

**United States Department of the Interior
2007 ECR Report**

On November 28, 2005, Joshua Bolten, then Director of the Office of Management and Budget (OMB), and James Connaughton, Chairman of the President's Council on Environmental Quality (CEQ) issued a policy memorandum on environmental conflict resolution (ECR). This joint policy statement directs agencies to increase the effective use and their institutional capacity for ECR and collaborative problem solving.

ECR is defined in Section 2 of the memorandum as *“third-party assisted conflict resolution and collaborative problem solving in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and land use. The term “ECR” encompasses a range of assisted negotiation processes and applications. These processes directly engage affected interests and agency decision makers in conflict resolution and collaborative problem solving. Multi-issue, multi-party environmental disputes or controversies often take place in high conflict and low trust settings, where the assistance of impartial facilitators or mediators can be instrumental to reaching agreement and resolution. Such disputes range broadly from administrative adjudicatory disputes, to civil judicial disputes, policy/rule disputes, intra- and interagency disputes, as well as disputes with non-federal persons/entities. ECR processes can be applied during a policy development or planning process, or in the context of rulemaking, administrative decision making, enforcement, or litigation and can include conflicts between federal, state, local, tribal, public interest organizations, citizens groups and business and industry where a federal agency has ultimate responsibility for decision-making.*

While ECR refers specifically to collaborative processes aided by third-party neutrals, there is a broad array of partnerships, cooperative arrangements, and unassisted negotiations that federal agencies enter into with non-federal entities to manage and implement agency programs and activities. The Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving presented in Attachment A (of the OMB/CEQ ECR Policy Memo) and this policy apply generally to ECR and collaborative problem solving. This policy recognizes the importance and value of the appropriate use of all types of ADR and collaborative problem solving.”

The memorandum requires annual reporting by departments and agencies to OMB and CEQ on progress made each year. Pursuant to this Memorandum, the Department of the Interior hereby submits its 2007 ECR report.

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Section 1: Capacity and Progress

1. Describe steps taken by your agency to build programmatic/institutional capacity for ECR in 2007, including progress made since 2006. If no steps were taken, please indicate why not.

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

The Department of the Interior (DOI) continues to build institutional capacity to support the broadest possible appropriate and effective use of non-adversarial decision-making processes including ECR and collaborative problem-solving processes. The CADR office continues to lead a coordinated effort to build DOI's internal capacity to effectively manage and resolve conflicts and disputes that arise in all areas of DOI's work. In accordance with CADR's five year strategic plan for 2007 - 2012, the CADR office is building leadership support for the goal of integrating the use of conflict management tools, collaborative problem-solving and ADR processes as a standard business practice throughout DOI and building a network of champions to advance this goal in all parts of DOI. CADR worked with the designated representatives for the Office of the Secretary, the Office of the Solicitor and each of the Bureaus on the Interior Dispute Resolution Council to carry out the targeted capacity building strategies and initiatives for 2007 and to promote additional activities in key program areas that cross bureaus and offices such as NEPA and adaptive management practices. The CADR strategic plan reflects coordination with other related efforts including the advancement of interagency cooperation and partnerships and cooperative conservation.

The ECR capacity building initiatives undertaken in DOI during 2007 include education and training efforts for leadership, managers, line staff and attorneys; systematic evaluation of process use and results; development of tools and resources to assist employees in making process choices; inclusion of performance standards on collaboration and conflict management in employees' annual performance plans; and development of updated policies and guidance in support of ECR use. The following activities are examples of the ongoing and new initiatives undertaken since 2006:

- briefings on ECR goals and initiatives for DOI leadership and management teams;
- strengthening the leadership role for the Senior Counsel for CADR located in the Immediate Office of the Solicitor, and maintaining a partnership between the CADR office and the Senior Counsel for CADR;
- ongoing development of a CADR network throughout DOI including the continued operation of the Interior Dispute Resolution Council chaired by the CADR office and comprised of a designated Bureau Dispute Resolution Specialist from each Bureau, and the Solicitor's ADR working group chaired by the Senior

Counsel for CADR, to provide collaborative leadership on the implementation of DOI's 5 Year Strategic Plan for integrating the use of conflict management and conflict resolution tools and collaborative processes as a standard business practice in all areas of DOI's work;

- monthly meetings of the IDRC and bi-annual planning retreats and workshops;
- BDRS's ongoing development of CADR networks within each Bureau and Office structure throughout the country;
- the ongoing delivery of basic conflict management skills training for all senior executives, managers and supervisors in DOI;
- the delivery of Multi-Party Negotiations skills training for DOI attorneys and their client program managers from all bureaus, on how to plan and participate in ECR processes to resolve complex natural resource and environmental issues;
- the delivery of workshops on confidentiality issues under the ADRA and DOI's policies on confidentiality;
- coordinated participation with other agencies in both the MAES and SEEER studies on specific ECR and collaborative problem-solving processes completed by DOI bureaus and offices during 2006-2007 and reporting on findings to date;
- workshops on the MAES and SEEER ECR evaluation methodologies and discussions on preliminary results;
- a workshop on the use of collaboration in the context of NEPA consistent with DOI's policies and directives on Environmental Policy and Compliance and the CEQ Handbook on NEPA Collaboration;
- ongoing development of the CADR website with links to all related initiatives and information.

The CADR Office is also leading the Department-wide implementation of an Integrated Conflict Management System throughout DOI, called CORE PLUS, and believes that CORE PLUS is an important foundation for the Department's goals to increase and improve the use of collaborative problem-solving and ECR processes when dealing with external parties and communities. The CORE PLUS system for managing conflict is intended to align the organizational culture of DOI so that conflict management competency is developed and used to recognize, respond and resolve any internal or external sources of conflict and prevent the unnecessary escalation of disputes. The Department believes managers and employees strengthen the capacity of the organization to effectively manage conflict situations with external parties and stakeholders when they are comfortable using the same tools to effectively manage conflicts and disputes that arise within the organization as well.

In addition, the CADR office has represented DOI on several interagency groups for the purpose of increasing the institutional capacity of DOI to incorporate the use of ECR and collaborative problem-solving into existing programs. The CADR Office played a leadership role on the CEQ-sponsored interagency team that developed the NEPA Collaboration Handbook. The Handbook encourages and guides Federal agencies on best practices for using ECR when engaging in any stage of the NEPA process. The CADR Office continues to play a role in other interagency forums including the Interagency ADR Working Group Steering Committee, and the ABA Collaboration committee, among others.

