and managing a negotiated rulemaking, which was valuable to OCSPP because it had been many years since one had been done. The facilitators for the meetings conducted a situation assessment to shed light on the issues and to select the committee members. They also convened and facilitated the meetings. The first meeting of the Negotiating Committee was held June 8-9, 2017. The Committee consisted of over 30 members representing interest areas that could be significantly impacted by the outcome of the negotiated rulemaking process. The Committee met three times: June 8-9, August 16-17, and September 13-14. Ultimately, the process was concluded early because the Committee determined that it was not able to reach consensus on regulatory approaches.

Office of Land and Emergency Management (OLEM) - In FY 2017, the Office of Superfund Remediation and Technology Innovation (OSRTI) Community Involvement and Program Initiatives Branch (CIPIB), CPRC, and the regions invested in seven collaborative ECCR projects to support EPA's work at Superfund sites. Three of these projects continued ECCR services from FY 2016 and four new projects were initiated in FY 2017.

USS Lead: The USS Lead Superfund Site area in East Chicago, IN, encompasses three neighborhoods, including public housing. In July 2016, residents of the Public Housing Complex were told that they would have to move out of the complex because of lead and arsenic contamination in the soil. This caused concern among multiple residents and some residents sued housing authorities for alleged housing discrimination. Residents formed a CAG in October 2016 to help residents understand the cleanup and become more involved.

CIPIB secured a neutral facilitator through the CPRS contract to conduct a situation assessment to understand the communities' key issues and recommend steps to inform and engage the broad diversity of community members. After conducting a series of interviews with key community members and community group representatives, the facilitator developed a report which recommended steps the Region could take to broadly inform and engage community members. One key recommendation was to conduct facilitated monthly meetings on topics of interest to the community, as determined in advance in a facilitated community leader planning call. The first community informational meeting was held in June 2017. The meeting provided information on the planned EPA site cleanup activities for the next several months, the EPA oversight of the planned HUD and City of East Chicago demolition of the housing complex, and answered questions from residents. The community continues to meet monthly and these community meetings provide a single regular forum where representatives of the various community groups, as well as residents who are not members of any of the groups, to ask questions and raise issues of concern. During monthly pre-meeting calls between the facilitator and community representatives, residents identify questions they would like answered at the meetings so that EPA can prepare answers, have the appropriate experts available, or contact information if a question is best addressed by another agency. The meetings and pre-meeting calls have provided EPA with important information about residents' concerns about the cleanup and other environmental issues. One result is that EPA started a

groundwater study in the area because residents identified problems with basement flooding and concerns that some of the water may be contaminated. Meeting monthly has also strengthened the relationship between the EPA cleanup team and residents and helped build trust.

Lower Darby Creek Area (LDCA): Neutral facilitation supported establishment of a Community Advisory Group (CAG). The CAG was comprised predominantly of members of the Eastwick community, which was impacted by the LDCA Superfund site. The CAG was designed to serve as the focal point for the exchange of information among the local community, the EPA, and other pertinent agencies involved in cleanup of the Superfund site.

The facilitator was not only instrumental in establishing the CAG, but also in working with the CAG, and building trust and communication between the EPA and the community. This matter involved environmental justice and other environmental issues that the community believed were not being addressed. The facilitator helped the community understand EPA's perspective and what EPA could and could not do to address community concerns, helped develop communication between the community, EPA, and other federal agencies, and helped develop communication between community members themselves.

Velsicol: EPA began a fund-lead cleanup of the Velsicol Superfund site in St. Louis, Michigan in FY 2017. In September 2017, the CPRC provided conflict coaching to the EPA site staff for the Velsicol Superfund Site via the CPRS contract. There are several objectives of the coaching. The first is to improve communication between EPA and the site CAG, the Pine River Superfund Citizen Task Force. The second is to increase and improve communication with other community groups and agencies. And finally, the coaching built staff capacity for explaining EPA's obligations and limitations to the CAG and other community members.

