



"You have to listen to not only what is being said, but what is not said -- which is often more important than what they say."

- Kofi Annan

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CADR NEWS

Office of Collaborative Action and Dispute Resolution
U.S. Department of the Interior



CADR Leadership Notes From the Senior Counsel to CADR

Welcome to the second issue of CADR News. Whew! 2007 flew by, and we are forging ahead in 2008 to continue our goal of establishing effective conflict management practices and increasing the appropriate use of collaborative decision-making in all areas of the Department's work. CADR and the Office of the Solicitor (SOL) continue its collaborative partnership to provide consistent policy and legal guidance and support to programs in the use of any and all collaborative problem-solving processes.

The first ever CORE PLUS Orientation Conference was held in Albuquerque, New Mexico, January 14–17, 2008, bringing together key audiences from our roster of in-house neutrals, Human Resources, Civil Rights, and the Solicitor's Office. Participants in this conference enhanced their understanding of CORE PLUS and their roles in ensuring effective implementation of the program in their offices and bureaus. In support of this effort, SOL is revising DOI's policy on confidentiality under the Administrative Dispute Resolution Act (ADRA). The policy emphasizes that confidentiality is integral to an effective ADR program and resolving workplace conflicts and disputes.

In this issue, we are focusing on Environmental Conflict Resolution (ECR), including two important evaluation study efforts on the use of collaborative processes in natural resources management, the Multi-Agency Evaluation Study (MAES), sponsored by the U.S Institute of Environmental Conflict Resolution; and the Systematic Evaluation of Environmental and Economic Results (SEEER), sponsored by EPA and DOI. The results of these evaluation efforts will assist us in making better judgments about the use of collaborative processes in resource management decisions.

Two other important efforts are highlighted in this issue: the second annual Environmental Conflict Resolution (ECR) Report in response to the 2005 OMB-CEQ Memo on the use of ECR; and the rollout of the "Collaboration in NEPA" handbook for NEPA Practitioners, a product of CEQ and a multi-agency workgroup in response to the findings of the NEPA modernization taskforce. Both of these efforts are critical to our continued goal of building capacity within DOI to make effective use of collaborative decision-making.

We hope you enjoy this issue.

Sincerely,

Shayla Freeman Simmons, Senior Counsel for Collaborative Action and Dispute Resolution

CEQ Roles out NEPA Collaboration Handbook

In October 2007, the Council on Environmental Quality's (CEQ) Interagency Work Group on Collaboration released [Collaboration in NEPA: A Handbook for Practitioners](#). The primary purpose of the Handbook is to assist those within Federal agencies who are responsible for conducting environmental reviews in expanding the effective use of collaboration as part of the NEPA process. The Handbook introduces the NEPA practitioner and other interested parties to the principles of collaboration, outlines

general issues, presents useful steps, and provides information on methods of collaboration. It promotes the cultivation of vision, trust, and communication between a lead agency and other governmental organizations (Federal, state, local, and tribal), affected and interested stakeholders, and the public at large.

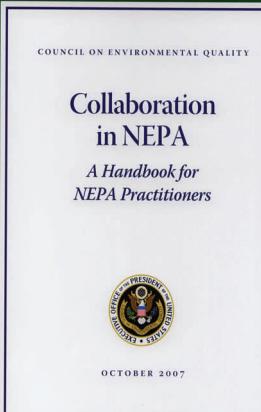
(Continue on page 2)



Red Rocks Canyon National Conservation Area near Las Vegas, Nevada.

"Cooperative Conservation is not a 'nice to do,' it is the only way we can accomplish our missions. As such, the NEPA Handbook serves as a valuable tool for both resource managers and the public."

Willie Taylor,
Director, Office of
Environmental Policy
and Compliance



CADR Holds DOI Dialogue to Discuss ECR Study

The DOI Dialogue on Collaborative Conservation and Cooperative Resolution that CADR sponsored in November 2007 was an evaluation of Environmental Conflict Resolution (ECR) results. The presenters discussed the Systematic Evaluation of Environmental and Economic Results (SEEER), a joint project of the U.S. EPA and DOI, to quantify the impacts of using ECR and compare the environmental and economic results of ECR to its alternatives. For this study, ECR is defined as a process that involves a third party, such as a mediator or facilitator, who assists stakeholders in collaborative problem solving and dispute resolution for environmental and natural resource issues. The project evaluates the results attributable to the decision developed through the ECR process, compared to the results from a decision reached using an alternative process.