In 2006, the Solicitor created the position of Senior Counsel for Collaborative Action and Dispute Resolution, as the legal partner to the CADR office's policy role. The Senior Counsel is responsible for providing legal support to the CADR Office and guidance to the Department's attorneys in the use of collaborative problem solving and alternative dispute resolution processes. In 2007 the Senior Counsel succeeded in garnering support for CADR efforts within the Office of the Solicitor and supported the inclusion of CADR related performance elements in the performance plans of senior managers in the Office of the Solicitor. The Solicitor's office also directed all divisions, regional, and field offices to review the ADR rules for all administrative bodies where the attorneys practice to ensure that all attorneys were aware of and prepared to offer advice and participate in ADR processes when appropriate.

Individual Bureaus engaged in additional noteworthy activity to build their institutional/ programmatic capacity to engage in ECR. For example:

United States Fish and Wildlife Service (FWS):

The FWS took several steps to build ECR capacity in 2007. All FWS regions cited support for and ongoing training on the use of ECR techniques to work with stakeholders. One region recruited a social scientist to enhance its ability to engage in collaboration and ECR. In Region 1 (Northwest and Hawaii) there is a move to establish a new senior position responsible for improving natural resource decision making through the use of collaborative problem solving techniques. This position is now located at the National Policy Consensus Center at Portland State University (Oregon). The goals of this project are to: (1) Build capacity by developing a training program on collaborative problem solving for employees within the Region; (2) identify and train a small group of employees to act as expert collaborative problem solving consultants to the leadership of the Region; and (3) apply these skills to several demonstration projects beginning in FY08.

Ecological Services in Region 4 (Southeast) built ECR capacity in 2007 by (1) providing ECR training for staff in at least two field offices, including a workshop on new administrative adjudications/hearings for FERC and a training by the North Carolina Natural Resources Leadership Institute; (2) Participating in a negotiated rule-making process regarding off-road vehicle use on Cape Hatteras National Seashore (NPS is the process lead); and (3) Continued support, with the Florida Fish and Wildlife Commission, for the use of professional facilitators in the Manatee Forum, as well as staff participation in engaging stakeholders in manatee conservation and recovery.

In 2007, Region 8 (Pacific West) issued a Strategic Plan that stresses the importance of using conflict resolution to resolve environmental and natural resource challenges. The Strategic Plan contains ECR-related principles such as: leadership with the best science available; functional solutions that help people and wildlife; and cultivating an atmosphere of cooperation, reliance and trust

among the national, state, and local political leaders, constituents, and the Service.

The National Conservation Training Center (NCTC) expanded efforts to provide traditional training opportunities in the effective use of ECR to real-life problems using science-based tools and techniques. These efforts included building institutional capacity for collaborative problem solving by combining traditional training focused on knowledge or “technical skills” with Structured Decision Making workshops focused on experiential learning or “practice.” Each workshop is designed for experts in decision making to act as mentors for practitioners working on real problems. Subsequent workshops provide opportunities for increasing expertise of current apprentices and include additional practitioners as new apprentices or observers. Apprentices are expected to complete additional NCTC courses providing technical skills in structured decision making, adaptive management, conflict resolution, public participation, informed consent, and facilitation. Over time, these workshops will increase capacity and expertise in collaborative decision making skills and technical techniques for problem solving within FWS and USGS. NCTC anticipates facilitating at least three FWS/USGS Structured Decision Making workshops in FY08 to continue building collaborative group problem solving skills.

In addition to and in support of the above, the NCTC offers several training courses that explicitly build skills to engage in ECR and collaborative problem-solving. In FY 2007, 97 FWS practitioners completed NCTC’s Public Participation and Informed Consent courses. An additional 20 FWS practitioners completed the Effective Facilitation course covering a combination of theory, presentation, large group discussion, and skills practice; 19 completed the Introduction to Interest-based negotiation course which addresses differences between informed consent and consensus building; 13 participated in the course “Applying Collaboration to Complex Environmental Issues”; and 26 completed the Media and Outreach Academy (Crisis Management module). Additionally, 43 FWS leaders completed the Project Leader Academy, a course designed to provide new project leaders with skills needed to immediately succeed in leading their organizations. This course includes modules on building partnerships and decision-making that uses ECR skills.

Bureau of Reclamation (BOR)

As part of its “Management for Excellence” initiative, BOR developed a set of collaboration competencies and is instituting them immediately. Every Reclamation employee’s performance plan must include collaboration competency standards. Further, supervisors and employees were instructed to identify gaps and training needs to improve their competency in collaboration. Senior Executives are now evaluated and rated on their use of collaborative techniques to further the mission of BOR.

BOR also reported on the use collaborative techniques to identify technical or scientific options and solutions to address water management problems. During

FY 2007, Reclamation instituted the "Project Alternative Solutions Study (PASS)" process, whereby through a facilitated collaborative process, Reclamation worked to reach consensus on conceptual designs for construction projects. In FY 2007, the PASS process was used to develop plans for the Leavenworth, Washington Fish Hatchery, and for the development of the Odessa, Washington, *Sub-Area Special Study*.

BOR also reported on collaborative forums to address water resources management decisions in specific basins. One notable example is the Glen Canyon Adaptive Management Workgroup, which operates collaboratively to provide recommendations to the Secretary of the Interior on operations of the Glen Canyon Dam.

National Park Service (NPS)

NPS's efforts to build institutional/programmatic capacity included the incorporation of ECR awareness sessions into the agendas of regional and national meetings of Senior leadership, as well as including ECR and collaboration training sessions to support programs such as NEPA.

Bureau of Land Management (BLM)

BLM's efforts to build institutional/programmatic capacity for ECR in FY 2007 included developing ECR and collaborative conflict management policy through its ADR/Conflict Prevention (ADR) Program and enhancing the use of ECR processes through its national ADR Advisory Council. The BLM also maintained and supported its ECR and conflict management infrastructure through the three Washington Office positions dedicated to ADR policy development, oversight, and strategic advice -- two full-time permanent positions, the Bureau Dispute Resolution Manager (BDRM) and a Dispute Resolution Specialist (DRS) -- and one Presidential Management Fellow Dispute Resolution Specialist. In addition, ADR roles have been maintained, as collateral duties, in each of the BLM State Offices and Field Offices. The expanded functions of a BLM national Ombudsman and Conflict Coach also have been developed and added to the duties of the BDRM as part of the ADR/Conflict Prevention Program responsibilities for the BLM.