Lowry Landfill: While the Lowry Landfill Superfund site has been in maintenance for years, there has been renewed interest in it from community members near the site. Because of the growth of the Denver Metro Area, many housing developments were built on land that borders the site. Many newer residents were confused about Superfund, the remedy, and its protectiveness. Additionally, there are different opinions between EPA and Colorado Department of Public Health and Environment (CDPHE) about the protectiveness for several operable units. Community members familiar with the site's history were aware of these differing opinions and have formed factions around these different views. This led to even more confusion and uncertainty about the remedy.

The goal of this CAG was to assist affected community members to become more informed and engaged. The Region 8 Lowry Landfill Community Involvement Coordinator (CIC) requested neutral facilitation support under the CPRS contract to assist the community in establishing and convening a functional and broadly representative CAG for the site. Through the end of FY 2017, the neutral facilitator worked with community members to identify potential CAG members, develop operating protocol and procedures, and provide recommendations to EPA and CDPHE for the rest of the CAG convening and scoping process. By September 2017 the community members and agency representatives formed a CAG. During those initial

meetings, the skilled neutral facilitator worked with EPA, CDPHE, other agencies, and CAG members to create a topic tracking form to plan out topics for FY 2018 meetings. This was an important step in gaining community support and trust. While there is still a lot of work to be done, the neutral facilitator has helped open the dialogue between agencies and members and the positive relationship amongst them will continue to grow.

Coeur d'Alene/Bunker Hill: Since October 2015 the Conflict Prevention and Resolution Services contract has provided neutral facilitation services to support interagency meetings between EPA, the Coeur d'Alene Trust (CDA) Trust and/or the Idaho Department of Environmental Quality (IDEQ), to discuss changes in funding and roles as CDA takes on a larger part of EPA's cleanup work for the site. In particular, the neutral facilitator provided skilled neutral facilitation, expert planning, consultation, and meeting facilitation to help the EPA site team have a constructive and productive discussions. Together, parties worked through sensitive issues associated with reduced funding and changing roles with IDEQ. EPA completed a Memorandum of Agreement with IDEQ in June 2016. Continued neutral facilitation through FY 2017 has enabled EPA and IDEQ to collectively identify, prioritize, and plan next steps in the cleanup process. This case is expected to end in January 2018.

Federal Mining Dialogue: From October 2016 through September 2017, OLEM used facilitation services acquired through the CPRS contract for the Federal Mining Dialogue (FMD). The FMD is an inter-agency workgroup which is comprised of the EPA, the Department of the Interior (Bureau of Land Management), the Office of Surface Mining Reclamation and Enforcement, the National Park Service, the U.S. Geological Service, the Office of Indian Affairs (OIA), the Army Corps of Engineers, the Department of Agriculture (U.S. Forest Service), and the Department of Energy. The FMD meets on a quarterly basis and provides a structure for agencies to work collaboratively on national and regional abandoned mine land (AML) issues, share information on best management practices, discuss and design future studies, and develop guiding documents that cut across the federal government. Facilitation has helped FMD members prioritize projects, develop approaches to addressing contamination in watersheds, and adopting best practices).

Office of Research and Development (ORD) - In FY 2017, ORD's Office of Science Advisor used ECCR to evaluate two allegations of a loss of scientific integrity. In the first case, an EPA employee submitted a dissenting scientific opinion to the EPA Scientific Integrity Program. The employee maintained that a fish tissue analysis sometimes used by EPA was used incorrectly. The goal of the mediation project was to determine whether to convene a face-to-face meeting of diverse EPA and external stakeholders to discuss the issue, foster consensus on the science, and develop short-term and long-term strategies to move forward. Two third party mediators, engaged through the CPRC's Conflict Prevention and Resolution Services (CPRS) contract, conducted interviews of EPA staff and staff from other organizations, and determined that a workshop was not needed; the Scientific Integrity Program concurred.

