



U.S. Environmental Protection Agency

Environmental Collaboration and Conflict Resolution
FY 2019 Annual Report

Executive Summary

This report highlights the Environmental Protection Agency’s (EPA’s) key achievements in providing environmental collaboration and conflict resolution (ECCR) in fiscal year (FY) 2019 and the infrastructure that supports this work. In FY 2019, EPA’s Conflict Prevention and Resolution Center (CPRC) provided facilitators and mediators who helped the EPA address some of its most challenging cases, including the Diamond Alkali/Lower Passaic River Superfund Mediation, the Federal Mining Dialogue, the GE-Pittsfield/Housatonic River Site, and the USS Lead Superfund clean-up. Overall, the EPA used ECCR in 117 cases and projects, and each region and most program offices utilized ECCR in their work. To efficiently support its large caseload, CPRC leveraged support from private sector neutral mediators, facilitators, and trainers through extensive use of its Conflict Prevention and Resolution Services (CPRS) contract. The EPA handled slightly fewer ECCR cases in FY 2019 but maintained its position as the leader among federal agencies in ECCR use. The CPRC also built EPA’s capacity to perform ECCR; it trained over 410 staff and managers in 18 training sessions during FY 2019. EPA staff and managers continued to report important benefits from using ECCR including timely outcomes, more efficient processes, better decisions, avoidance of litigation, and a furtherance of EPA’s mission. ECCR continues to be an essential tool to help the Agency achieve its strategic goals, particularly to “collaborate more efficiently and effectively with other federal agencies, states, tribes, local governments, communities, and other partners and stakeholders to address existing pollution and prevent future problems.”¹

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

Introduction

For decades, the EPA has sought input from the public, worked with stakeholders to reach common ground, and negotiated agreements on contentious issues as it strives to fulfill its core mission. Each action the EPA takes to serve the public is the product of dialogue with a diverse set of stakeholders. Sometimes that dialogue goes smoothly; other times, working together is challenging and conflicts arise. In those situations, a neutral facilitator or mediator who specializes in ECCR can help participants reach agreement. The Conflict Prevention and Resolution Center (CPRC) is the primary office that helps the EPA meet these challenges and overcome environmental conflicts.

The CPRC does this by advising EPA staff and managers on how to work better with the public and increase the transparency of its work. It also provides facilitators and mediators who help stakeholders have a voice in EPA's decisions, often resulting in more acceptable, cost-effective, and timely outcomes than traditional alternatives. Key to this work is the Conflict Prevention and Resolution Services Contract, which is managed by CPRC. Every office at EPA has access to this contract to hire quickly professional neutral facilitators, mediators, and trainers who specialize in ECCR.

Neutral professionals also mediate cases before the Environmental Appeals Board and the Office of Administrative Law Judges, as well as for environmental civil rights complaints brought to the External Civil Rights Compliance Office. CPRC's work, together with efforts by the Environmental Appeals Board, the Office of Administrative Law Judges, and the External Civil Rights Compliance Office, has resulted in EPA using ECCR more frequently than any other federal agency. EPA continues to be a leader in federal government ECCR practice and expertise.

This annual report is required by the Office of Management and Budget (OMB) and the Council on Environmental Quality (CEQ)² and is prepared by the CPRC with input from its Regional ECCR Specialists. While it is important for cross-government understanding of the use of ECCR, this report is also a tool for EPA management, staff, and the public to understand EPA's use of ECCR and to inform and inspire readers on how ECCR can be used in a variety of situations to reduce conflict and to achieve better outcomes.

In FY 2019, the EPA continued its strategic plan of "Back to Basics," focusing on its core mission of implementing environmental statutes. EPA's strategic plan includes the goal of increased cooperative federalism, *i.e.* working with states and tribes to help them implement environmental protections. ECCR has become a key tool to achieve this goal. Effective use of ECCR, led by CPRC has supported achievement of EPA's priorities, saving costs and providing effective and efficient means to resolve disputes and engage stakeholders.

² Office of Management and Budget & Council on Environmental Quality (2012). *Memorandum on Environmental Collaboration and Conflict Resolution*. Washington, D.C.

http://www.udall.gov/documents/Institute/OMB_CEQ_Memorandum_2012.pdf.

Background

Alternative Dispute Resolution (ADR) is the use of a neutral third party to conduct “any procedure that is used to resolve issues in controversy, including but not limited to, conciliation, facilitation, mediation, fact finding, mini-trials, arbitration, and use of ombuds, or any combination thereof.”³ All aspects of ADR are voluntary, including the decision to participate, selection of the neutral, and the content of any final agreement. ECCR is essentially environmental ADR, but it also includes proactive collaborative decision-making, with the aim of preventing future conflict. OMB and CEQ define ECCR as “. . . third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and water and land management.”⁴

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Several statutes direct or support the EPA’s work providing ECCR. These include: the **Administrative Dispute Resolution Act (1996)**, which encourages the use of ADR in agency actions, directs all federal agencies to appoint a Dispute Resolution Specialist and promulgate an agency ADR policy, and provides guidance on the issue of confidentiality during ADR processes; the **Negotiated Rulemaking Act (1996)**, which encourages the use of facilitated consensus in developing federal regulations; and the **Alternative Dispute Resolution Act (1998)**, which directs the federal courts to establish ADR provisions and processes. **EPA’s ADR policy (65 FR 81858)** affirms the Agency’s support for using ADR to address environmental conflicts, among others.



Photo: EPA

In addition to EPA, several federal agencies which implement environmental statutes and/or whose actions have significant environmental impacts also maintain ECCR services. In FY 2019, these agencies included the Department of the Interior (DOI), the Federal Energy Regulatory Commission (FERC), the U.S. Army Corps of Engineers (USACE), the EPA, and several others. EPA has been and continues to serve as a government-wide model for effective use of

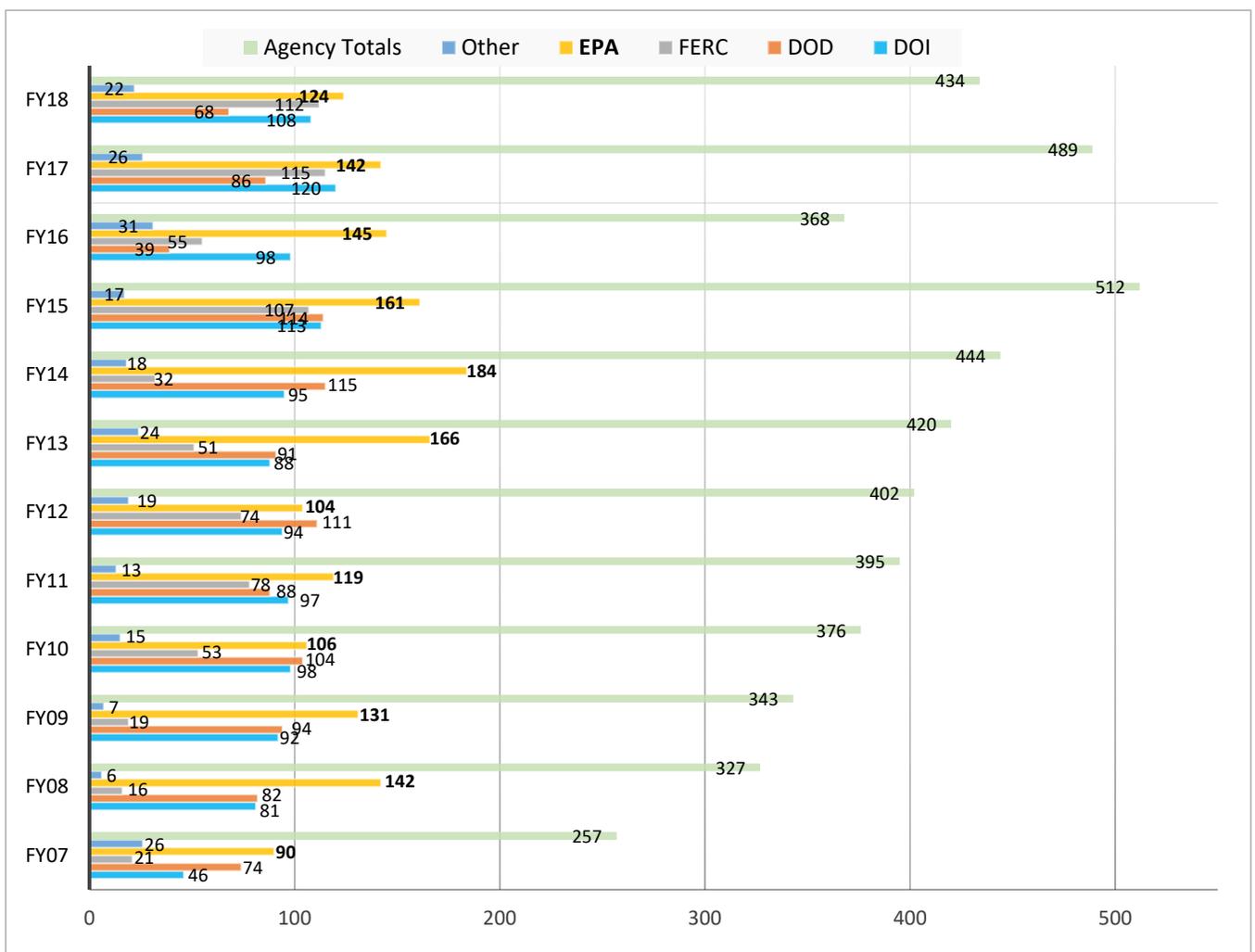
³ 5 U.S.C. § 571(3)