The BLM also incorporated ADR (ECR) policy and program descriptions in its submission for the FY '09 OMB Budget Request; and incorporated ADR/Conflict Prevention directives in the BLM's annual budget and policy directives (Annual Work Plan). In addition, BLM developed national guidance on managing ECR and collaborative conflict management in the Bureau in connection with appeals to the Interior Board of Land Appeals, and continued developing and delivering an ADR/ECR training program for all BLM managers.

Minerals Management Service (MMS)

The MMS efforts to increase the programmatic/institutional capacity to use ECR

include the inclusion of an ADR provision in final regulations establishing procedures for a new MMS responsibility to resolve shipper disputes concerning open access and nondiscriminatory transportation services on pipelines operating on the Outer Continental Shelf. The Federal Energy Regulatory Commission's Dispute Resolution Office and the CADR Office provided ADR training to the MMS personnel responsible for implementing the new regulations and the ADR provision therein.

In January 2007, the Minerals Revenue Management (MRM), Office of Enforcement (OE) issued a "Negotiated Agreements Manual" that documents the standards and minimum procedures for all persons leading and participating in ADR processes involving Federal and Indian mineral lease royalties and related revenues.

Office of Hearings and Appeals (OHA)

OHA increased the institutionalization of ECR by including relevant performance elements in the performance plans for the senior leadership of OHA including the OHA Director, the Principal Deputy Director, the Chief Administrative Judge - Interior Board of Indian Appeals (IBIA), and the Chief Administrative Judge - Interior Board of Land Appeals (IBLA), requiring support for the use of ADR to resolve administrative appeals. Under the standards, litigants were to be provided information about ADR options, ripe cases were to be reviewed for ADR suitability, and appropriate cases were to be referred to direct negotiations or for ADR assistance.

In addition, case docketing notices sent to the parties when new appeals are filed include information about ADR and encourage the parties to seek negotiated solutions.

During FY 2007, OHA continued implementing its ADR pilot program for the Interior Board of Land Appeals (IBLA). Throughout the year, OHA's Dispute Resolution Specialist (DRS) responded to inquiries from litigants (in response to the docketing notice), providing additional written and oral information about ADR as requested. She also reviewed ripe cases for ADR suitability and, in appropriate cases, drafted orders for the judges to sign directing the parties to discuss settlement. She submitted monthly and quarterly reports to OHA managers and met with them periodically to discuss the pilot program. The OHA Director and the Chief Judge of the IBLA met with the Director of CADR and Senior counsel for CADR to review results of the IBLA ADR pilot program and discuss next steps for improving and expanding the use of ADR to resolve administrative appeals.

United States Geological Survey (USGS)

USGS increased its institutional capacity to engage in collaborative problem solving of environmental issues by holding a Workshop on Partnering and Collaboration in June 2007 in which over 100 bureau scientists participated.

USGS scientists discussed examples of collaborative behavior and heard from USGS leadership about how the USGS Strategic Science plan is structured to help the United States address complex environmental problems.

Additionally, the USGS held a Decision Science Workshop in September 2007. Participants (including several representatives from the US Fish and Wildlife Service) discussed how structured decision-making and adaptive management provide a framework to integrate diverse information and data types across a range of scales to address complex decisions.

The USGS has continued to provide courses in negotiation training to natural resource professionals at the Fort Collins Research Center (FORT) in Colorado. In addition, research on hydropower negotiation by FORT social scientists provided the opportunity to gain insight into the key elements in successful negotiations, especially how negotiators could overcome obstacles and identify opportunities during multi-party natural resource negotiations that are lengthy and complex. Over a period of several years FORT social scientists conducted in-depth interviews with 68 negotiation participants in a wide variety of hydropower consultations, which included representatives from state and federal fish and wildlife agencies, power companies and utilities, local interest groups, and tribes.

Section 2: Challenges

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

DOI's bureaus report varying degrees of experience with ECR and each bureau and office response to this survey reflects the diversity of their organizational structures, cultures, missions and performance goals. As a result, each bureau has somewhat different perspectives on the major and minor barriers and challenges they face in using ECR. In compiling the data for all of DOI, each checkmark below represents the most commonly reported challenges and barriers. On each specific challenge, at least one bureau did not choose the option selected by the majority.

	Extent of challenge/barrier		
	Major	Minor	N/A
a) Staff expertise to participate in ECR	✓	<input type="checkbox"/>	<input type="checkbox"/>
b) Staff availability to engage in ECR	✓	<input type="checkbox"/>	<input type="checkbox"/>
c) Lack of party capacity to engage in ECR	✓	<input type="checkbox"/>	<input type="checkbox"/>
d) Limited or no funds for facilitators and mediators	✓	<input type="checkbox"/>	<input type="checkbox"/>
e) Travel costs for your own or other federal agency staff	<input type="checkbox"/>	✓	<input type="checkbox"/>
f) Travel costs for non-federal parties	<input type="checkbox"/>	✓	<input type="checkbox"/>
g) Reluctance of federal decision makers to support or participate	✓	<input type="checkbox"/>	<input type="checkbox"/>
h) Reluctance of other federal agencies to participate	✓	<input type="checkbox"/>	<input type="checkbox"/>
i) Reluctance of other non-federal parties to participate	✓	<input type="checkbox"/>	<input type="checkbox"/>
j) Contracting barriers/inefficiencies	<input type="checkbox"/>	✓	<input type="checkbox"/>
k) Lack of resources for staff capacity building	✓	<input type="checkbox"/>	<input type="checkbox"/>
l) Lack of personnel incentives	<input type="checkbox"/>	<input type="checkbox"/>	✓
m) Lack of budget incentives	✓	<input type="checkbox"/>	<input type="checkbox"/>
n) Access to qualified mediators and facilitators	<input type="checkbox"/>	<input type="checkbox"/>	✓
o) Perception of time and resource intensive nature of ECR	✓	<input type="checkbox"/>	<input type="checkbox"/>
p) Uncertainty about whether to engage in ECR	✓	<input type="checkbox"/>	<input type="checkbox"/>

q) Uncertainty about the net benefits of ECR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
r) Other(s) (please specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
s) No barriers (please explain): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Section 3: ECR Use

3. Describe the level of ECR use within your agency in FY 2007 by completing the table below. [Please refer to the definition of ECR from the OMB-CEQ memo as presented on page one of this template. An ECR “case or project” is an instance of neutral third party involvement to assist parties in reaching agreement or resolving a dispute for a particular matter. In order not to double count processes, please select one category per case for decision making forums and for ECR applications.]