The most important reason for evaluating the results of ECR is that the sponsoring organizations and potential ECR participants need sufficient evidence to determine whether to invest in an ECR

approach or pursue other decision making processes. To date, the methodology has been used to evaluate six freshwater cases in Oregon and five water cases at EPA. Work on two NPS ORV cases is underway at DOI.

What does SEEER tell us about cases that cases that DOI was either the lead agency or a participant? The most significant effects are on the organization: the decision makers were better informed, there was a large increase in trust between the agency and stakeholders involved in the process, costs were lower for DOI to reach and implement the decision, and the decision was better compared to the alternative. There are important gains in balancing use and protection without compromising protection of key natural resources, compared to the alternative. As for the economic gains for the cases that DOI bureaus were party to in Oregon, it is estimated that there is \$100 million worth of fish to Oregon rivers.

List of SEEER Cases to Date

Oregon Freshwater cases

- Fish Passage Task Force (Policy)
- Marmot Bull Run Dam Decommissioning
- Pelton Round Butte Hydro Relicensing
- Mid Columbia Habitat Conservation Plan
- Umatilla Basin Water Exchange
- Indian Ford Creek (Land Use/Conservation)

DOI ORV cases (both negotiated rulemaking)

- Cape Cod National Seashore ORV use
- Fire Island National Seashore ORV use

EPA Water cases

- Combined Sewer Overflow Control Policy
- General Electric Pittsfield Superfund Site
- Philadelphia Prisons Enforcement
- Washington Navy Yard Permitting
- Washington Aqueduct Permitting

EPA (second round of 13 superfund cases)

Read about SEEER Methodology on page 3

(NEPA Collaboration Continued)

The Handbook outlines many benefits that result from using collaborative processes, including improvements to fact-finding, integration among jurisdictions, conflict prevention and resolution, social capital, and better use of information, and easier implementation of NEPA reviewed projects. Among its many conclusions, the NEPA Modernization Task Force concluded that collaborative approaches to engaging the public and assessing the impacts of federal actions under NEPA can improve the quality of decision-making and increase public trust and confidence in agency decisions.

On December 5, 2007, CEQ sponsored a workshop to coincide with the roll out of the NEPA Collaboration Handbook. Over 80 individuals from ADR and NEPA offices throughout the federal government and a few representatives from non-governmental organizations attended the event, held at

the National Institute of Health's facilities in Rockville. Horst Greczmiel, Associate Director of CEQ, and Kirk Emerson, Director of U.S. Institute for Environmental Conflict Resolution, led the workshop, which focused on applying concepts in the Handbook to actual NEPA processes. Through role plays and hypothetical examples attendees were able to test these concepts against the experiences they have gained while performing their NEPA and ADR responsibilities.

To find out more information about the NEPA Modernization Task Force or to download the new CEQ NEPA Collaboration Handbook, go online to www.nepa.gov. You can also contact David Emmerson of the CADR office at 202-327-5383 if you have a project you'd like to discuss or if you have any questions about the NEPA Collaboration Handbook.

CADR works with DOI Bureaus on 2007 ECR Report

CADR and the Interior Dispute Resolution Council worked with DOI bureaus to prepare DOI's 2007 report on Environmental Conflict Resolution (ECR). This report is required by a Joint Memorandum issued by the Office of Management and Budget (OMB) and the Council on Environmental Quality (CEQ) in November 2005 that directs federal agencies involved in implementing the National Environmental Policy Act (NEPA) and other environmental laws to "increase the effective use of environmental conflict resolution and build institutional capacity for collaborative problem-solving." The Memorandum also requires these agencies to submit annual reports on their use of ECR.

The OMB/CEQ analysis of the 2006 reports showed that the majority of ECR activity appears to be concentrated in five agencies: DOI; the Environmental Protection Agency (EPA); the Department of Defense (DoD); the Department of Agriculture (USDA); and the Federal Energy Regulatory Commission (FERC). EPA was clearly the most frequently involved in ECR in 2006, participating in over 100 cases. DOI agencies were involved in at least 20 instances of ECR in FY 2006.

The reports show that agencies engage in ECR in a variety of roles. Agencies initiate and manage, as well as participate in ECR processes. They sometimes assume the role of third-party neutrals by mediating, facilitating, and convening ECR processes. As participants and negotiators, they advocate for their interests. They also manage and oversee ECR contracts, develop ECR policy, and administer ECR programs. It appears that the role agencies

play can influence their willingness to engage in ECR, the level of resources at their disposal, how they prioritize environmental objectives against other objectives, and how they interact with stakeholders, among other things.