⁴ Office of Management and Budget and President's Council on Environmental Quality Memorandum On Environmental Conflict Resolution, https://www.udall.gov/documents/Institute/OMB_CEQ_Memorandum_2005.pdf

ECCR. EPA has been a national leader in the practice, teaching, and evaluation of ECCR for close to two decades. For all but one of the past eleven years of required reporting, EPA engaged in more ECCR cases than any other federal agency (see Figure 1).

Figure 1 shows a general increase in ECCR use (the number of active [completed and ongoing] ECCR cases) by federal agencies over the past 12 years. The data show a downward trend of ECCR use at EPA beginning after FY 2014. This trend continued into FY 2018 during which EPA engaged in 124 ECCR cases. Likely causes for this trend are discussed in the “Challenges” section.

Figure 1: ECCR Cases in the Federal Government - FY 2007 to FY 2018⁵



⁵ U.S. Institute for Environmental Conflict Resolution. *Environmental Collaboration and Conflict Resolution (ECCR) in the Federal Government: Synthesis of FY 2018 Reports*. Tuscon, AZ. The report is available online here: https://www.udall.gov/documents/ECRReports/2017/FY17ECCRSynthesisReport_Final.pdf

ECCR Infrastructure at EPA

The CPRC provides most of EPA's ECCR services as well as ECCR training. Through FY 2019, the CPRC also maintained a robust case evaluation program. Three additional offices also offer ECCR services consistent with the EPA's policy on conflict resolution⁶.

The Conflict Prevention and Resolution Center (CPRC), within the EPA's Office of General Counsel (OGC), is the office that leads EPA's ECCR program and provides most ECCR services at the EPA. It is led by the EPA's Dispute Resolution Specialist. The CPRC supports the entire Agency by helping programs and regions across the agency collaborate, prevent, and resolve disputes. The CPRC provides expert ECCR services, either directly by CPRC staff, or most often, through its \$51 million Conflict Resolution Services (CPRS) contract. The contract offers access to reliable and easy-to-use services from private sector experts. CPRC's services help the Agency more effectively engage states, tribes, and local stakeholders to achieve better environmental outcomes. In addition to mediation and facilitation, CPRC staff and contracted ECCR experts provide training, coaching, and related services in support of ECCR. As described below, CPRC works with ECCR specialists located in all ten EPA regions to help deliver services in support of regional programs.

The Office of Administrative Law Judges (OALJ) is an independent office in EPA's Office of Mission Support (OMS). In accordance with the Administrative Procedure Act, the administrative law judges (ALJs) conduct hearings and render decisions in enforcement and permit proceedings between the EPA and those regulated under environmental laws. The ALJs also may conduct hearings related to findings by EPA's External Civil Rights Compliance Office (ECRCO) of a violation of one of the civil rights laws it enforces, including Title VI of the Civil Rights Act. All litigants before the ALJs are offered the opportunity to resolve cases through ECCR.

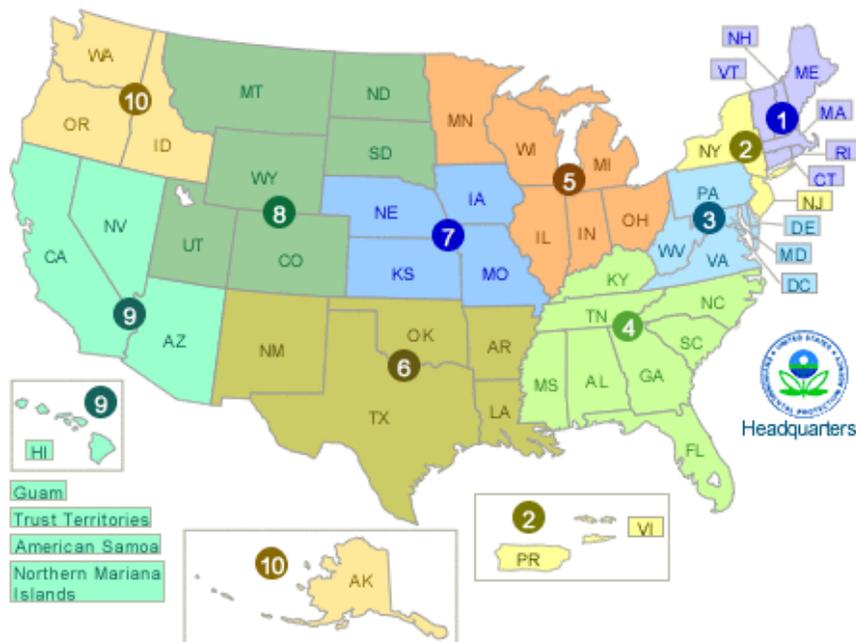
The Environmental Appeals Board (EAB), also located within the OMS, currently hears appeals of permitting decisions and administrative penalty decisions. In FY 2019, the EAB heard other significant matters, including petitions for reimbursement of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) cleanup costs and certain pesticide registration and cancellation proceedings. A wide range of stakeholders appeal to the Board, including companies, state and local governments, tribes, non-governmental organizations, citizens, and in the penalty cases, the EPA itself is the complainant. In FY 2019, the EAB offered parties the option to resolve disputes through ECCR with the assistance of a neutral mediator who is often an EAB Judge. The EAB's ECCR program has fostered negotiated settlements that speed up resolution of EAB cases and conserve government resources.

⁶ https://www.epa.gov/sites/production/files/2018-04/documents/epa_adr_policy.pdf

The External Civil Rights Compliance Office (ECRCO), within the OGC, enforces several civil rights laws, most notably Title VI of the Civil Rights Act of 1964, which prohibits discrimination by applicants for, and recipients of, federal financial assistance from EPA. In appropriate cases, ECRCO offers parties the opportunity to engage in formal mediation to resolve complaints. ECRCO provides information regarding mediation and other informal resolution options in its initial communications with parties.