The table below aggregates the data reported from all of the DOI Bureaus and Offices. In compiling the data, it is clear that some of the ECR matters involving more than one DOI bureau have been reported by each of the bureaus involved in the case. This means that the aggregate figures are not entirely accurate as some cases have been double, and perhaps triple-counted. The CADR Office will address the extent of this issue and seek to remedy it for purposes of reporting in 2008.

In addition, the individual data reported by the Office of Hearings and Appeals (OHA) on the use of ADR to resolve administrative appeals and by the Office of the Solicitor (SOL) on their participation in ADR are separately reported, based on an assumption that this information should already be included in the information provided by the Bureaus who participate in the administrative appeals or were represented by legal counsel in ADR.

SOL reported participating in 38 instances of ECR in 2007. Twenty-six of these instances involved the use of ADR in judicial proceedings. Only three of these cases were reported as settled during the FY 2007. OHA reported 9 cases using ECR in 2007 and resolution was achieved in 6 of these cases.

Context for ECR Applications:	Cases or projects in progress ¹	Completed Cases or projects ²	Total FY 2007 ECR Cases ³	Decision making forum that was addressing the issues when ECR was initiated:				Of the total FY 2007 ECR cases indicate how many your agency/department initiated:	
				Federal agency decision	Administrative proceedings/appeals	Judicial proceedings	Other (specify)	initiated:	participated in but did not initiate:
Policy development	5	—	5	4	—	1	—	3	2
Planning	12	2	14	14	—	—	—	9	5
Siting and construction	—	—	—	—	—	—	—	—	—
Rulemaking	4	—	4	4	—	—	—	3	—
License and permit issuance	1	3	4	2	2	—	—	4	—
Compliance and enforcement action	6	5	11	4	3	3	—	6	6
Implementation/monitoring agreements	5	1	6	5	—	1	—	3	3
Other (specify): Settlement for water rights adjudication	1	1	2	1	—	—	2 (NRDA)	1	1
TOTAL	34	12	46	34	5	5	2	29	17
	(the sum should equal Total FY 2007 ECR Cases)			(the sum of the Decision Making Forums should equal Total FY 2007 ECR Cases)				(the sum should equal Total FY 2007 ECR Cases)	

¹ A "case in progress" is an ECR case in which neutral third party involvement began prior to or during FY 2007 and did not end during FY 2007.

² A "completed case" means that neutral third party involvement in a particular matter ended during FY 2007. The end of neutral third party involvement does not necessarily mean that the parties have concluded their collaboration/negotiation/dispute resolution process, that all issues are resolved, or that agreement has been reached.

³ "Cases in progress" and "completed cases" add up to "Total FY2007 ECR Cases".

4. Is your agency using ECR in any of the priority areas you listed in your FY 2006 ECR Report (if submitted)? (Refer to your response to question 2 in your FY 2006 report.) Please also list any additional priority areas identified by your agency during FY 2007, and indicate if ECR is being used in any of these areas.

List of priority areas identified in your agency FY06 ECR Report	Check if using ECR	Check if use has increased since FY 2006
Natural Resource and Environmental Litigation	✓	✓
Project and resource planning	✓	✓
In investments when decisions are appealed	✓	✓
In Stakeholder and community involvement in plans and decisions	✓	✓
Land Use	✓	✓
Habitat Conservation	✓	✓
Administrative Appeals	✓	✓
Natural Resource Damage Assessment Issues	✓	✓
Species Recovery	✓	✓
Land conveyances		
Timber Sales	✓	✓
Wildland Fire Management	✓	✓
Endangered Species Act Issues	✓	✓
NEPA	✓	✓
Adaptive Management	✓	✓

Protracted and costly litigation	✓	✓
Water rights adjudication	✓	
Hydropower licensing	✓	✓
(OSM) Lands unsuitable for mining petitions		
(MMS) Revenue disputes arising from audits		
(MMS) Administrative Appeals of orders to pay		
(MMS) Multi-party revenue appeals		
(OSM) Valid existing rights decisions		
(OSM) Citizen complaints		
List of additional priority areas identified by your agency in FY 2007	Check if using ECR	
Sage Grouse Habitat	✓	
Split Estate Issues		
Grazing Disputes	✓	
(MMS) Open Access Regulation		
Collaborative Policy Making on Science and Technical Areas	✓	
Collaborative decision-making for project operations	✓	

Please use an additional sheet if needed.

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

The CADR Office and the IDRC continue to lead DOI's participation in two evaluation studies designed to assess and measure the performance of ECR. DOI actively participated in round 2 of the Multi Agency Evaluation Study (MAES) led by the U.S. Institute for Environmental Conflict Resolution (USIECR). Over 20 of the 52 cases included in the study involved DOI Bureaus. The results of this round of the MAES are encouraging and produced data that can be used by DOI and other federal agencies in determining when and how to use ECR to maximum benefit.

DOI also joined EPA in participating in the Systematic Evaluation of Environmental and Economic Results (SEEER) ECR study, which is designed to assess the outcomes achieved using ECR and collaborative problem-solving processes. CADR is funding the use of the SEEER methodology to evaluate two negotiated rulemaking processes undertaken by the National Park Service at the Cape Cod National Seashore in 1995 and at the Fire Island National Seashore in 2000.

The CADR Office is working with the IDRC to develop a tool for consistently tracking all ECR efforts throughout DOI's bureaus and offices and in all geographic areas and program areas. In general, the Department-wide capacity to track and report on ECR activity remains unreliable and inconsistent. Some progress has been made by several bureaus, however. BLM continues to use and refine methods for tracking use of ECR and ADR-based collaborative conflict management activities within the BLM through a database and other case tracking systems. In addition, the Washington Office works with the Interior Board of Land Appeals to track ECR and the other ADR-based activities associated with IBLA appeals. The BLM is using this information to assist in evaluating ECR performance and cost savings. As part of the BLM's case tracking and cost savings initiatives, an initial study was conducted in FY 2007 to develop specific performance measurement standards and identify methodologies for evaluating cost savings. In FY 2008, this initiative (including a process for performance measurement and cost

tracking) will be refined, and a system for identifying cost savings will be completed. The processes will be developed as part of a national ADR (ECR and collaborative conflict management) system repository.