The analysis also found that agencies can improve how they use ECR, how they collect ECR data, and how they report on their use of ECR. The reports revealed how difficult it was for some agencies to collect data on ECR. Most agencies, including DOI, were unable to readily retrieve ECR data because they lack ECR tracking systems. In addition, certain shortcomings of the report template limited government-wide data analysis. For instance, the open-ended nature of four of the five questions in the report template elicited responses that varied in specificity and substance. Further, the quantitative data of ECR use submitted by agencies are often inadequately qualified or defined, making them appear in some reports to be lacking in context, or unsuitable for cross-agency aggregation. The template for the 2007 ECR reports has been revised to incorporate many of these concerns.

Despite these qualifications, almost all of the reporting agencies, including DOI, acknowledge that ECR can help minimize significant negative consequences associated with environmental conflict when used appropriately. In addition, several agencies joined DOI in expressly affirming that the use of ECR helps them achieve their missions. For more information on the DOI ECR report, please call Dave Emmerson at 202-327-5318.



Antelope Canyon at the Navajo Nation in Arizona.

What is ECR?

Environmental Conflict Resolution (ECR) is defined 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. 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.

Results Produced from SEEER Evaluation Methodology

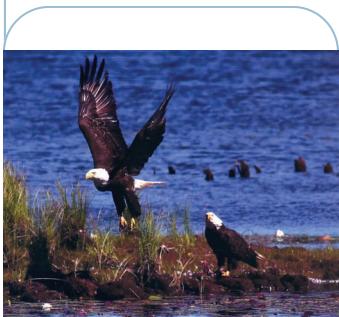
Environmental Effects – an index of environmental effects tailored to each case and aggregated into categories to facilitate analysis across cases based on judgments from the different sources of the importance, probability, magnitude of the environmental and natural resource effects.

Economic Valuation of Environmental Effects – the value of environmental effects are calculated where relevant and credible economic valuation studies exist.

Effects on the Community – an analysis of how the decision addressed the balance between conservation and use of natural resources and the effects that the decision had on managing use.

Cost and Effectiveness of the Decision – a comparison of the costs of reaching the decision and the benefits from using collaborative processes compared to the alternative (e.g. improved information, improved trust between parties, costs of implementing the decision, and the time to reach and implement a decision).

-From the U.S. Institute for Environmental Conflict Resolution



A Bald Eagle takes flight at Seney National Wildlife Refuge in Michigan.

The [MAES] results revealed that in 92% of cases involved in the study, respondents indicated an improvement in the level of cooperation and the level of trust between parties.



Dr. Kirk Emerson from the U.S. Institute leads a discussion about the MAES results at the CADR Dialogue series.

U.S. Institute Presents Study to DOI Audience

How valuable is environmental conflict resolution (ECR) and collaborative problem-solving? Are participants in ECR processes generally satisfied with the outcome of the process? Would the participants recommend ECR processes to others trying to resolve an environmental problem? Do they feel ECR is cost-effective compared to the other approaches to solving environmental problems and decision making? These are the types of questions that the U.S. Institute for Environmental Conflict Resolution (the U.S. Institute) is currently trying to answer through the Multi-Agency ECR Evaluation Study (MAES).

On Oct 16th, 2007, DOI's CADR office hosted a presentation and discussion of the case studies produced by MAES as part of CADR's annual Dialogue Series. The Dialogue panel consisted of the U.S. Institute Director, Dr. Kirk Emerson, and Program Managers from the U.S. Institute, Dale Keyes and Patricia Orr. The MAES project was designed and conducted by the U.S. Institute with participation and support from Federal and State agencies, private sector conflict resolution practitioners and trainers, non-governmental organizations and academic researchers and evaluators. DOI has participated in this ECR Evaluation initiative since shortly after its inception in 2000. The CADR office worked with DOI bureaus and offices to contribute cases to the study. DOI is a participant in many of the 52 recently concluded third party-assisted ECR processes that were systematically examined during the past 2 years as part of the study.

The findings of the MAES shed light on ECR performance, including the quality and durability of the agreements reached and implemented, and the capacity of the parties to build trust and work together cooperatively to solve problems and resolve future conflict. A few examples of the many ECR process dynamics examined in the study include an assessment of the mediator /facilitator engaged in the process, capacity for parties to engage, and whether or not parties had access to relevant information needed to participate effectively in the collaborative process. MAES represents an important step towards understanding the effectiveness of ECR in resolving environmental disputes and fostering relationships between the parties involved in ECR processes.

"MAES measures people's perspectives based on their experiences with ECR," said Dr. Emerson. "Our goal is to shed light on how ECR is performing, and help us

understand the factors that need to be addressed to improve practice."