In addition to the support for ECCR from these offices, the EPA has 20 skilled **ECCR Specialists** in its regional and program offices, who work with CPRC to provide ECCR services. A few work as fulltime ECCR specialists, but most do this work as a collateral duty. Many are attorneys in the Offices of Regional Counsel, but others work in a variety of contexts, including public involvement, environmental justice, and enforcement. The ECCR Specialists have been trained in a variety of ECCR skills, including facilitation, mediation, negotiation, and/or conflict coaching. ECCR Specialists advance the use and understanding of ECCR at EPA by serving as liaisons for ECCR activities; supporting ECCR education and training; drawing on existing regional resources to resolve disputes; building and supporting communities of practice, which develop expert knowledge, skills, and capacity to facilitate and perform ECCR; tracking requests for assistance, ECCR cases and projects; and contributing to the development of this annual report to OMB and CEQ. On occasion, they also serve as mediators, facilitators, and conflict coaches. The network of ECCR Specialists remained strong and active in FY 2019.

Figure 2: EPA Regions



FY 2019 ECCR Use at EPA

Since 1978, ECCR has helped the EPA to fulfill its mission to protect human health and the environment. Using ECCR allows the EPA, its stakeholders, and the citizens it serves to more effectively engage with each other and develop a common understanding of environmental issues, prevent conflict, reduce differences, and resolve disagreements in a mutually-agreeable manner. In short, ECCR helps the Agency make better decisions, work with stakeholders in a more effective manner, and attain sustainable environmental outcomes.

Overall Use of ECCR at EPA

The EPA's strategic plan focuses on delivering a cleaner and safer environment to the American people. The 2018-2022 EPA Strategic Plan has three primary goals:

1. **Core Mission**: Deliver real results to provide Americans with clean air, land, and water.
2. **Cooperative Federalism**: Rebalance the power between Washington and the states to create tangible environmental results for the American people.
3. **Rule of Law and Process**: Administer the law, as Congress intended, to refocus the Agency on its statutory obligations under the law.

ECCR helps the Agency to achieve all these goals. The following section describes how the EPA used ECCR to support these goals in FY 2019. In particular, EPA's ECCR program directly contributed to effective environmental protection by helping EPA programs and regions work with "... state partners ... from a foundation of transparency, collaboration—including public participation—and a spirit of shared accountability for the outcomes of this joint work. This foundation involves active platforms for public participation, including building the capacity of the most vulnerable community stakeholders to provide input." ⁷

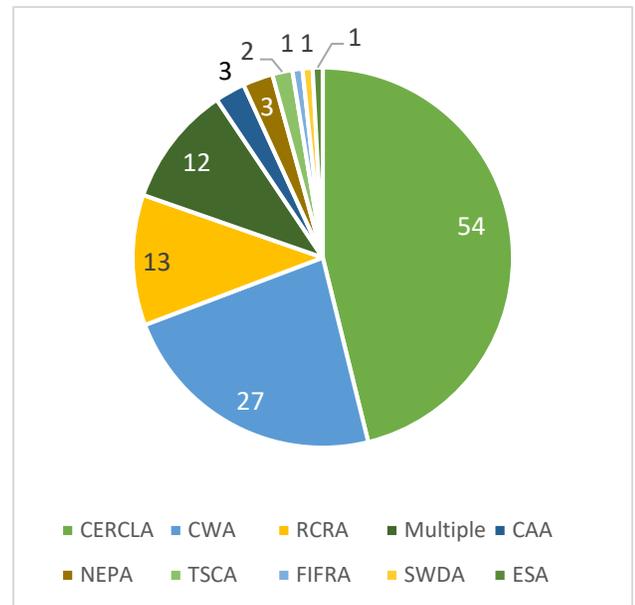
1. Core Mission

In FY 2019, the EPA used ECCR in all ten regions and most program offices for a broad range of applications. From mediating disputes over Superfund cleanups to facilitating rulemaking meetings; from gathering public input during complex and high-tension meetings to mediating enforcement disputes, facilitators provided by the CPRC and others designed and led meetings, so EPA staff could focus on technical and substantive issues and keep projects moving forward.

⁷ FY 2018-2022 EPA Strategic Plan, p. 25

EPA used ECCR in FY 2019 in a broad range of circumstances nationwide.

Figure 3: FY 2019 ECCR Cases by Statute



- In FY 2019, EPA used ECCR in 117 cases. Every EPA region and nearly every program had an ECCR case, which included matters involving Superfund cleanups, brownfields redevelopments, permit disputes, and policy development.
- Similar to past years, in FY 2019, EPA used ECCR most frequently to address issues under CERCLA (Superfund, in about 46% of cases) and the Clean Water Act (CWA, in approximately 24% of cases), as seen in Figure 3. Cases classified as “multiple” were predominantly facilitated processes with communities that dealt with several environmental issues.

- In FY 2019, all offices with specific mandates to support ADR successfully supported mediations and other cases. CPRC handled 70 cases on behalf of client programs and regions, and the ECCR Specialists were responsible for 14 cases. In addition, the ALJs mediated four cases to resolution, and the EAB mediated one case. ECRCO referred one Civil Rights Title VI case to CPRC for mediation assistance. EPA was involved in four other matters in litigation, which were mediated with the assistance of the U.S. Department of Justice. Three additional cases were mediated through the in U.S. District Court mediation program. 20 other ECCR cases in which EPA was involved were handled by a combination of means (for example, multiple parties paid for a neutrally facilitated or mediated process or another federal agency led the process).

EPA senior leaders continue to use ECCR to help the Agency achieve its mission. Senior leadership actively engaged in and strongly supported the use of ECCR in several high-profile cases in FY 2019, including:

- Allied Paper
- Amphenol RCRA Public Meeting
- Diamond Alkali Lower Passaic River Superfund Mediation
- Federal Mining Dialogue
- GE Housatonic Citizens Coordinating Council
- American Indian General Assistance Program Guidance Facilitation
- Lead (Pb) Mapping Workshop Facilitation
- Paducah Situation Assessment Facilitation
- Portland Harbor Southeast Superfund Facilitation
- USS Lead Superfund Facilitation

EPA's Strategic Plan describes goals for the Agency's core mission work in four broad categories - Air, Water, Land, and Chemicals. This section describes how EPA used ECCR in each of these four areas in FY 2019 and provides specific example cases.

Air - EPA used ECCR in three air cases in FY 2019 to address truck idling, issues associated with an industrial permit appeal, and asthma caused by indoor air pollution in certain tribal communities. In the asthma case, a professional facilitator worked with EPA Region 10 staff to create effective outreach strategies that reduced the impacts of asthma from indoor air pollution. Tribal communities in the Region are disproportionately burdened by asthma, with native adults in Washington State being nearly three times as likely as white adults to be hospitalized because of it. The Region wanted to reduce asthma exacerbations, school and work absences, and increase wellness and quality of life of tribal members, particularly for children. Creating an effective and culturally appropriate outreach and



Tribal Asthma Program graphic: EPA Region 10

leadership engagement campaign required a facilitator who was skilled in convening and facilitating a group of diverse tribal representatives, state and local government employees, and health experts. Through this expert guidance and meeting facilitation, the facilitator helped the EPA to effectively engage with the Affiliated Tribes of Northwest Indians (ATNI). ATNI in turn passed a resolution to address the tribal asthma problem in Region 10 through comprehensive asthma home visits to deal with indoor air pollution. Additionally, the contracted facilitator supported EPA with critical technical expertise to develop and pilot asthma home visit programs in urban and reservation-based tribal communities.

Water - After land (i.e. Superfund and RCRA), water has been the media which has historically used ECCR the most at EPA, and this continued to be the case in FY 2019. EPA has many different water programs. Contentious disputes often arise in the context of water permitting, planning, and enforcement actions. Of the 28 water-related ECCR cases that occurred in FY 2019 23 arose in six of EPA's 10 regions and five were programmatic or national in scope. These cases involved watershed or community water-resource planning (11 cases), compliance and enforcement issues (five), storm and hazard mitigation planning (four), policy dialogue facilitation (four), permit issuance and appeals (three), and one instance of rulemaking.