Scientific Integrity: An EPA employee submitted an allegation of a loss of scientific integrity when he was denied authorship of a journal article. A third-party mediator was engaged

through the CPRS contract, with a goal of determining whether additional contributors should have been named as authors. This case ended in agreement in FY 2018.

The Office of Water (OW) - In addition to the Assumable Waters FACA Subcommittee described above in Section 4: ECCR Case Highlight, OW also supported a project in increase tribal wetland managers' abilities to both understand and manage their own wetlands. This was an ambitious project which worked with over 30 tribes in the arid southwest and Rocky Mountains (EPA Regions 6, 8, and 9).

For the Tribal Wetlands Assessment and Workshop, the EPA hired two experienced facilitators through CPRC's IA with the USIECR. These facilitators had decades of experience working with tribes on a multitude of environmental issues including wetlands management. With the support of EPA staff, the facilitators did several things to make this project successful. First, they created an extensive assessment report in July of 2017 after interviewing 40 tribal wetlands managers. This allowed EPA and the facilitators to better understand the needs and concerns that these tribal wetlands managers. Second, they formed working groups with EPA staff and tribal members to create ideas for addressing the capacity building needs of these tribes. Together they organized a three-day long meeting of interested tribal wetlands managers to both increase the knowledge and skills of the participants and to explore opportunities for tribes to form knowledge-sharing networks capacity building to continue after the meeting. These same facilitators organized and led that meeting in October 2017, which was attended by over 70 tribal members.

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Section 6: Priority Uses of ECCR

OMB/CEQ Question 6: 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 EPA has used ECCR for many years, throughout the Agency, to support its public health and environmental mission. The EPA has used ECCR in almost every priority area of environmental conflict and cross-cutting challenge. EPA's current ECCR services are readily available and can be adapted to address any other priority areas.

Rather than identifying specific policy areas as priorities for ECCR support, the agency relies on its program and regional offices to identify ECCR opportunities as needs arise. The following examples illustrate the use of ECCR in the priority areas identified by OMB/CEQ:

- In FY 2017, ECCR was used most frequently to address issues under the CERCLA (Superfund) in about 33% of cases and the CWA in approximately 31% of cases.
- The EPA was involved in at least one ECCR case addressing ESA issues - the Missouri River Recovery Committee led by U.S. Army Corps of Engineers.
- There were two NEPA-related ECCR cases; one in Region 1 and one in Region 10.
- ECCR cases involving the CWA 404 Program included the Assumable Waters FACA subcommittee which made recommendations to clarify state and tribal assumption of the CWA 404 permitting program (see Section 4) and an underground mining case.
- The EPA sponsored or participated in at least 12 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, 4, 6, 8, 9, and 10.
- The CPRC also supported a key federalism meeting on changes to the Clean Water Rule in FY 2017.The CPRC is seeing an increase in demand for these services at the beginning of FY 2018.

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Section 7: Non-Third-Party-Assisted Collaboration Processes

OMB/CEQ Question 7: Briefly describe other significant uses of environmental collaboration that your agency has undertaken in FY 2017 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. When appropriate, the EPA works to resolve environmental conflicts without litigation and enlist public engagement, whether those conflicts arise with states, tribes, public interest groups, or industry.

A common use of environmental collaboration at the EPA are the committees subject to the **Federal Advisory Committees Act (FACA)**. Some of EPA's FACA committees use professional facilitation and are counted as ECCR cases and described above in this report; most of EPA's FACA committees are not facilitated and are run by the committee's chair.

FACA committees are created to obtain advice on a wide range of environmental issues. Committee members include scientists, public health officials, businesses, citizens, communities, and representatives of all levels of government. Approximately 600 members sit on EPA's 23 federal advisory committees bringing a variety of perspectives and expertise to the environmental consensus-building process. Every committee meeting, no matter what the subject matter or where it is held, is required to provide open government and citizen participation.

EPA headquarters and regional offices provided following examples of environmental collaboration without a neutral third party.