The U.S. Institute spent the first half of the Dialogue presenting the background, methodology and general findings of the study to the 30-plus DOI employees and others in attendance. During the second half of the Dialogue, the U.S. institute led a group discussion looking more closely at one of the DOI cases: the Bureau of Land Management (BLM) Scattered Apples timber project mediation in Southern Oregon. The discussion demonstrated how the study worked at the case level and provided an example of the MAES process and findings. The Scattered Apples case was Federal-court ordered mediation between a conservation group and citizens of Williams, Oregon and the BLM over a timber sale to a logging company. The mediation was successful and an agreement was reached, however, the logging company has since backed out of the project. The U.S. Institute panel spent time discussing the findings of the case with the DOI audience, including the participants' perceptions of the ECR process.

One interesting finding that emerged from the MAES study was that level of trust and cooperation increased between parties in the majority of cases. Additionally, when asked, "In general, what was accomplished?" the most frequently cited response was, "Relationships among parties in the process were improved."

The Institute emphasized that although MAES is a great step towards understanding the perceptions of ECR, much more work is needed to gain a greater sense of the effects of ECR. "How do we use this data to improve practice?" asked Dr. Emerson. "We need to make sure that we continue use of those mechanisms that are shown to work, to improve overall program performance for programs like CADR and others working on ECR."

Additionally, federal ECR program managers recognize that more work is needed to determine how the results of MAES lead to results on the ground. To better understand that impact, DOI is involved in another multi-agency evaluation study looking more closely at the economic and environmental effects of ECR and collaborative problem-solving processes, called SEEER for the Systematic Evaluation of Economic and Environmental Results.

(See article on page 2 for more information on SEEER)

Finding Conflict Management Services through CORE PLUS

There are several sources of skilled conflict management and conflict resolution neutrals available to assist DOI employees. In September 2007, DOI awarded Blanket Purchase Agreements (BPAs) to Centre Consulting, and SRA International, two vendors who supply conflict management services. These BPAs are an important part of the CORE PLUS initiative. Through these instruments, DOI bureaus can procure the services of top notch private sector mediators, facilitators, conflict coaches, organizational development and change management experts, strategic planners, trainers, and other conflict management professionals to help prevent and resolve workplace conflict. The BPAs are designed to expedite and streamline the contracting process, dramatically reducing the time that contracting for conflict management professionals would ordinarily take under the Federal Acquisition Regulations. The BPAs can be accessed through each bureaus' contracting office. If you have any questions about the BPAs, please contact Dave Emmerson of the CADR Office at 202-327-5318.

Another source of neutral assistance including mediators and facilitators is the CORE PLUS Roster managed by the Office of Collaborative Action and Dispute Resolution (CADR) for use by all bureaus. This in-house roster includes approximately 70 certified CORE PLUS Neutrals who are DOI employees from all regions of the U.S. In addition, the CORE PLUS program includes access to trained and experienced mediators from other federal agencies through the Federal Government Shared Neutrals program. Shared Neutrals federal

agency rosters are maintained in Washington, DC by the Department of Health and Human Services and in several regions by the Federal Executive Board (FEB). Neutrals from the CORE PLUS Roster and the FEB are available without fees, except travel costs when necessary. The Federal Mediation and Conciliation Service (FMCS) is another source of experienced mediators and facilitators available at a fixed rate cost. CADR is negotiating an inter-agency agreement with FMCS to give any bureau or office the ability to acquire an FMCS mediator, facilitator or trainer from any part of the country through a simple standard process.

Anyone interested in learning more about the types of assistance available from these various sources and how to acquire the assistance, can talk with their designated Bureau Dispute Resolution Specialist (BDRS) or call the CADR office at (202) 327-5383 or visit the CADR website at www.doi.gov/cadr/coreplus. Your BDRS or anyone in the CADR office can help you determine the most appropriate resource to use and help you to access the assistance you need. The decisions about what type of assistance is appropriate and who can best provide those services are very important ones. They should be made based on the specific circumstances in each situation. Typical criteria and factors to consider in making these decisions will include the expectations, objectives and needs of the parties involved as well as the timeframe, location, budget, nature and complexity of the issues to be resolved, number of parties involved, potential conflicts of interest, and availability of the neutral.

Announcements

The U.S. Institute for Environmental Conflict Resolution is sponsoring the 2008 National ECR Conference in Tucson, AZ, on May 20-22, 2008. To find out more and for registration information, go to the Institute's Website at www.ecr.gov.