The EPA uses ECCR to help resolve water permit disputes with individual citizens, which often have been troubling both sides for years. For example, the EPA employed mediation in the [Bill Case enforcement action](#), which has been ongoing for almost a decade. In 2009 and then again in 2012 and 2013, a farmer in Oregon, violated Section 404 of the Clean Water Act by discharging dredged and/or fill material without a permit. After the United States fully prevailed



Unpermitted rock wall. One of multiple violations Photo: EPA Region 10

on a motion for summary judgment on liability, the farmer agreed to mediate the remedy. In September of 2018, the parties met twice before a federal magistrate judge. The magistrate helped the parties work through issues that had been sticking points for years by providing a realistic perspective and assessment to each party. During the mediation, the parties reached a framework agreement. Under that framework, the United States secured full removal and restoration of the violations, compensatory mitigation, and a \$100,000 penalty. While negotiating the details of this framework has taken over a year, it is unlikely that this outcome would have been secured without mediation.

Land - For decades, EPA's most frequent use of ECCR has been supporting Superfund cleanups. The large number of Superfund-related ECCR matters is primarily due to the legal requirement to involve communities in the development of clean up remedies and the financial support available through Superfund. Superfund cleanups involve planning, community involvement, outreach about complicated scientific matters, and sometimes contentious negotiations and litigation. EPA most often uses ECCR to provide support to establish and facilitate community advisory groups (CAGs), to facilitate challenging public meetings, to provide conflict coaching so EPA staff involved in site cleanups can work more effectively with stakeholders, and to mediate disputes over responsibilities and terms of cleanups. The main policy contexts for the 54 Superfund ECCR cases in FY 2019 included: compliance and enforcement (22 cases), general community involvement (14), planning for cleanups (eight), implementing agreements to clean up sites (seven), and siting and construction (three). CPRC directly supports the Superfund Task Force's goals to engage partners and stakeholders while expediting cleanup and remediation.

EPA often uses ECCR to improve the functioning of community advisory groups (CAGs) at Superfund sites. An example in FY 2019 is the ongoing facilitation of the CAG at the Lincoln Park Superfund site in Fremont County, Colorado which has significantly improved how the EPA and the Colorado Department of Public Health and Environment interact with affected citizens. The facilitator has been highly effective in bringing community concerns into sharper focus and getting the new site owner, to spend time

listening and responding to community concerns. The Lincoln Park CAG has gone from being suspicious of the new site owner to embracing it and its fresh approach to site cleanup. The rejuvenated CAG has energized the cleanup process making it more likely that this site can be returned to the inventory of lands in Freemont county that are safe and ready for redevelopment.

The EPA also used ECCR in 13 Resource Conservation and Recovery Act (RCRA) cases in FY 2019. These cases involved a broad range of topics including cleanup from hurricanes, solid waste tracking and recycling, and implementation-workshops with municipalities in Regions 1, 2, 4 and 5. These cases generally involved compliance and enforcement actions (five cases), planning (three cases), policy development (two), community involvement (two), and implementing agreements (one).

Chemicals - In FY 2019, there were ECCR cases under the Toxic Substances Control Act (TSCA) (there were none involving the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)). A neutral facilitator assisted the Agency for two public meetings associated with the EPA's decision to issue a TSCA permit to



the Kettleman Hills facility in California and to provide information and receive public comment on the proposed permit. The facilitated meetings enabled EPA to complete its public comment process, and it is now proceeding with the remaining steps in the permit process. The neutral was very helpful in keeping meetings running smoothly and allowing EPA to focus on its role as provider and receiver of information.

Kettleman Hills meetings Photo: EPA Region 9

2. Cooperative Federalism

EPA's second strategic goal is cooperative federalism, under which EPA aims to promote shared accountability among the federal government, states, and tribes and in consultation with local communities to provide environmental protection, and to increase transparency and public participation. ECCR enhances the likelihood of achieving these important outcomes. Engaging with stakeholders can be complex, time-consuming, and imbued with conflict. In these cases, using a skilled facilitator is an essential tool to help ensure that EPA's work with states and tribes is effective, provides meaningful public involvement and comes to timely, practical solutions. In FY 2019, a large percentage (35%) of EPA's ECCR cases involved facilitation of collaborative processes with states, tribes, communities, and other federal agencies, most often with CPRC support.

Enhance Shared Accountability - The CPRC specializes in helping the EPA work with its state, tribal, and local partners to achieve shared governance, enhanced collaboration, and better environmental

outcomes. In FY 2019 the CPRC provided skilled facilitators who helped the Agency to better allow states and tribes to advance their environmental goals.

In FY 2019, A CPRC facilitator partnered with the American Indian Environmental Office (AIEO) to plan and conduct an internal EPA workshop as part of an ongoing evaluation of guidance for the Indian Environmental General Assistance Program (GAP). The facilitated workshop provided AIEO an important opportunity to work collaboratively with representatives of EPA regions to develop policy options on long-standing challenges associated with administration of EPA's largest financial assistance program for tribal governments.

Additional Cooperative Federalism accomplishments in FY 2019 supported by CPRC's work include:

- Facilitating policy development based on input from states and tribes about how best to assume the CWA 404 permitting authority;
- Implementing trans-boundary watershed management plans in Maine, Montana, and Idaho; and
- Collaborating with states in New England to enhance permitting and compliance at RCRA treatment, storage, and disposal facilities.

Increase Transparency and Public Participation - As the Agency's experts in public participation and the main providers of contracted public participation support, the CPRC staff routinely support all EPA programs and regions to increase transparency and public participation. In FY 2019, the CPRC regularly advised on how to organize public participation processes. Expert facilitators and mediators accessed through CPRC's contract supported the creation and improved functioning of 14 Community Advisory Groups at Superfund sites and helped create forums for environmental justice communities to engage with the EPA throughout the country. CPRC also provided training to help EPA staff better plan, design and deliver meetings with improved public participation.

3. Rule of Law and Process

Compared to litigation, which can be costly, time-consuming, and has uncertain results, environmental mediation provides a space to find paths to compliance that parties may have not seen before. Through the mediation process, parties can identify more creative means to meet their interests and resolve disputes than may be available through litigation. From negotiations at Superfund sites among potentially responsible parties, to access issues, CPRC used its alternative dispute resolution skills and approaches to help bring more than 33 seemingly intractable cases to satisfying resolutions in FY 2019. Through the CPRC, and in collaboration with the Department of Justice, relevant states, and tribes, EPA staff accessed environmental dispute resolution professionals nationwide and helped bring parties back into environmental compliance consistent with EPA's strategic goal regarding the "Rule of Law and Process".

FY 2019 Case Highlight: EPA Provides Catalyst for Disaster Preparedness

In FY 2019, EPA’s ECCR assistance to the town of Scituate, Massachusetts allowed this vulnerable coastal community to begin a long-term process of comprehensive disaster preparedness after years of focusing only on crisis management. Despite the looming risk of injury to its citizens and serious property damage that each severe storm caused, the town did not have the resources to chart a clear path forward. There were also many divergent views about how best to plan for natural disasters. Along with a grant from a non-profit, the EPA used \$10,000 to fund a professional facilitator to conduct an assessment based on confidential interviews of community members. After interviewing over 40 individuals representing a cross-section of the community and using the extensive but piecemeal data that the town had provided, the facilitator produced an assessment report that conveyed a candid, easily-understood overview of community concerns and priorities, and put forward a set of recommendations. With the benefit of this direction from the community, the town’s board secured state and regional planning grants totaling \$300,000. These funds will be used to develop short-term and 50-year coastal resilience plans and conduct outreach with impacted community members. Scituate’s experience of the EPA-supported community assessment and facilitation as a catalyst for disaster preparedness, can be replicated in other vulnerable communities. (See Appendix C.)



Photo: Carri Hulet. Used with permission

“The negotiation training provided examples and hands-on practice of how to communicate more clearly with my colleagues, as well as how to negotiate more effectively with parties outside EPA.”