Region 1 (Boston, MA) - Region 1 continues 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 continues 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 its state and tribal partners. In FY 2017, Acting Regional Administrator Deb Szaro played an active role and was one of two regional representatives on the E-Enterprise Executive Leadership Council. The Region's emphasis on collaborating with our state and tribal partners has been the cornerstone of this effort.

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As part of Region 1's commitment to E-Enterprise (a new model for collaborative leadership among environmental co-regulators), the Region took on a new role as co-chair of the newly formed E-Enterprise Regional Coordinators (EERC) which serves to link all ten regions through a communications networking group. The EERC operates by each of the ten regional representatives sharing its region's modernization and efficiency projects, while also leading its own state/tribal regional network. The EERC is becoming an exceptionally efficient conduit for E-Enterprise to help foster collaboration among regions, states, and tribes to link modernization and business process improvement initiatives throughout the country.

Finally, while many of the collaborative efforts listed in Region 1's FY 2017 neutral-assisted case list involved discrete facilitated events, many ongoing collaborative efforts proceeded without ongoing facilitation assistance. For example, the regional team working on the Southeastern New England Program for Coastal Watershed Restoration is engaged an on-going multi-faceted collaboration with EPA's many partners. The neutral-facilitated work group meetings represent only a small part of the collaboration that took place. The 2017 facilitated discussions among the Region and its state partners regarding enforcement and compliance assistance also represents a small fraction of a longstanding EPA/states collaboration that has evolved over time.

Similarly, many collaborative "derivatives" 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, are a cornerstone effort. Because of these sessions, a multi-party stakeholder group become self-sustaining after it identified a range of community concerns and established a set of priorities which it is began to address. Specifically, they began developing and implementing plans to achieve short and long-term goals related to water, public engagement, solid waste concerns, and jobs.

Region 2 (New York, NY) - Region 2 continued its post-Sandy recovery partnerships in FY 2017. Its innovative interagency collaboration made progress under the leadership of the NY/NJ Federal Leadership Resilience Collaborative. The Collaborative met regularly 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 2017 through the multi-agency Sandy Regional Infrastructure Resilience Coordination Group and associated Technical Coordination Teams.

Also in FY 2017, Region 2 funded, and participated in, The Governors' Institute on Community Design (GICD) in the U.S. Virgin Islands. The GICD brought together a team of national experts on climate adaptation and resilience for a two-day collaborative workshop on preparing for flooding, sea-level rise, and other natural hazards. Day 1 began with a welcome from Governor Mapp and Lt. Governor Potter. Discussions focused on sharing critical information and exploring different strategies for reducing risk and building long-term resilience. Presenters from the Hawaii Sea Grant program, Virgin Islands Territorial Emergency Management Agency, and experts on hazard mitigation planning from the University of North Carolina and the University of Michigan discussed the opportunities to jointly address climate adaptation within the

traditional hazard mitigation framework. Participants from the USVI Climate Change Council, including many agency directors, alongside business and NGO leaders, contributed and responded to recommendations from the experts. Out of this collaborative effort, the participants provided a set of recommendations to the Governor.

Finally, Region 2 also advanced an internal collaborative effort on mapping composite flood risk in FY 2017. The project comprised a staff-level workgroup with members of Region 2's Superfund program, Clean Air and Sustainability Division, and Office of Policy and Management. The workgroup developed new GIS mapping products and piloted analysis of flood risk for Superfund and Air Monitoring programs and then wrote a proposal to have the project featured in the Management Development Program (MDP) training. The MDP training program fosters collaboration among the Divisions to advance leadership skills. A group of managers in the MDP training drafted proposals on how the flood mapping work could be more broadly integrated into the Divisions of Region 2. At the beginning of FY 2018, the collaboration is developing a framework for selecting appropriate flood risk data and how to communicate flood risk to the public.