In addition, the MRM Office of Enforcement (MRM OE) of MMS has a tracking system in place to monitor ECR use. MRM OE has a central tracking system that documents cases received, as well as case outcomes (open, i.e. still in ADR process, settled, not settled).

The Interior Board of Land Appeals of OHA continues to track cases referred to ADR. In 2007 IBLA conducted a detailed analysis of cases referred for ADR and cases that settled on the parties' own initiative. It found a relatively low correlation between cases referred for direct negotiation during IBLA's ordinary ADR review process and cases that successfully settled, but a much higher correlation between cases in which IBLA disposed of a stay petition and cases that successfully settled. The analysis focused on outcomes and not costs, but demonstrated the benefit of IBLA's feedback to the parties (in the form of a stay decision) regarding the likelihood of the appellant's success on the merits.

Also, NPS is exploring the addition of a check box for ECR in its Planning, Environment and Public Comment (PEPC) on-line project management system. This system captures events associated with NEPA processes.

6. Does your agency have a system for making the decision to initiate and/or participate in an ECR process? If so, please describe.

DOI agencies by and large make the decision to engage in ECR on a case-by-case basis. In most cases the decision to use or not use ECR depends on the judgment of a national, regional level, or field level manager that takes into account the nature, complexity and sensitivity of the situation and the issues. There is no consistent mechanism used to assist managers in determining what processes might help achieve the specific goals and objectives in each situation. Through the CADR office and the IDRC, DOI is beginning to develop a network of ECR professionals that are capable of providing this advice and assistance to bureau leadership and managers. The CADR website also has a collaborative action toolkit with a strategy finder tool that any employee can use to determine the types of processes that might be appropriate for consideration in any situation based on variables such as time constraints, number of interested parties, type of agency goals, and resources available.

In addition, DOI is training managers on how to assess when a situation is appropriate for ECR or any other type of public participation or collaborative or cooperative process. Also, the BLM has completed draft guidance (to be issued in FY 2008) to assist managers in determining whether to pursue ECR

or other consensus-based collaborative processes with appellants in cases before the Interior Board of Land Appeals (IBLA). DOI is also updating its Department-wide policy on the use of conflict management, collaboration and ADR processes and the operational guidance that will accompany that policy update will include information to assist managers in making these process choices and ECR decisions. The Office of the Solicitor also continues to refine its use of early case assessment processes to assist clients in determining when ECR or collaborative problem-solving is the preferred approach to addressing issues and competing interests either in lieu of or to resolve litigation.

As noted under question 1, OHA reviewed ripe cases on a systematic basis throughout FY 2006 and 2007 to determine their suitability for ADR. IBLA and the BLM have checklists used for this purpose. ADR suitability was also evaluated during IBLA's disposition of stay petitions, which led to additional orders directing the parties to discuss settlement in appropriate cases.

Here are two specific FWS examples of how decisions were made to engage in an ECR case.

- In the Kalamazoo River Natural Resource Damage Assessment Process (NRDA) involving FWS, all parties agreed that mediated confidential discussion under the ADRA was the best alternative available to resolve current disputes on the amount and types of remedial investigation, remedial actions, natural resource damage assessment, and restoration. The FWS field staff recommended this approach to the Regional Office. As the Authorized Official for DOI in this case, the Regional Director agreed to DOI participation in this approach.
- In the Tittabawassee River NRDA, all parties agreed that mediated confidential discussion under the ADRA was the best alternative available to coordinate remedial and NRDA activities amongst the responsible party, response agencies, and trustees. The FWS field staff recommended this approach to the Regional Office. As the Authorized Official for DOI in this case, the Regional Director agreed to DOI participation in this approach.

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

As noted earlier in the cover memorandum to this report and in the responses to previous questions, the use of ECR and collaborative problem-solving processes is part of a broader effort within DOI to expand its ability to engage in partnerships and cooperative conservation efforts that may not fit the definition of ECR provided in the ECR Policy Memorandum or this report. Many of these efforts are reported by DOI in the annual report on Cooperative Conservation. Some of the more significant efforts that do not fit the definition of ECR are reported below.

For example, as discussed in response to Question 1, DOI is committed to developing a collaboration competency throughout the organization and this effort includes changes to hiring, promoting, training and all aspects of performance management throughout DOI. The CADR office's efforts to provide basic conflict management skills training for all DOI managers is in support of building this collaboration competency and it does not focus on the use of a third party neutral to resolve conflict, but rather, ensures that managers and employees have the ability to recognize, respond and resolve conflicts in a constructive manner, and have an awareness of when additional assistance may be necessary and appropriate, especially when conflicts have escalated into disputes or when there is a history of distrust or past communication problems, great complexity of issues to be resolved, and many parties that must be engaged to achieve sustainable resolution. This is one example of a DOI effort that furthers the goals of the ECR memorandum but also serves broader goals.

Individual bureaus report the following efforts that did not involve the use of neutral third parties:

Office of Surface Mining (OSM):

OSM promotes, facilitates, and engages in alternative enforcement (AE) in an effort to bring resolution between regulators and coal companies. One successful example of collaborating with multiple groups to compel reclamation involved the Applicant/Violator system Office (AVS) serving as a liaison in one of the largest bankruptcy cases in the history of coal mining. A particular company went bankrupt with over 400 SMCRA permits that involved over \$350 million in reclamation liability. Despite having to deal with multi-state issues involving competing interests, the regulators worked together to keep the focus on the overall goal of achieving reclamation on all permits.

In addition, OSM conducts routine quarterly coordination meetings with the Navajo Nation Minerals Department and Hopi Tribe Office of Mining and Mineral Resources to collaborate on a variety of issues ranging from implementation of tribal primacy in regulating coal mining activities to mine-specific operational or enforcement activities. OSM also conducts consultation meetings with the Crow Tribe, Hopi Tribe, and Navajo Nation, as needed or requested by the tribes, to consult with Tribal government officials (president, chairperson, council representatives) on project development and permitting activities as well as our government-to-government relationships including Tribal primacy.