- Interest-Based Negotiation Trainee

ECCR Training at EPA

In FY 2019, the CPRC increased EPA staff capacity to perform ECCR through its training. The CPRC led the Agency’s ECCR outreach and training activities to strengthen EPA staff’s skills and promote the increased use of ECCR throughout the Agency. CPRC continued to implement its training strategy by strategically upgrading training offerings. In FY 2019, CPRC developed a new training to better serve the Agency’s needs, *A Narrative Framework for Community Involvement and Conflict Resolution*. This training helps EPA staff who facilitate interactions with the public to develop stories that foster trust and collaboration and

reduce conflict. CPRC delivered the training twice in FY 2019 to a combined total of 90 participants.

In addition to this narrative training, CPRC provided a series of different trainings for EPA managers and staff to build skills and knowledge in interest-based negotiation, engaging in difficult conversations, and legal bargaining. In FY 2019, CPRC delivered **92.5 hours** of ECCR training over the course of **18 sessions**. More than **410 staff and managers attended** trainings at EPA headquarters and in six regional offices. Customized courses were provided to the Office of General Counsel; the General Law Office Freedom of Information Act Practice Group; the Office of Superfund Remediation and Technology Innovation; the Office of Pesticide Programs Antimicrobials Division; the Office of Regional Counsel in Regions 8, 9, and 10; and all staff in Regions 3, 4, 6, 9, and 10. Three sessions open to headquarters were attended by 41 staff members in all program offices.

“It was helpful to see real people talking about their experiences using techniques to take on difficult conversations. [The training] makes it more realistic and approachable and gives me more confidence to employ the techniques myself.”

- Difficult Conversations Trainee

CPRC delivered its eleventh annual Conflict Resolution Week program in October 2018. Events during this week increased EPA staff and managers’ awareness of ECCR services at the EPA and improved their ECCR knowledge and skills. The CPRC hosted a session with EPA office managers who have regularly seen a benefit from using CPRC’s services. This session was available to all ten regions. CPRC also presented an in-person training on interest-based negotiation, and CPRC staff worked with regional ECCR Specialists to present in-person trainings in Regions 3, 4, and 8. In total, over 150 people from HQ and regions attended at least one session during the Conflict Resolution Week events.

ECCR Evaluation at EPA

As part of its commitment to continuous improvement, CPRC conducted its twelfth year of evaluating ECCR cases, trainings, and performance of its contracting services. CPRC evaluated two new cases, eight trainings, and 40 contract task orders and technical directions. In addition, CPRC reevaluated nine previously-evaluated cases to better understand how participants’ views on the mediations have evolved over time. The EPA uses case evaluation data to provide feedback to EPA staff and practitioners about how to improve future services and to build understanding of the benefits of ECCR. CPRC has had robust baseline evaluation data, and CPRC’s evaluation program has historically been supported by a contractor and a significant portion of an FTE. However, as noted above, constrained agency appropriations have not kept pace with costs and that has reduced funding and FTE available for CPRC and the regional resources that support ECCR. As a result, CPRC has not had contract or FTE to implement as many case and training evaluations and to produce quarterly and annual case and training evaluation reports in FY 2019. In the past, these reports were used to better understand and adapt to trends.

Benefits of Using ECCR

The following are the main benefits of ECCR use identified by EPA's program and regional offices:

EPA offices and regions reported that ECCR use **furthered the Agency's mission and strategic goals** to protect human health and the environment by helping them establish collaborative processes to resolve environmental problems. Such processes often facilitated creative solutions and strategies to solve problems that would otherwise be held up in litigation and enabled the Agency and its stakeholders to plan effectively for the future.

ECCR use resulted in **improved collaboration and working relationships** among a broad range of stakeholders as EPA enhanced cooperative federalism.

The use of ECCR made **processes more efficient**. When the Agency used a neutral third party, it provided structure and focus to negotiations and moved cases along more quickly. One result was that the EPA could better meet required case or project deadlines. Offices also noted resource savings when ECCR was used for enforcement cases. Compared to litigation, the early resolution of enforcement cases resulted in cost savings, quicker case resolution, and reduction of wasteful gamesmanship, posturing, and delays between counter-offers. Offices also noted efficiency and the uncertainty associated with litigation outcomes as another **reason to avoid litigation**.

Some noted that ECCR produced **more productive conversations** in both enforcement and non-enforcement contexts. Involving neutral facilitators and mediators helped overcome language barriers, cultural differences, and challenges in communicating about risk. Even in enforcement cases where the parties did not reach agreement, offices and regions reported that ECCR resulted in a better understanding of the issues and often narrowed the range of disagreement, laying the groundwork for a speedy resolution.

Many offices and regions stated that ECCR resulted in **better outcomes**, some of which could not have been achieved without neutral third-party assistance. These included outcomes that have improved environmental conditions when compared to non-ECCR cases, more creative outcomes, and external stakeholder ownership in the EPA's initiatives, programs and agreements.

ECCR professionals helped the EPA and external stakeholders **build their capacity** to engage in collaborative processes. Capacity building activities such as coaching parties on how to deal with conflict

Noted Benefits of ECCR

- *Furtheres EPA's mission and strategic goals*
 - *Improves relationships*
 - *Greater efficiency*
 - *Avoids litigation*
 - *More productive conversations*
 - *Better outcomes*
 - *Builds capacity*
-

and creating procedures to address conflict when it arises, enabled partnerships and workgroups to work together more effectively even after neutral facilitation support ended.

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

In 2015, the CPRC conducted a census of lead attorneys in ECCR cases. The CPRC continues to hear reports from ECCR users which affirm the results of the comprehensive 2015 study. That study found:

- ECCR processes required 45% fewer weeks to reach a decision than litigation.
- ECCR processes required 30% fewer staff members than litigation.
- ECCR processes required 79% fewer lead attorney hours than litigation and 38% fewer lead attorney hours than settlement without third-party neutrals.

These results suggest that ECCR in EPA's litigation-related cases can produce faster resolutions, reduce staffing workload, and provide direct cost savings compared to alternative decision-making processes such as proceeding with litigation or engaging in settlement without third-party neutrals.

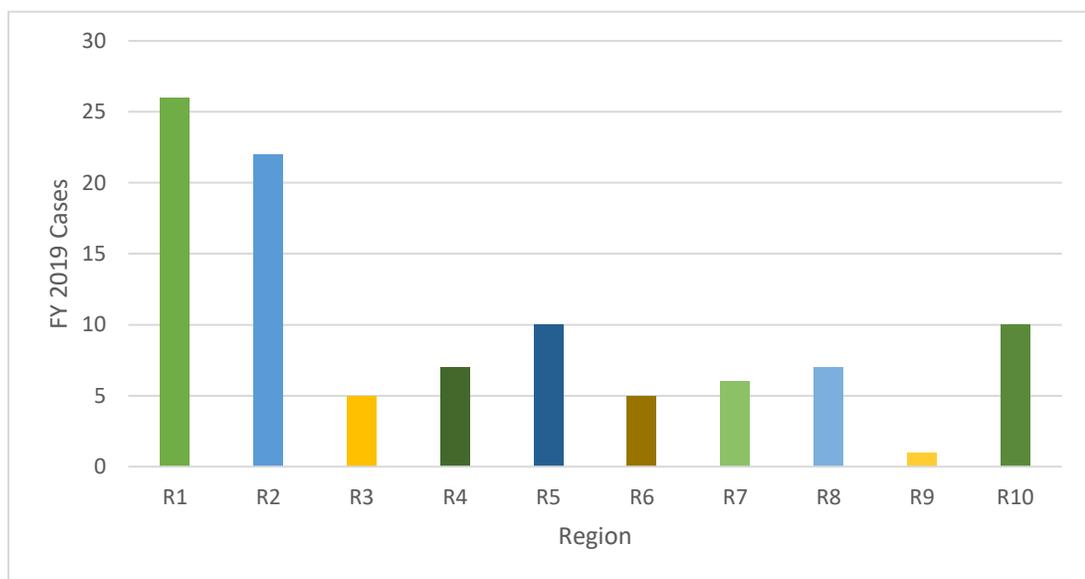


Photo: EPA

Challenges

Several challenges have led to a reduced use of ECCR at the EPA. As noted in Figure 1, the reduced use of ECCR at EPA began in FY 2015 and has continued through FY 2019. Constrained agency appropriations have not kept pace with costs and that has reduced funding available for CPRC and the regional resources that support ECCR. As reported last year, there has also been some staff attrition. Figure 4 illustrates the current level of ECCR use across the EPA regions.