Region 3 (Philadelphia, PA) - Region 3 engaged in several facilitative and collaborative activities involving the EPA, states, local communities, NGO's, and other federal agencies. Region 3 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 (Dallas, TX) - Staff have a great deal of experience in negotiating with outside entities, whether from industry, states, or other federal agencies. In FY 2017, Region 6 negotiated with states regarding planning under the Clean Air Act and with industry in permitting and enforcement contexts. The Region was also involved in several instances of public engagement.

In particular, Region 6 entered into a Partnering Agreement with the U.S. Army 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) is not a signatory, but was heavily engaged as a contributor. The main areas of coordination are CWA 404 permitting and NEPA compliance. The agreement addressed large or major water supply projects where predictable impacts are significant enough to require an environmental impact statement. Under this agreement, the partnership will develop materials to assist water suppliers to calculate population growth, water use, water conservation, reuse measures, industrial water demands, water supply reserves, and impacts.

In a related matter, Region 6 and the U.S. Army Corps of Engineers participated in a series of meetings regarding a CWA 404 application to develop a large water supply project. Participants also included a member of Congress, Congressional staff, and representatives of several municipalities impacted by the proposed project. While not a neutral, one congressman performed the role of facilitation at a meeting, assisting federal agencies toward efficient resolution of roadblocks and other conflicts.

The Region has also worked closely with the Texas Commission on Environmental Quality to create approaches to reuse millions of scrap tires in the state. Through this ongoing collaboration, the state and federal explored legal ways to eliminate legacy tire piles that can serve as disease vectors.

Region 7 (Lexana, KS) - Region 7 used non-third-party-assisted collaborative processes in several instances. First, it continued its practice of using pre-filing negotiations in all administrative enforcement actions seeking a monetary penalty. Due to this, many actions continue to be settled in the pre-filing stage.

Also in FY 2017, due to regional experience of using ECCR methodologies, the Region undertook a number of Lean Six Sigma projects, including streamlining administrative enforcement cases. As regional staff contunue to improve their ECCR skills, the region expects that they can further assist the Agency as it implements its Lean Management System.

The other major development that is expected to increase the general use of ECCR skills within the region, is the reorganization of the community involvement program from Public Affairs to the Enforcement Coordination Office (ECO). ECO houses environmental justice and similar programs. This reorganization provides the enforcement office with ECCR expertise that is expected to strengthen understanding of community involvement and encourage use of ECCR at earlier stages in the enforcement process.

Region 10 (Seattle, WA) - EPA led a Columbia River toxics workgroup in FY 2017 that developed a map of polycyclic aromatic hydrocarbon (PAH) contamination in the Columbia River Basin. This map will be posted on the Northwest Power and Conservation Council website, to help affected communities understand the impacts of PAHs on fish and wildlife recovery and the actions that individuals can take to reduce PAHs in the environment.

Office of Chemical Safety and Pollution Prevention (OCSPP) - In response to 2016 Toxic Substances Control Act (TSCA) amendments, the Office of Pollution Prevention and Toxins (OPPT) has engaged in regular meetings with stakeholders including opening dockets to obtain input on the implementation of amended TSCA. Recently, OPPT held meetings on both of its new chemicals programs and a potential pre-prioritization process for existing chemicals. These meetings provided feedback and furthered discussions with stakeholders regarding

implementation of the new law. In addition, OPPT held numerous smaller meetings with industry, NGOs, and other groups to engage with all parties on various issues posed by the new law.

Office of International and Tribal Affairs (OITA) - Tribal Consultation Policy: The EPA's Policy on Consultation and Coordination with Indian Tribes is based on a Federal government to Tribal government relationship. EPA programs and regions conducted 44 such tribal consultations in FY 2017. 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.

EPA-Tribal Environmental Plans (ETAPs): Under the EPA Indian Environmental General Assistance Program (GAP), the EPA successfully completed 319 individual ETEPs with tribes. This represents 62% of all tribes which have received GAP funding, with more than 100 plans under development at the end of FY 2017. 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 intermediate and long-range tribal environmental program development priorities and inform funding decisions by linking ETEP goals to annual financial assistance agreement work plans. The ETEPs and resulting grant work plans also 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 100% of tribes receiving GAP funding (approximately 500 tribes) by the end of FY 2018.