In addition, OSM used extensive collaboration (weekly coordination teleconferences and frequent face-to-face meetings) and substantial “unassisted negotiation” (numerous interagency meetings with proponents and Tribes) in the EIS scoping and draft EIS comment processes for the Black Mesa Project EIS, which involved 3 Tribes (Hopi, Navajo, and Hualapai), US EPA, Forest Service (multiple national forests), Fish and Wildlife Service, Arizona State Historic Preservation Office, Navajo, Hopi, and Hualapai Tribal Historic Preservation Offices, BLM, two BIA Regional offices, Mohave County (AZ), and City of Kingman (AZ) to develop the purpose, need, and scope for the project, facilities siting and design elements, the EIS analysis, conservation measures to offset impacts to endangered fish, and cultural resources inventory and protection measures resulting from the project. During the scoping process OSM met with multiple national and grassroots organizations (e.g., Sierra Club, Natural Resources Defense Council, Indigenous Environmental Network, To’ Nizhoni Ani) to hear and discuss their concerns about the Black Mesa Project.

NPS

NPS units have established advisory committees that are not facilitated by a third party neutral but are collaborative efforts to address environmental issues and resolve conflicts. For example, in FY2007 the Denali National Park and Preserve Aircraft Overflights Advisory Council was established to advise the park on voluntary measures to mitigate impacts from aircraft overflights at Denali National Park and Preserve. This committee will elect a Chair from its membership and the Chair and park will jointly facilitate the meetings.

The Native American Graves Protection and Repatriation Review Committee facilitates the resolution of disputes among Indian Tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of NAGPRA cultural items including convening the parties to the dispute if deemed desirable. However in facilitating these disputes it doesn’t use a third party neutral, nor are the committee members third party neutrals, rather the committee members are subject experts. In FY2007 the committee heard and issued findings and recommendations, which are non-

binding on the parties, of a dispute between the White Mountain Apache Tribe and the Field Museum.

BLM

With respect to conflict prevention efforts by BLM, the non-ECR BLM activities generally fall within one of four main categories:

1. Working with Regional Advisory Council's (RAC's) and other Advisory Councils to obtain recommendations from stakeholders;
2. Participating in landscape-specific or issue-specific collaborative working groups
3. Using an "early and often" engagement strategy with specific stakeholders (both public and intra-governmental) in certain decision-making processes
4. Public involvement efforts such as public meetings and workshops, interactive public comment tools, and similar activities (particularly in Resource Management Plans and implementation level plans, such as travel management plans)

At the conflict resolution end of the continuum, non-ECR BLM activities generally fall into the category of direct negotiations with parties in one of four general forums:

- 1.) maturing disputes not yet formally in an adjudicative forum.
- 2.) protests
- 3.) administrative appeals before the Office of Hearings and Appeals (Hearings Division and Interior Board of Land Appeals)
- 4.) judicial proceedings.

Specific examples of how BLM has worked collaboratively with groups, agencies, and citizens include:

The Cienega Watershed Partnership: Sonoita Valley Planning Partnership and Cienega Corridor Conservation Council (Arizona) – About 40-50 participants are active in this nationally-recognized partnership which works to resolve issues in the watershed.

Grazing Permits in the Vale, Oregon District: The BLM Vale District is engaging permittees in the assessment and evaluation phase of our permit renewal efforts to seek their input in identifying issues and their participation in developing solutions, including development of new grazing plans for their allotments.

Reintroduction of Natural Fire in the Steens Mountain Cooperative Management and Protection Area (CMPA): This effort required coordination with private landowners and various Tribal, state, and local agencies, as well

as the Steens Mountain Advisory Council also participated in the process and recommended the Preferred Alternative, which was subsequently adopted by the BLM.

Cooperative Management of Public and Private Lands in the Steens

Mountain CMPA: In Nov. 2007, the BLM Burns District and Steens Mountain Landowners Group negotiated and entered into an Agreement that provides for total, collaborative landscape management rather than management of fragmented parcels in isolation. The first annual meeting of that Group was held in January 2007.

FWS:

Several regions reported that in-house staff implements the spirit of ECR by working collaboratively with interested stakeholders during the Refuge Comprehensive Conservation Planning Process. FWS regularly brings together interested parties to determine the diversity of issues and opportunities that should be considered in the planning process and to ensure that public, State, and Tribal interests are addressed. The process incorporates varied opportunities for public and agency input (e.g., open houses, workshops, internet options, one-on-one meetings). Other programs also use this approach.

MMS:

MMS has engaged in collaborative processes without the use of a third party neutral through the West Coast Governors' Agreement on Ocean Health. The Agreement launched a new, proactive regional collaboration to protect and manage the ocean and coastal resources along the entire west coast.

Also, MMS Alaska leases incorporate a stipulation titled "Conflict Avoidance Mechanisms to Protect Subsistence Whaling and Other Subsistence-Harvesting Activities." The stipulation requires industry to consult with directly affected subsistence communities, the North Slope Borough, and the Alaska Eskimo Whaling Commission to discuss conflicts with the siting, timing, and method of proposed operations to prevent unreasonable conflicts. MMS requires industry to provide a summary of resolutions reached and plans for continued consultations when they submit a proposed OCS exploration or development and production plan.

OHA :

In FY 2006-2007 OHA was involved in trial-type hearings on disputed issues of material fact with respect to conditions and proscriptions to be included in hydropower licenses under the Federal Power Act, as amended by the Energy

Policy Act of 2005. OHA handled two such cases in FY 2007, one of which settled and the other which did not. Third-party neutrals have not been involved in the negotiations to date, but the burdensome nature of the hearing process (which must be completed within 90 days) has provided a strong incentive to settle. The Department is considering amendments to the trial-type hearing procedures to allow for limited extensions of the 90-day process to facilitate settlement discussions.

USGS:

USGS scientists participate in numerous multi-agency land use decision-making processes that do not fit the definition of ECR. They are often the resources on which parties rely to provide data that can support environmental conflict resolution as it arises throughout the process.

Through involvement in the Puget Sound Nearshore Ecosystem Restoration Project, USGS is assisting in identifying significant ecosystem problems created by human activity and development, evaluating potential solutions and restoring and preserving critical nearshore habitats.

The USGS engaged in a multi-year project, Decision Analysis Study: Potential Effects of Selenium Mobilization from Large Scale Ground Disturbances in Appalachian Watersheds in West Virginia. The goal of the study was to combine training, testing and problem-solving techniques on an existing issue that links resource use and environmental consequences. USGS scientists are also involved in the Glen Canyon Adaptive Management Working Group.