Figure 4: FY 2019 ECCR Cases by Lead Region



Note: this chart does not include 18 ECCR cases that were national or programmatic in scope and were led by a program office.

Additionally, at the beginning of FY 2019, one of four administrative law judges who frequently provided mediation retired, and the OALJ implemented a policy change, which reduced the opportunities for mediation to be used in cases under their purview. Taken together, these changes reduced the number of ECCR cases in FY 2019 and will likely affect ECCR use in FY 2020 and beyond.

Conclusion

In FY 2019, the EPA remained a lead federal agency that provides ECCR and continued to supply easy access to top quality ECCR services to help the EPA achieve its mission and strategic goals. EPA's program and regional offices, supported by the CPRC, used these services because they are an important tool to carry out effective work. As described above, ECCR was used in every EPA region and most programs to address cases dealing with all media in which EPA works (land, water, air, and chemicals). ECCR allows the EPA to effectively and efficiently get input from, prevent and resolve disputes with, and serve the American public.



Photo: EPA

Appendixes

Appendix A - OMB & CEQ Questionnaire

In collaboration with the U.S. Institute for Environmental Conflict Resolution (the Agency which collects and summarizes these reports for OMB and CEQ), EPA continued to produce a reformatted ECCR Annual Report. EPA did this to make the report more understandable and useful for the reader. Below are the summarized questions from the OMB and CEQ questionnaire and references to where the corresponding answers can be found in this report (in *italics*).

1. ECCR Capacity Building Progress:

- a. Describe any **NEW, CHANGED, or ACTIVELY ONGOING** steps taken by your department or agency to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2019, including progress made since FY 2018. Please also include any efforts to establish routine procedures for considering ECCR in specific situations or categories of cases, including any efforts to provide institutional support for non-assisted collaboration efforts. Please refer to your agency's FY2018 report to only include new, changed or actively ongoing ECCR capacity building progress. If none, leave this section blank.

- b. Please describe the trainings given in your department/agency in FY 19. Please include a list of the trainings if possible. If known, provide the course names and if possible, the total number of people trained. Please refer to your agency's FY2019 report to include only trainings given in F 2019. If none, leave this section blank.

- *FY 2019 ECCR Use at EPA "ECCR Training at EPA" - pages 14-15*
- *Regional and Program Office ECCR Capacity - pages 29-35*
- *Appendix G - Examples of Non-Third Party Assisted Cases - pages 50-59*

2. ECCR Investments and Benefits

- a. Please describe any **NEW or CHANGED or INNOVATIVE** investments made in ECCR in FY2019. Examples of investments may include ECCR programmatic FTEs, dedicated ECCR budgets, funds spent on contracts to support ECCR cases and programs, etc.

Please refer to your agency's FY2018 report to only include new, changed, or innovative investments made in ECCR. If none, leave this section blank.

- b. Please describe any **NEW or CHANGED or INNOVATIVE** benefits realized when using ECCR.

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

Please refer to your agency's previous report to only include new or innovative methodology to identify ECCR investments and benefits. If none, leave this section blank.

- *Investments: ECCR Infrastructure at EPA - pages 5-6*
- *Benefits: Benefits of Using ECCR - pages 16-17; Appendix E - Program Office and Regional Descriptions of ECCR Benefits - pages 36-40*

3. OMB/CEQ Question 3 - ECCR Use:

Describe the level of ECCR use within your department/agency in FY 2019 by completing the three tables below.

- *Appendix B Table of ECCR Cases in FY 2019 - page 22*

4. ECCR Case Example:

- *FY 2019 ECCR Use at EPA - page 16; Appendix C - REACH Title VI Case - pages 26-28*

5. Other ECCR Notable Cases:

Briefly describe any other notable ECCR cases in the past fiscal year. (Optional)

- *Appendix F - Additional Notable ECCR Cases - pages 41-50*

6. Priority Uses of ECCR:

Please describe your agency's **NEW or CHANGED** efforts to address priority or emerging areas of conflict and cross-cutting challenges either individually or in coordination with other agencies. For example, consider the following areas: NEPA, ESA, CERCLA, energy development, energy transmission, CWA 404 permitting, tribal consultation, environmental justice, management of ocean resources, infrastructure development, National Historic Preservation Act, other priority areas. Please refer to your agency's FY2018 report to only include new or increased priority uses. If none, leave this section blank.

- *FY 2019 ECCR Use at EPA - pages 7-13*

7. Non-Third-Party-assisted Collaboration Processes:

Briefly describe other significant uses of environmental collaboration that your agency has undertaken in FY 2019 to anticipate, prevent, better manage, or resolve environmental issues and conflicts that do not include a third-party neutral. Examples may include interagency MOUs, enhanced public engagement, and structural committees with the capacity to resolve disputes, etc. If none, leave this section blank.

- *Appendix G - Examples of Non-Third Party Assisted Cases - pages 50-59*

8. Comments and Suggestions re: Reporting:

Please comment on any **NEW or CHANGED** difficulties you encountered in collecting these data and if and how you overcame them. Please provide suggestions for improving these questions in the future. Please reference your agency's FY2018 report to identify new/increased difficulties. If none, leave this section blank.

- *Appendix H - Comments and Suggestions for OMB and CEQ on Reporting - page 60*

Appendix B - Summary of ECCR Cases in FY 2019

An ECCR “case or project” is an instance of neutral third-party involvement to assist parties in a collaborative or conflict resolution process.

Table 1: Purpose and decision-making forum for EPA ECCR cases in FY 2019

Purpose	Decision making forum addressing the issue when ECCR was initiated:				Total FY 2019 ECCR Cases
	Federal Agency Decision	Administrative Proceeding/ Appeal	Judicial Proceeding	Other (Specify)	
Policy Development	2	0	0	4	EPA internal policy dialogue, interagency policy dialogue, stakeholder input 6
Planning	6	0	0	34	Support of tribal, state, regional, municipal dialogue & decision-making, voluntary stakeholder action 40
Siting and Construction	2	0	0	2	4
Rulemaking	1	0	0	0	1
Permit Issuance	1	1	1	0	3
Compliance and Enforcement Action	6	4	12	11	Assessment of multi-agency enforcement program 33
Implementation/ Monitoring Agreements	7	1	0	1	Stakeholder Dialogue regarding access agreements. 9
Other	2	1	0	18	Stakeholder collaboration, process improvements, situation assessment, stakeholder input, voluntary programs 21
Total	27	7	13	70	117

Table 2. EPA ECCR cases by purpose and completion year

Purpose	ECCR cases or projects completed in FY 2019	ECCR cases or projects continuing in FY 2019	Total FY 2019 ECCR Cases
Policy Development	4	2	6
Planning	19	21	40
Siting and Construction	2	2	4
Rulemaking	0	1	1
Permit Issuance	0	3	3
Compliance and Enforcement Action	11	22	33
Implementation/ Monitoring Agreements	2	7	9
Other	13	8	21
Total	51	66	117

Table 3. EPA case and project sponsorship

Purpose	ECCR Cases or Projects sponsored	ECCR cases or projects in which EPA participated, but provided no funds or in-kind services.	Total FY 2019 ECCR Cases
Policy Development	5	1	6
Planning	39	1	40
Siting and Construction	4	0	4
Rulemaking	1	0	1
Permit Issuance	1	2	3
Compliance and Enforcement Action	23	10	33
Implementation/ Monitoring Agreements	5	4	9
Other	20	1	21
Total	98	19	117

Table 4. Interagency participation in ECCR cases and projects

Purpose	Interagency ECCR Cases and Projects			Total FY 2019 ECCR Cases
	Federal Only	Including federal and non-federal participants	Including no other participants (EPA- only led)	
Policy Development	0	2	4	6
Planning	3	15	22	40
Siting and Construction	0	0	4	4
Rulemaking	0	1	0	1
Permit Issuance	0	1	2	3
Compliance and Enforcement Action	2	6	25	33
Implementation/ Monitoring Agreements	1	6	2	9
Other	0	4	17	21
Grand Total	6	35	76	117

Appendix C - Scituate, Massachusetts Disaster Preparedness Case

Overview of the conflict and timeline

In the summer of 2018, following another winter of being battered by severe storms, the Town of Scituate, Massachusetts began a process to create a Coastal Community Assessment. This assessment helped inform the Town Select Board about what residents, businesses, civic organizations, town staff, and town leadership thought about the risks and opportunities associated with being a vulnerable coastal community. A professional facilitator conducted the assessment process and based it on confidential interviews with members of the community. She presented the results and took questions and comments at a public forum and a meeting of the board. The town secured a grant for half of the needed \$20,000 for the assessment process and EPA contributed the other half. Without EPA's contribution the process may not have gone forward.