Local Environmental Observers (LEO): In FY 2017, OITA continued to work with ORD, Region 10, and the Alaska Native Tribal Health Consortium to expand the use of the LEO network. LEO networks are an observation tool that recognizes a broad spectrum of local knowledge, traditional ecological knowledge, and scientific knowledge to facilitate the sharing of information on changes in the arctic environment. Two LEO Hubs were inaugurated in the Canadian Arctic during FY 2017 and two additional workshops were held in Finland and Sweden to expand the network across the circumpolar north. These efforts led to a Framework to Establish a Circumpolar Local Environmental Observer Network which was adopted by the Ministers to the Arctic Council at the May 2017 Fairbanks Ministerial. 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. Monthly webinars foster consistent, long-term dialogues on a range of issues. The Circumpolar LEO project continues to operate in a neutral space, where actors from across sectors and disciplines, representing multiple knowledge bases, can collaborate and cooperate to address changes to the arctic environment.

Environmental Impact Assessment (EIA) in Lower Mekong Region: Under an interagency agreement with the U.S. Agency for International Development to strengthen the EIA in the Lower Mekong Region, the EPA continued to serve as a technical advisor to the Regional Technical Working Group (RTWG) on EIA in FY 2017. The RTWG, which was launched in 2015, was a group of government and civil society representatives, who collaborated 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. In FY 2017, the EPA provided remote support to the RTWG and participated in their fifth and final meeting in January 2017 in Myanmar. EPA's 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. In March 2017, the RTWG released The Guidelines on Public Participation in Environmental Impact Assessment (EIA) in the Mekong Region (http://www.pactworld.org/library/guidelines-public-participation-eia-mekong-region). In partnership with Mekong Partnership for the Environment Pact, EPA also developed a training module on the Guidelines to be used in EIA-related courses in the region.

Trash Free Waters - Peru: In FY 2017, EPA, through a cooperative agreement with Battelle, granted a local NGO funds to implement a project in Chincha, Peru. This project had been identified during the September 2016 Trash Free Waters Stakeholder Workshop. The project focused on formalizing informal recyclers in two communities in Chincha, Tambo de Mora and El Carmen, through trainings and workshops implemented by the local NGO, Ciudad Saludable. The project also identified and mapped local trash "hotspots" - areas of extensive accumulation of solid waste near waterways in El Carmen and Tambo de Mora, so that the government of Chincha can appropriately prioritize areas for prevention and removal. This project helped to optimize and expand source segregation and selective collection program in both communities in order to further reduce the waste that can enter local waterways and coastal areas. Ciudad Saludable used a coordinated approach involving local stakeholders spanning government, private sector, NGOs, and motivated citizens to effectively implement this project. This coordinated approach with stakeholders was highlighted during the Trash Free Waters Stakeholder Workshop as a method to better include the public in environmental decision making and ensure that implementation accurately reflects the needs of the community being served.

Transboundary Cooperation with Canada: Since early 2014, EPA Region 10 (with the encouragement and facilitation of OITA), the U.S. State Department, and the U.S. Consulate in Vancouver had more concerted discussions with their counterparts in Environment and Climate Change Canada and the Canadian Environmental Assessment Agency. Their discussion focused on new infrastructure development projects in Canada with potential transboundary impacts to the states of Alaska, Washington, and Idaho. During these discussions, Region 10 shared information concerning new projects with their Canadian counterparts in advance of the release of environmental impact assessments of Canadian projects. Examples projects include: new or expansions of existing mining projects; new or expanded pipelines for transmitting Canadian oil; new or expanded facilities and transportation mechanisms for the expanded pipelines, liquefied natural gas (LNG) facilities, and mining projects. Understanding the

Canadian process and timing allows the Region to prioritize their work for commenting on the environmental assessments. It also provides opportunities for the EPA to raise concerns of the tribes affected by these activities and help to mitigate the transboundary impacts. In November 2015, the Governor of Alaska and the Premier of British Columbia signed a memorandum of understanding followed by a Statement of Cooperation on protection of transboundary waters, which also establishing a bilateral working group and a technical working group on water quality monitoring. Cooperation is ongoing and focuses on existing and new projects or issues.