Section 4: Demonstration of ECR Use and Value

8. Briefly describe your agency's most notable achievements or advances in using ECR in this past year.

1) The Missouri River Recovery Implementation Committee (MRRIC) was established to serve as a collaborative forum for stakeholders in the Missouri River Basin to participate in developing a shared vision and comprehensive plan for the restoration of the Missouri River ecosystem. It will also help to guide the prioritization, implementation, monitoring, evaluation, and adaptation of actions taken by federal agencies, tribes, states, and nongovernmental organizations to restore the populations of threatened and endangered species affected by Missouri River operations. The Committee is professionally facilitated, and consists of a variety of Federal agencies including BOR, FWS,

NPS and USGS, representatives from 28 tribes, as well as state and local governments.

The Committee began meeting in October 2006 and is expected to complete much of its work in February 2008, as it attempts to reach agreements on planning, siting and construction, license and permit issuance, compliance and implementation/monitoring.

2) Yellowtail Unit, Pick-Sloan Missouri Basin Program: In March 2007, BOR's Montana Area Office (MTAO) initiated the Bighorn River System Long Term Issues Working Group (Group) to begin a collaborative process for addressing public issues and developing long term proposals and procedures to improve all benefits of the Yellowtail Unit. The Group includes representatives of the Bureau of Reclamation, the National Park Service, the Bureau of Indian Affairs, Western Area Power, the State of Wyoming, the State of Montana, Bighorn County Wyoming, Friends of Bighorn Lake, and Friends of the Bighorn River.

The Yellowtail Unit is located in south-central Montana and is a multi-purpose project. The Unit provides benefits through hydropower generation, flood control, irrigation, municipal & industrial water supply, recreation, and fish & wildlife enhancement. The Yellowtail Dam impounds flows of the Bighorn River forming a reservoir about 72 miles long (at maximum water surface elevation) extending into the Bighorn Basin in Wyoming. BOR retains authority and responsibility for operation and maintenance of Yellowtail Dam and for regulating the reservoir. The Bighorn Canyon National Recreation Area encompasses the reservoir water surface and the land area around the reservoir. It was authorized in 1966 to provide for the public outdoor recreation of Yellowtail Reservoir and is managed by the National Park Service.

Wyoming interests support the position of increased lake levels to enhance flat water recreation and economic development, particularly at the uppermost portion of the reservoir near Lovell, Wyoming. Montana interests support higher releases to the Bighorn River below the dam to benefit a blue-ribbon trout fishery. The Group, which holds facilitated meetings about every 6 weeks, has developed a higher level of understanding, trust, and spirit of cooperation among the various parties and interests. The MTAO is organizing multi-party Technical Teams to address some of the long term issues identified by the Group. Through this process, BOR, the National Park Service, and state resource management agencies will be able to make resource decisions to better meet the multi-purpose objectives of the Yellowtail Unit.

3) Western Water Institutional Solutions (WWIS) Project: BOR's Upper Colorado and Pacific Northwest regions and its Technical Services Center located in Denver, along with Oregon State University, and the University of Utah, has been engaged in developing tools for identifying, assessing, and resolving water resource conflicts. In September 2007, the WWIS Project

sponsored a Reclamation-wide workshop on water resource conflict resolution. The workshop was well received and has resulted in increased attention to how Reclamation can best achieve its objectives for collaborative competencies.

4) Leavenworth Fish Hatchery (WA): In FY 2007, BOR, in collaboration with the U.S. Fish and Wildlife Service (FWS), initiated, funded, and participated in a professionally facilitated “Project Alternative Solutions Study” (PASS) process to reach agreement on a conceptual design to repair the Leavenworth National Fish Hatchery Water Intake System in Leavenworth, Washington. Previous water intake repair designs were challenged in two lawsuits filed against the FWS in 2005. As part of BOR’s mitigation obligation for construction of Grand Coulee Dam, it funds FWS’s management of the Leavenworth National Fish Hatchery Complex. An agreement was reached between the parties in 2007 on the design of the repair project. PASS participants included various stakeholders, as well as the plaintiff.

5) Pre-Appraisal Level Investigations Associated with Odessa Subarea Special Study:

BOR also conducted a PASS to investigate the continued phased development of the Columbia Basin Project. The investigation, known as the Odessa Subarea Special Study and of which this PASS was a piece, focused on project development for the purpose of replacing groundwater currently used for irrigation in the Odessa Ground Water Management Subarea with surface water. This multi-party facilitation relied on an Objectives Team and Technical Team to quickly and objectively identify engineering concepts and develop and evaluate alternative solutions. The PASS Process for this step is completed and was followed by an appraisal-level study. That study was made possible by the PASS process. BOR anticipates that the overall effort to complete the Odessa Subarea Special Study will conclude with a planning report and appropriate National Environmental Policy Act (NEPA) documents.

6) Negotiated Rulemaking processes at Cape Hatteras National Seashore and Golden Gate National Recreation Area. The National Park Service is using ECR at both of these park units to develop use-related regulations.

As a result of increased communication and understanding among diverse groups through participation in the ECR process at Golden Gate National Recreation Area, the park reports that some groups have volunteered to help the park implement a controversial interim action needed to protect a threatened species in the park. It appears that the increased communication and understanding between the park and the groups has been beneficial to the park. With respect to Cape Hatteras, as a result of an extensive situation assessment conducted by third party facilitators, NPS is proceeding with a facilitated negotiation process that adheres to the principles of ECR in an effort to enduringly resolve the contentious and sensitive issues that impact Cape Hatteras National Seashore.

7) One of the BLM's most notable ECR achievements this year was in the use of technology. One of BLM's state offices implemented the use of an innovative on-line comment process to expand public participation in their development of a major resource management plan addressing all of BLM's Western Oregon lands. The U.S. Institute for Environmental Conflict Resolution, private consultants and professional third party neutrals assisted in the development of this planning process and the technological tool.

8) In addition to the cases reported under question 3, the Interior Board of Land Appeals referred parties to participate in direct negotiations to attempt to reach settlement in 28 cases during FY 2007. Four cases were resolved, and 24 remain in negotiation at the end of FY 2007.

