Environmental Collaboration and Conflict Resolution Federal Forum Meeting Notes

White House Conference Center
734 Jackson Place NW, Washington, DC
Tuesday, December 10, 2019
10:30 AM – 12:00 PM Eastern

Welcome, Agenda Review, and Brief Introductions

Ted Boling welcomed everyone and went over the agenda. Everyone in the room and on the phone introduced themselves by name and agency. See Appendix 1 for a participant list.

General Updates from CEQ

The Council on Environmental Quality (CEQ) is reviewing and updating the National Environmental Policy Act (NEPA) regulations for the first time in 40 years. The comment period on the Advanced Notice of Proposed Rulemaking closed last August, and the draft rule is being finalized. Some agencies have had a chance to review prior to the public comment period. CEQ will announce when the rule is finalized.

General Updates from USIECR

The Udall Foundation has hired a new Executive Director, David Brown. Prior to joining the Udall Foundation, he was Director of the U.S. Department of Agriculture's Southern Plains Climate Hub and Acting Director of the Agricultural Research Service's Grazinglands Research Laboratory. His previous positions include Southern Region Climate Services Director for the National Oceanic and Atmospheric Administration and academic faculty appointments at Louisiana State University and the University of New Hampshire, where he also served as New Hampshire State Climatologist.

Courtney Owen will unfortunately be leaving the U.S. Institute for Environmental Conflict Resolution (USIECR) in 2020 to pursue new adventures in California. Steph Kavanaugh thanked Courtney for her 3 years of excellent service to the ECCR Forum.

General Updates from Other Agencies

Department of Energy (DOE): DOE had a great turn out for the DC Bar program on September 25th, 2019 in Washington, D.C. Dana Goodson, USIECR, presented on ECCR use in an environmental damages context.

DOE has a monthly call and mailing list on environmental issues happening at DOE. If you are interested in being on the call or on the mailing list, please e-mail Steve Miller, steven.miller@hq.doe.gov

Environmental Protection Agency (EPA): Jeanne Briskin has been reassigned to a different SES position as the Director of the Office of Children's Health Protection. Currently, EPA's Conflict Prevention and Resolution Center (CPRC) has an acting director but hopes to have someone permanent in the position by May. Leanne Nurse is on detail to EPA to assist in drafting and collecting data for the FY 2019 ECCR Annual Report.

U.S. Forest Service (USFS): USFS has been working with the Environmental Systems Research Institute's (ESRI) Graphic Information System (GIS) on mapping forest regions to assist in designing their forest plan revisions.

U.S. Army Corps of Engineers (USACE): USACE has been using the same GIS mapping platform as USFS for their planning needs. Every year, USACE recognizes the most notable ECCR case in their newsletter as well as hosting a webinar to present on the most notable case of that year.

Bureau of Land Management (BLM): BLM has released a Guide to External Collaboration for the Bureau of Land Management (see attachment). The desk guide supplements direction for collaboration in the BLM Planning Handbook (H-1601-1) and the BLM NEPA Handbook (H-1790-1). The Guide provides an overview of the basics and serves as a toolbox or menu of options for BLM managers and staff who are responsible for engaging and/or collaborating with others on environmental reviews, planning, and other efforts.

BLM is hosting a Decision, Support, Planning, and NEPA Academy workshop in Phoenix, Arizona on January 13-16, 2020 (see attachment). All sessions will be recorded, most sessions will be posted for later viewing, depending on the sensitivity of the data.

(Cathy Humphries sent an electronic version of the aforementioned handbook, as well as registration information for the January 13-16 NEPA Academy workshop, to the full forum list after the meeting.)

Lastly, Cathy will be retiring at the end of February. The Forum wishes you the best of luck in retirement!

Preliminary Data from the FY 2018 ECCR in the Federal Government Summary Report

Stephanie Kavanaugh, USIECR, presented on preliminary data from the agencies from the draft ECCR Synthesis Report for FY 2018 as well as challenges encountered in data collection and ways agencies can address them. (The final ECCR Forum Synthesis Report for FY 2018 is forthcoming as the government shutdown significantly delayed agency reporting.)

FY 2018 ECCR Preliminary Data Summary

In FY 2018, thirteen (13) agencies reported 434 active ECCR efforts. This is a decrease from FY 2017 where there were 489 cases reported. Analysis of the FY 2018 agency reports shows that the Environmental Protection Agency (EPA), the Department of the Interior (DOI), and the Federal Energy Regulatory Commission (FERC) continue to have the highest-volume involvement in ECCR since formal reporting began in FY 2006. EPA, DOI, and FERC reported over 100 cases in FY 2018. The most reported contexts are: Planning 30%, Siting and construction 28%, Other 18%, and Compliance and Enforcement Action 10%. Nine (9) agencies have reported from FY 2006 – FY 2018: NOAA, USACE, Navy, Air Force, DOE, DOI, VA, EPA, and FERC. U.S. Department of Agriculture, U.S. Forest Service reported high case numbers in previous years, but has not submitted any data in the last three years.

ECCR Reporting Challenges: Background and Discussion

In 2016, an Annual Report Refinement Work Group was formed to discuss and report out to the Forum on challenges reporting from FY 2014 and FY 2015 reports. The work group and agencies reported the following challenges:

- o Tracking and reporting is a costly endeavor
- o Lack of centralized data collection and reporting system
- o Lack of standards and criteria for reporting
- o Staff turnover – loss of knowledge

- o Various methodological challenges, including:
  - Lack of baseline data
  - Subjective and retrospective nature of reporting
  - Different tracking methods at different agencies
  - Challenging to measure environmental benefits
  - Risk of double-counting
  - Data on cost of ECCR processes not tracked separately from overall program data

ECCR Forum Discussion: Agencies echoed similar challenges for collecting data for last year's FY 2018 ECCR Annual Report and the upcoming FY 2019 ECCR Annual Report. Some agencies that do not separate line budgets for ECCR are still finding it difficult to quantify ECCR, while other agencies are grappling with loss of data due to staff turnover.