Office of Land and Emergency Management (OLEM) - Housing and Urban Development (HUD) Memorandum of Understanding (MOU): In January 2017, OSRTI entered into a Memorandum of Understanding (MOU) with the U.S. Department of Housing and Urban Development's (HUD's) Office of Environment and Energy to facilitate increased dialogue between EPA and HUD, share information between the agencies, and grant EPA access to HUD properties when further site investigation is appropriate. The MOU is intended to serve the shared interest both agencies have in ensuring that current and future residents of HUD properties are not exposed to human health risks at Superfund sites. The MOU encourages EPA and HUD staff at the regional and national levels to streamline internal communications to address site concerns. So far, the MOU has been successful - there has been greater transparency between the agencies and collaborative outreach at HUD properties on or near a Superfund site. As the EPA-HUD MOU matures, both agencies will continue to meet to discuss HUD properties on or near new and proposed Superfund sites as they are added on the Superfund National Priorities List and proactively address issues at sites where there could be public health concerns. The EPA-HUD MOU is a valuable resource for both agencies' staff working in Superfund and public housing communities promoting and supporting environmental collaboration and conflict resolution.

Regional Seeds: Regional seed grants are funds to support Superfund site reuse by providing an initial investment to bring the right stakeholders to the table, clarify remedy constraints, and outline suitable reuse options for the local community to pursue. They can also be used to create specific reports or documents based on reuse tools that support and encourage safe and beneficial reuse. Communities can leverage the initial regional seed investment with resources from local governments, stakeholders, states, or the EPA Region to continue the process of transforming the Superfund site into a safe area, able to be used for other purposes.

Superfund Redevelopment Initiatives (SRI) - Libby Asbestos Site: Since early FY 2017, SRI has supported reuse planning efforts for the former Stimson Lumber Company property at the Libby Asbestos Superfund site (operable unit 5) and the Libby Groundwater Contamination site located in Libby, Montana. Due to a perceived stigma associated with the site and lack of cooperation from local governments, the Lincoln County Port Authority (LCPA) has been struggling to boost economic development at the former Stimson Lumber Mill, known as the Kootenai Business Park. The SRI sponsored a reuse planning process that sparked collaboration among the City of Libby, Lincoln County, and LCPA to find common ground and a path forward regarding redevelopment options for the site. Visioning sessions identified economic development, job creation, and recreational tourism opportunities as top priorities for

the community. Based on these goals, SRI supported strengths, weaknesses, opportunities, and threats (SWOT) analysis and a second working session with an expanded group of stakeholders and regional economic development experts to develop an action plan for the Kootenai Business Park. The second working session, held in November 2017, helped the LCPA enlist the city, county, and state as partners, evaluate redevelopment opportunities, and identify action areas for promoting targeted commercial and industrial redevelopment. The resulting action plan and reuse assessment are anticipated to be complete in early 2018.

Superfund Job Training Initiative (Super JTI): Super JTI is a job readiness program that provides training and employment opportunities for people living in communities affected by Superfund sites. The Superfund program uses its experience working with communities to create partnerships with local businesses, universities, labor unions, community and social service organizations, and other federal agencies to address local workforce issues. EPA's goal is to help communities develop job opportunities and partnerships that remain long after a Superfund site is cleaned up.