9) The USGS Workshop on Partnering and Collaboration (June 2007) and the USGS Decision Science Workshop (September 2007) enabled significant communication on environmental conflict resolution and has resulted in the establishment of a Collaboration Community of Practice and the exchange of information on our Collaboration Community of Practice webpage.

10) The Bureau of Indian Affairs and the Bureau of Indian Education were involved in two very significant ECR projects during 2007. The first involves the development of regulations to implement the facilities provisions of the No Child Left Behind Act. In this project facilitators recently completed a formal situation assessment and published the resulting draft convening report, which is presently out for public comment. The facilitators interviewed over 150 key stakeholders in preparing the report and are advising BIA and BIE on appropriate process design considerations for undertaking a negotiated rulemaking process.

BIA is also supporting a negotiation process between the U.S. Fish and Wildlife Service and the Confederated Salish and Kootenai Tribes of the Flathead Reservation of Montana over the management the National Bison Range in Montana, which is part of the Fish and Wildlife Service's Refuge system.

11) FWS established the Manatee Forum to work with stakeholders to prevent the need for further litigation and thus far has accomplished that goal. The Forum has resulted in better communication and sharing of information for conservation and recovery of manatees. In addition, FWS is working with the U.S. Institute for Environmental Conflict Resolution on two endangered species issues. One is the revision of the Desert Tortoise Recovery Plan led by Region 1. The other, as noted above, involves the formation of the Missouri River Recovery Implementation Committee, under the direction of the Army Corps of Engineers.

12) The National Park Service continues to engage in ECR with the Federal Aviation Administration (FAA) over the rules governing air tour overflights of at Grand Canyon National Park. -A NEPA process is being conducted concurrent with a negotiated rulemaking with a goal of resolving this 20 year old environmental conflict and successfully implement the National Parks Overflight Act of 1987.

9. ECR Case Example

Provide a description of an ECR case (preferably completed in FY 2007) summarizing the presenting problem or conflict, how it was addressed through the use of the principles for engagement in ECR (Appendix A of the Policy Memo, attached), and what outcome was achieved. Please include a discussion on the extent to which this was an effective use of ECR, including reference to the likely alternative decision making forum and how the outcomes differed, how resources were expended, and what comparative benefits or drawbacks occurred as a result of the ECR process.

There has been an ongoing dispute over the past several years concerning the appropriate uses that should be allowed on a 2500 acre tract of BLM land in the Prineville, Oregon District. Some residents of the area have advocated increased off-road vehicle use for recreational purposes. Nearby landowners have opposed this, contending that increased use would lead to increased trespass on their properties, as well as unacceptable increases in noise. The BLM hired a third party neutral to hold initial discussions with the parties and then to facilitate a two day conflict resolution session. Based on this session, a smaller self-directed core group was formed that met to develop a consensus recommendation on several issues. The BLM has been able to use the recommendations as alternatives in the Resource Management Plan that is being developed by the District Office.

This process allowed stakeholders to refocus their attention from conduct to issues and separate the person from the problem. Through the use of several of the Basic Principles for Agency Engagement, including Informed Commitment (although the parties positions were at odds they committed to going through the ECR process); Balanced, Voluntary Representation (the homeowners and the recreational use interests were both represented); Openness (the facilitator of the two day process kept all parties apprised of all developments); Timeliness (the parties were able to reach agreement shortly following the two day session); and Implementation (BLM has been able to incorporate the recommendations into its plan), the group was able to present their desired future conditions in a format that the agency could use to make

rational decisions for future management of Public Lands. The alternative forum for this conflict would have been the judicial system, as parties have indicated that this would be their alternative if they were not involved in settling the issues.

10. 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.

These are some of the comments we have received in response to this question:

* "It is a good idea to allow for examples of conflict resolution that do not involve third-party neutrals."

* "Data and definitions of what constitutes ECR are not consistent. Some regions reported on activities that are likely similar to those carried out in other regions that were not reported."

* "The Solicitor's Office case matter tracking system is currently inconsistent across function areas and areas of the country. Offices that reported data (and not all of them did) commented that they generally do not track case data as contemplated by the questions in this report. Efforts to make tracking cases more consistent across the organization will consider these issues. Several offices commented that the definition of ECR for purposes of this report narrows numerical results. That is, of the offices that reported data, all of them commented that they had more efforts expended in direct negotiation than in third party assistance situations. Additionally, several offices commented similarly to last year, that they believe the data being sought by this report should come from the bureaus as the primary source of information."

* "Some (employees) don't see that the collaborative activities that are undertaken on a routine basis as "ECR," so they may not have reported them."

* "Decisions to engage in ECR are dispersed and there is no central source of information."

* "It would help for future years if the questions were standardized so that we would know in advance that we are collecting the necessary information during the course of the year."

* “The lack of a field-level format made the survey unnecessarily difficult to fill out: I’m being asked as a field-level practitioner to enter information into what appears to be a national program-level set of questions, so it’s not clear what questions are relevant for me.”

* “Our attempts to collect data through regional program people failed. ECR is a field-level phenomenon used as needed.”

* “We have extensive databases for tracking and reporting regional performance and accomplishments, but none track the types of data you seek. Due to increasing workload demands, we have neither the time nor the resources to acquire the information at this time.”

* “Field offices within appropriate programs were queried, but not all offices responded, so we could have missed some examples. In at least one instance, the length of the form (10 pp) was perceived to be intimidating and the time involved in completing this survey was considered to be a barrier.”

* “The questions go into significant detail, and seem to make the assumption that multiple cases of environmental conflict resolution will be initiated annually in each region. Even in an area that has as many environmental issues as California and Nevada, we (FWS) do not often hire third parties to resolve conflicts. There are several reasons for this: (1) We are often engaged in environmental negotiations where a third party is hired by other parties in the negotiation, instead of by FWS; (2) the funds to meet the costs of hiring a third party to help resolve an environmental conflict may not always be available; (3) where there is significant environmental conflict, upper-level managers within FWS (the RD, ARDs, or Project Leaders) are often brought in to help resolve the issue; and (4) we are using the structured decision-making process to make more of our decisions, which minimizes the need for ECR. . . . Given this, this questionnaire could likely be simplified and shortened.”

* “The questionnaire is too long and wordy.”

Please attach any additional information as warranted.

Report due December 15, 2007.

Submit report electronically to: Elena_Gonzalez@ios.doi.gov

Attached A. 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