FY 2018 Recommendations

Based on the challenges and issues due to reporting, agencies in their FY 2018 ECCR Annual Reports suggested the following recommendations:

- o Data collection system to monitor ECCR efforts throughout the year
  - *ECCR Forum Discussion:* Currently, USACE CPCX is encouraging all Divisions to adopt tracking Wiki. The system they are using is tracking both third party neutral assisted cases and non-third party neutral assisted cases.
- o Simplify report format
  - *ECCR Forum Discussion:* While several simplifications were made to the FY 2019 template as well as providing disclaimers that not all questions need to be answered, some agencies voiced concern that the template still is difficult to fill out.
- o Redraft reporting template into plain and clear language
  - *ECCR Forum Discussion:* The FY 2019 template has been drafted into plain and clear language. ECCR Forum members have noted this and will provide feedback after the FY 2019 Annual Report.
- o Provide guidance document to accompany reporting template
  - *ECCR Forum Discussion:* At the last ECCR Forum meeting in June 2019, the ECCR Forum felt they were unable to create definitions for contexts as agencies define their ECCR work differently. However, there is still a desire from the ECCR Forum to clarify definitions and to define a standard methodology. USACE and EPA send out a Standard Operating Procedure document to staff reporting data for the ECCR Annual Report. These documents clarify definitions and provide examples of answers to questions. USACE and EPA will share these Standard Operating Procedure documents with the ECCR Forum. FERC offered to internally put together a definitions list and share it with the ECCR Forum for review.
- o Utilize Likert scale questions
  - There was no discussion on this item.

ECCR Forum Discussion: There was discussion on what counts as a "completed case" under question 3 on ECCR in the Annual ECCR Report template (*Describe the level of ECCR use within your department/agency in FY 2019 by completing the three tables below*). A "completed case" is defined in the Annual ECCR Report template as "neutral third-party involvement in a particular ECCR case ended

during FY 2019. 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." Some forum members acknowledged that they define a "completed case" differently and that most cases take years to complete. FERC mentioned that 70% of their cases, such as pipelines, are completed in a year. Other cases, such as those associated with hydropower projects, take much longer to complete. In some cases, a case might be sectioned into phases and agencies will count each phase as a "completed case".

Overall, agencies were in agreement that they would like to have future ECCR Forum meetings focus on how other agencies collect data for the ECCR Annual Report.

Value of the ECCR Annual Report

In the past, agencies also have requested clarification on how the annual report is used and is useful to OMB, CEQ, and other agencies. In 2016, a work group was formed to gather information on the Value of ECCR Annual Summary Report. The work group found that for agency leadership and staff that the annual report was useful for the following:
- o Reminder of value of ECCR – brings to attention of leadership – good ECCR marketing tool
- o Encouragement of future investments
- o Allows agencies to learn what other agencies are doing
- o Could be used to tailor trainings

The work group found that for ECCR Program Offices the annual report was useful for the following:
- o Obtain information we may not know otherwise
- o Demonstrates value of ECCR
- o Creates ECCR community amongst agencies

The work group found that for OMB and CEQ the annual report was useful for the following:
- o To brief new administrations
- o Platform for advocating for ECCR
- o Basic data on number of cases over time, as well as summaries of high-profile cases to show leadership

The work group guessed that for private practitioner community the annual report could useful to learn about project opportunities, but worried that this community was mostly unaware of report.

ECCR Forum Discussion: EPA and USACE remarked that they continue to utilize their Annual ECCR Report as a marketing tool for budgeting and messaging to others about ECCR in their agency. CEQ shared similar sentiments to what was reported by the 2016 Work Group, specifically that the Annual ECCR Report is helpful for advocating ECCR and briefing new administrations.

Next Steps
- o USACE will share their Standard Operating Procedures document that they send out to their Division Leaders.
- o EPA will share their Standard Operating Procedures document that they send out to those sending data for the Annual ECCR report.

- o   FERC will create an ECCR context definitions list and share it with the ECCR Forum.

Next Forum Meeting

CEQ and the U.S. Institute will identify a date for the next forum meeting in 2020. Forum members will receive a calendar invite. The next forum meeting will have an agency present on how they collect data for the ECCR Annual Report.

Appendix 1

Attendees

Name	Agency
Ami Lovell	Department of Transportation
Ashley Goldhor-Wilcock	U.S. Forest Service
Brett O'Donnell	Department of Energy
Brian Manwaring	U.S. Institute for Environmental Conflict Resolution
Catherine Johnson	Veterans Affairs
Cathy Humphrey	Bureau of Land Management
Colleen Vaughn	Council on Environmental Quality
Courtney Owen	U.S. Institute for Environmental Conflict Resolution
Crorey Lawton	U.S. Army Corps of Engineers
David Cohen	Federal Highway Administration
Frank M. Sprtel	National Oceanic and Atmospheric Administration
J.D. Hoyle	Federal Energy Regulatory Commission
Jacob Strickler	Environmental Protection Agency
Joy Keller-Weidman	U.S. Institute for Environmental Conflict Resolution
Krista Sakallaris	Federal Energy Regulatory Commission
Leanne Nurse	Environmental Protection Agency
Pat Collins	U.S. Air Force
Sharyn LaCombe	Federal Transit Administration
Stephanie Kavanaugh	U.S. Institute for Environmental Conflict Resolution
Steven Miller	Department of Energy
Ted Boling	Council on Environmental Quality
Tyson Vaughan	U.S. Army Corps of Engineers