One example, the USS Lead Superfund Job Training effort provided career development opportunities for 15 trainees living on or near the USS Lead Superfund site in East Chicago, Illinois. Through a partnership with EPA and site contractors, Super JTI provided local job seekers with new skills, certifications, and hands-on training linked to construction and cleanup. EPA's goal is to help ascertain employment opportunities available during the cleanup and redevelopment process for affected East Chicago residents, and to provide workforce development skills that take advantage of those opportunities.

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Section 8: Comments and Suggestions re: Reporting

OMB/CEQ Question 8: 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. Our ability to support ECCR and to properly evaluate cases and produce the quality reports that we have a history of producing is directly linked to the greatly diminished funding and staffing that CPRC receives. Without a centralized ECCR program at the EPA, it would not be possible to collect these data nor provide the support that produced the benefits described in this report.

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Attachments

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

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

Informed Commitment	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
Balanced, Voluntary Representation	Ensure balanced inclusion of affected/concerned interests; all parties should be willing and able to participate and select their own representatives
Group Autonomy	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
Informed Process	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
Accountability	Participate in the process directly, fully, and in good faith; be accountable to all participants, as well as agency representatives and the public
Openness	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
Timeliness	Ensure timely decisions and outcomes
Implementation	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

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Table 1: Use context and decision-making forum for EPA ECCR cases in FY2017

Agency Purpose	Decision making forum addressing the issue when ECCR was initiated:					Total FY 2017 ECCR Cases
	Federal Agency Decision	Administrative Proceeding/ Appeal	Judicial Proceeding	Other (Specify)		
Policy Development	4	0	0	8	EPA internal policy dialogue, interagency policy dialogue, stakeholder input	**12**
Planning	10	0	1	27	Support of tribal, state, regional, municipal dialogue & decision-making, voluntary stakeholder action	**38**
Siting and Construction	13	0	1	0		**14**
Rulemaking	5	0	0	0		**5**
Permit Issuance	4	1	2	0		**7**
Compliance and Enforcement Action	10	11	9	7	Assessment of multi-agency enforcement program	**37**
Implementation/ Monitoring Agreements	4	0	0	1	Stakeholder Dialogue regarding access agreements.	**5**
Other	4	0	2	19	Stakeholder collaboration, process improvements, situation assessment, stakeholder input, voluntary programs	**24**
Grand Total	**54**	**12**	**15**	**61**		**142**

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

Agency Purpose	ECCR cases or projects completed in FY 2017	ECCR cases or projects continuing in FY 2018	Total FY 2017 ECCR Cases
Policy Development	4	8	**12**
Planning	18	20	**38**
Siting and Construction	5	9	**14**
Rulemaking	3	2	**5**
Permit Issuance	3	4	**7**
Compliance and Enforcement Action	20	17	**37**
Implementation/ Monitoring Agreements	1	4	**5**
Other	9	15	**24**
Grand Total	**63**	**79**	**142**

Table 3. Breakdown of case/project sponsorship

Agency Purpose	ECCR Cases or Projects **sponsored**	ECCR cases or projects in which EPA participated, but provided no funds or in-kind services.	**Total FY 2017 ECCR Cases**
Policy Development	11	1	**12**
Planning	34	4	**38**
Siting and Construction	14	0	**14**
Rulemaking	5	0	**5**
Permit Issuance	3	4	**7**
Compliance and Enforcement Action	28	9	**37**
Implementation/ Monitoring Agreements	5	0	**5**
Other	22	2	**24**
Grand Total	**122**	**20**	**142**

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

Agency purpose	**Interagency** ECCR Cases and Projects			**Total FY 2017 ECCR Cases**
	Federal Only	Including federal and non-federal participants	Including no other federal participants	
Policy Development	0	9	3	**12**
Planning	1	21	16	**38**
Siting and Construction	0	1	13	**14**
Rulemaking	1	2	2	**5**
Permit Issuance	1	4	2	**7**
Compliance and Enforcement Action	4	6	27	**37**
Implementation/ Monitoring Agreements	1	4	0	**5**
Other	1	5	18	**24**
Grand Total	**9**	**52**	**81**	**142**

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