Photo: Carri Hulet. Used with permission

The town secured a grant for half of the needed \$20,000 for the assessment process and EPA contributed the other half. Without EPA's contribution the process may not have gone forward.

This assessment process helped the town move past the impasse it had faced in recent years. Previously, the Town of Scituate had attempted to address coastal risks and to plan for the future by conducting a number of studies to assess its vulnerabilities and consider solutions. Given the community's wide range of views about what was most important and urgent, and its limited budget, the Town could not move forward.

Summary: How the conflict was addressed using ECCR

The facilitator elicited input from all parts of the community to ensure inclusiveness and balance of input she received. By actively engaging and listening to the participants, she gained their trust and therefore was able to receive candid input on a range of sensitive topics. The community embraced the facilitator's final assessment report as a reliable account of the participants' contributions, and her recommendations were regarded as informed, thoughtful, and ultimately worthy of being followed.

Key beneficial outcomes The assessment served as a starting point for the Town to understand the key concerns and interests of the Scituate community, including which actions or policies for the coast might be acceptable to the public.

Based on the assessment's recommendations, the Town pursued—and secured—a total of \$300,000, most from the state coastal zone management agency, to accomplish the following:

- Engage the community in the development of a 50-year coastal resilience plan;
- Develop a nearer-term master plan for a resilient downtown harbor area; and
- Conduct a dialogue regarding “managed retreat” in a designated area.

On the assessment, the Town Director of Planning and Development remarked, “We would not be doing all the innovative projects that we’re doing now were it not for the candid feedback we received from citizens [through the assessment] ...they gave us our marching orders!”

Reflections on the lessons learned from the use of ECCR:

EPA’s support of this work was essential for several reasons. First, a small investment of EPA resources went a long way in Scituate. The Agency’s \$10,000 contribution to a \$20,000 assessment process led the Town to secure 30 times that amount, for the next phase of the project. In addition, the process allowed the town to make more strategic use of studies and data that it had already compiled.

The timing of EPA’s support was also critical. Town citizens had discussed pursuing a similar assessment several years ago, but the idea languished without the support of the Select Board. This time, EPA’s ability to quickly fund the project via its CPRS contract meant that the momentum to carry out the project was not lost.



Photo: Carri Hulet. Used with permission

Finally, Scituate’s Coastal Community Assessment is also a useful model for collaboration across multiple levels of government and multiple sectors of the local community (business, non-profit, public). Environmental Collaboration like this is needed to help support local communities facing these larger-than-life challenges. The example of EPA’s support for Scituate is directly relevant to other vulnerable coastal communities which need to create plans for disaster preparedness.

Appendix D - Regional and Program Office ECCR Capacity

Region 1 (Boston, MA) - Region 1's culture of support for ECCR has remained strong throughout FY 2019. The Regional Alternative Dispute Resolution (ADR) Program is primarily focused on providing mediation and facilitation support to the Region, including consultation, convening, contract support, and, as appropriate, direct in-house neutral services. As has been the case since 1995, the ADR Program is managed by a full-time senior attorney-mediator. Approximately ten other regional staff from a variety of program areas and professional backgrounds provide support to the Program on a collateral basis by agreement of their managers. Most of them are trained mediators and facilitators with varying degrees of experience who serve as in-house neutrals when they are needed and available. The group also includes a contracts specialist from the Superfund branch who handles ECCR contracting issues and paperwork.

At the highest levels of management, Regional leaders are aware of the services that the ADR Program provides, and frequently directs parties (both inside and outside of the Agency) to the Program. Management is generally receptive to the use of ADR when it is proposed for projects within their areas. Because of the proliferation of collaborative approaches to environmental problem-solving, there has been a growing demand for facilitation services, which the Region is addressing, in part, with in-house resources. Workload permitting, staff with mediation and facilitation skills participate on the ADR team and develop and hone their skills.

In FY 2019, Region 1 developed three training programs aimed at building capacity among EPA staff as well as among State partners' staff for effectively engaging the public and constructively managing conflict that might arise in their work. With an outside facilitator, the Region updated, augmented, and implemented a workshop that it had designed and conducted the previous year on community involvement. The Region also worked with its partners in the Vermont Agency for Natural Resources and Massachusetts Department of Environmental Protection to customize and conduct a workshop for their respective Agency staff. The workshop focused on integrating environmental justice concerns in how agency staff carry out their responsibilities and engage the public.

Regional staff also participated in more focused capacity building efforts in FY 2019. For example, one member of the Region's in-house facilitation team participated in an intensive training on incorporating graphic or visual images into facilitation approaches to communicate more effectively. The skills and ideas she brought back have been the vehicle for new connections among Regional facilitators, graphic design talent, and meeting planners, and have already been incorporated into several efforts. Other focused examples are efforts related to Navy federal facility cleanup sites. Specifically, EPA, state, and Navy staff and managers participated in a refresher program in "partnering" at Newport Naval Education and Training Center Superfund Site, and EPA, state, and Navy higher-level management participated in an annual partnering meeting as they have done for the past several years.

Region 2 (New York, NY) - In FY 2019, Region 2 had a number of collateral-duty employees who worked on ECCR, including one experienced ECCR Specialist in the Office of Regional Counsel (ORC), and

approximately 30 members who participated in Region 2's Facilitator Network, now in its second year. The Network drew from all the divisions within Region 2. Region 2's training officer assisted in providing ECCR-related training as did Region 2's Public Affairs Office and the ECCR Specialist. Requests for support related to mediation generally came through Region 2's ECCR Specialist.

While Region 2 had no official policies, procedures, or strategic plans that incorporated ECCR, over the past 10-15 years ECCR became more embedded within the Region. Over the years, many Region 2 staff have been exposed to facilitated meetings and workshops and/or ECCR training. This exposure has helped to change the culture in Region 2 to one that effectively used collaborative skills more in FY 2019 than in the past. Building on this growing support for ECCR, in FY 2019, the region benefitted from the second full year of its Facilitator Network. The Network remains at approximately 30 members, all of whom have had some facilitation training. Each of these individuals brought their facilitation knowledge and skills to the non-ECCR work they do. The ECCR Specialist managed the region's Facilitator Network, which had meetings in 2019 and maintained connection through an e-mail group. Requests for facilitation services came to both the ECCR Specialist and to individual members of the Facilitator Network.

The Facilitator Network had regular opportunities to build their skills and capacity to facilitate and, to some extent, raised visibility about the services that the Network offers. Region 2 offered eight training classes in FY 2019 on ECCR. For Conflict Resolution Week, Region 2 webcast CPRC's hosted "Engaging Stakeholders for Program Success: Senior Leadership Panel." The ECCR Specialist also provided training on the topic of conflict resolution and international human rights in the context of climate change at a Region 2 CLE program. The Region 2 Training Officer sponsored four training programs related to ECCR including Essentials of Communication & Collaboration, Conflict Resolution and Confrontation Management, One-on-one Myers-Briggs Type Indicator feedback course for Mentoring Program participants, and a conflict management course called "Working with you is Killing Me." Region 2's Public Affairs Office offered trainings on communicating risk to communities and deployment of risk communication to communities during emergencies. Region 2's ECCR Specialist also partnered with CPRC's counsel to bring to Region 8 the full-day program they had developed and piloted for Region 2 lawyers during the prior year, "Using Mediation to Maximize your Effectiveness as an Advocate."