CADR is finalizing dates for several offerings of "Getting to the Core of Conflict: Conflict Management Skills for DOI". Training sessions are planned for Denver; Washington, DC; Phoenix; Albuquerque; Atlanta; and Boise during 2008. Call Susan Goodwin at the CADR office or check www.doi.gov/cadr for training updates and information.

**The U.S. Geological Survey will hold Basic and Advanced Negotiation Training Courses in April and May 2008. For more information visit:
<http://www.fort.usgs.gov/Products/Training/NegTraining/>**

Be sure to read the next edition of CADR News for information on the CORE PLUS Orientation Conference held on January 14-17, 2008 in Albuquerque, NM. In the meantime, you can visit the CADR Website at www.doi.gov/cadr/coreplus to learn more about the conference and the implementation of DOI's CORE PLUS Program.

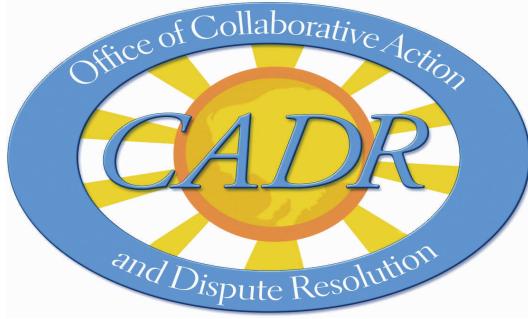


A picturesque lake at Olympic National Park in Washington State.

CORE PLUS provides easy access to conflict management and ADR assistance from a variety of sources.



One of several posters created through graphic facilitation conducted throughout the CORE PLUS Orientation Conference. Read CADR's next newsletter for more information about the Conference.



Established in October 2001, the CADR office promotes, coordinates, and facilitates effective conflict management and greater use of alternative dispute resolution and consensus-building processes throughout the bureaus and offices of the Interior Department.

Elena Gonzalez, Director of CADR, reports to the Deputy Assistant Secretary for Human Capital, Performance, and Partnership and serves as the Department's Dispute Resolution Specialist responsible for ensuring implementation of the Administrative Dispute Resolution Act of 1996. CADR is also responsible for assisting with and reporting on the Department's experience with negotiated rulemaking consistent with the Negotiated Rulemaking Act of 1990.

Shayla Simmons, Senior Counsel for Collaborative Action and Dispute Resolution, reports to the Solicitor. The position was created in 2006 to provide collaborative leadership between the policy and legal functions of the Department in supporting the use of collaborative action and dispute resolution processes. Elena and Shayla co-lead the Interior Dispute Resolution Council (IDRC) comprised of designated bureau dispute resolution specialists. See the listing below.

Interior Dispute Resolution Council

CADR Office

Name	Position	Phone	Email
Elena Gonzalez	Director	202-327-5352	Elena_Gonzalez@ios.doi.gov
Dave Emmerson	ECR Program Coordinator	202-327-5318	David_Emmerson@ios.doi.gov
Susan Goodwin	Conflict Management Specialist	202-327-5346	Susan_Goodwin@ios.doi.gov
Jonathan Steele	Conflict Management Specialist	202-327-5345	Jonathan_Steele@ios.doi.gov

Office of the Solicitor

Name	Position	Phone	Email
Shayla Simmons	Senior Counsel for CADR	202-208-7950	Shayla_Simmons@ios.doi.gov
Tonianne Baca-Green	Attorney/Advisor-CADR	505-831-3095 (Mon.-Wed. 8am-4pm MST)	

Bureau Dispute Resolution Specialists

Bureau Dispute Resolution Specialist (BDRS) from each bureau sit on the Interior Dispute Resolution Council. To find out more about conflict management and ADR in your bureau, contact your BDRS listed below.

Bureau	BDRS	Phone	Email
BIA/BIE	Vacant	Elena Gonzalez (Acting)	
BLM	Paul Politzer	(202) 254- 3325	Paul_politzer@blm.gov
BOR	James Hess	202-513-0543	JHess@usbr.gov
FWS	Sara Prigan	703-358-2508	Sara_Prigan@fws.gov
MMS	Eric Hager	202-208-2941	Eric.Hager@mms.gov
NPS	Kate Stevenson	202-208-5651	Kate_Stevenson@nps.gov
OSM	Ruth Stokes	202-208-2611	Rstokes@osmre.gov
OS-Exec Sec	John Strylowski	202-208-3071	John_Strylowski@ios.doi.gov
OS-OHA	Vacant	Bob Moore (Acting)	
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U.S. Department of the Interior**

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