Region 3 (Philadelphia, PA) - In FY 2019, Region 3 had two ECCR Specialists, both within the Region's Office of Regional Counsel, and an additional ECCR contact from Region 3's Community Involvement Office. ECCR Specialists were available to consult with Region 3 employees for information about ECCR and support using this approach; serve as liaisons between Region 3 and EPA's Conflict Prevention Resolution Center (CPRC); help identify and obtain third-party neutrals; and provide ECCR-related training to Region 3 employees. There were no designated FTE for ECCR Specialists in the Region. Specialists serve in their roles as ECCR Specialists in a collateral duty role beyond performance of their official duties.

In addition to the regional ECCR Specialists, facilitation services were also available from individual Region 3 employees who were trained as facilitators and were available to facilitate matters within the Region.

Capacity for ECCR is implicit in Region 3's strategic planning implementation, which includes the promotion of collaborative efforts to achieve environmental benefits. Region 3 uses facilitators, conveners, mediators, judicial magistrates in a variety of cases, in addition to applying ECCR in administrative law settings. Region 3 also provides ECCR training, coordinating with CPRC, in order to help enhance understanding by Region 3 of the benefits of ECCR and to build ECCR-related skills.

One of Region 3's ECCR Specialists teamed with the Regional Training Officer (RTO) to identify critical competencies, learning events and target audiences to further the goal of leading a diverse and collaborative workforce. Chief among the competencies identified in FY 2019 were managing conflict, improved negotiation skills, teamwork, communication, and self-awareness. The ECCR Specialist and the RTO then designed, developed, and presented learning events. The ECCR Specialists collaborated with CPRC staff in the delivery of the Conflict Resolution Day (October 17, 2018) presentation of "Engaging Constructively in Difficult Conversations" to 33 employees.

In addition, the RTO, ECCR Specialist and others designed and facilitated retreats and workshops which, among other things, assisted conflict management in intra-Agency relationships as well as in inter-agency relationships and in enforcement contexts. As an example, during FY 2019, an ECCR specialist helped design and facilitate the February 27, 2019 Regional Science Council (RSC) Retreat, which focused on the development of the RSC's Action Plan for 2019 and discussions of ways to improve the RSC's coordination with States, communication with stakeholders and the public, and support of Regional priorities. Another example was an ECCR Specialist's help in designing and facilitating the June 12, 2019 Green Infrastructure Research Grant Results Symposium at Villanova University's College of Engineering. The symposium featured grantee reports on the performance of green infrastructure, discussions on site design and research methods, updates on the Philadelphia Water Department's green infrastructure projects, discussions on larger scale efforts, and an open discussion among public and private entities from around the country.

Region 4 (Atlanta, GA) – In FY 2019, the Region 4 ECCR specialists' team was comprised of two attorneys in the Region 4 Office of Regional Counsel (attorneys with ADR collateral duties) and the Region 4 ADR Lead employed in the Office of the Regional Administrator. The Region 4 ADR Lead, as well as others in the Region disseminated information on the ECCR process and types of case support provided by the Agency in such efforts (e.g., contracting/funding support, mediator services and training); provided training opportunities to the legal and regional staff; and provided support to Regional Programs, management and staff on ECCR activities, as well as to Headquarters' ECCR efforts.

Region 4 continued to support and sponsor topical training to promote the use of ECCR and other collaborative activities in the Region. Regional training opportunities in FY 2019 included: (1) Promoting and participating in EPA's Annual Conflict Resolution Day in October 2018 and (2) Hosting three training sessions in the Region: "Designing Effective Public Involvement" (October 2018); "Understanding Alternative Dispute Resolution" (October 2018); and "Facilitating Dialogue Workshop" (October 2018). Region 4 worked with the Centers for Disease Control and Prevention and the Federal Executive Board

(FEB) to provide training for Federal Shared Neutrals. The FEB training allows EPA staff to join and work with the FEB Mediation Corps in the Southeast. Region 4 has several personnel who are active in the FEB Mediation Corps. This allows Region 4 staff to build and maintain its skill in mediation.

In FY 2019, the ECCR specialists team continued to build a cadre of EPA employees to broaden ECCR services throughout the Region. The team endeavors to serve as the regional environmental collaborative and conflict resolution group that enhances communications and problem-solving among internal programs, offices and divisions, and external stakeholders.

Region 5 (Chicago, IL) - In FY 2019, Region 5 had two designated ECCR specialists, both within the Office of Regional Counsel, with additional participation by an investigator in the Office of Regional Counsel and an individual in the Water Division. There are no designated FTEs for ECCR Specialists in the Region; Specialists serve in their roles as collateral duties. This year, the ECCR Specialists collaborated with CRPC staff to provide interest-based negotiation training to 25 regional staff to enhance understanding and build skills in conflict resolution. In addition to formal training, the ECCR Specialists consult with regional employees about the role of a neutral in enforcement cases, provide information about the services offered by CRPC, and serve as an intermediary between Region 5 and CRPC staff.

One of the Specialists also works with the FEB to provide training and mentorship to new mediators through the Shared Neutrals as Partners (SNAP) Program. Region 5 has four persons actively participating in the cadre of SNAP mediators and is consistently recognized by the SNAP coordinator for their substantial contributions to the program among all of the participating federal agencies in the Chicago area.

Region 6 (Dallas, TX) - One attorney in Region 6's Office of Regional Counsel was assigned to ECCR as a collateral duty assignment. Region 6 offered ECCR training on an as-needed basis, often with the use of headquarters ECCR staff as trainers.

ECCR and/or ADR was routinely offered as part of the enforcement program, in both administrative and judicial cases. When administrative cases are not resolved after pre-hearing exchange, the Office of Administrative Law Judges (ALJ) offers ADR. When ADR was accepted, an ALJ would act as a neutral mediator. Federal Court judges generally required the use of third-party neutrals in attempt to resolve judicial matters. Region 6 makes use of these services as needed; however, informal negotiation typically resolved the matter without the need for a neutral. While most years see the use of at least one mediation led by an ALJ, there were none in FY 2019. Region 6 expects to commence mediation in a judicial enforcement matter in early FY 2020.

In FY 2019, the ECCR Specialist met with most regional division directors regarding ECCR services and, with the assistance of the visiting ECCR specialist from headquarters, gave a presentation to Region 6 senior staff to review and update them regarding how and when to access ECCR services. Roughly 25 individuals, most of whom are in management, attended this presentation. Additionally, the ECCR Specialist and the

visiting headquarters ECCR Specialist hosted an ECCR brown bag on the basics of conflict resolution. This presentation was attended by 15 people. Other than the increased meetings with Division Directors and the presentation at the senior staff meeting, the regional ECCR approach remained unchanged.

Region 7 (Lenexa, KS) - In FY 2019, ECCR duties have been primarily sustained by one regional employee on a collateral-duty basis in Region 7. This employee attends ECCR calls and shares information about the CPRC with management in Region 7. The region continued to broadly encourage and support the use of ECCR to address an array of agency matters, partnering with the CPRC to provide mediation training and on-the-ground assistance on a case-by-case basis. For example, Region 7 engaged CPRC to obtain expert advice and coaching in preparation for a sensitive conversation with local government stakeholders related to ethylene oxide. The region continued general promotion and monitoring of ECCR in ongoing cases, including the Hinkson Creek TMDL Collaborative Adaptive Management Stakeholder meetings in Columbia, Missouri. In past years, Region 7 also participated in alternative dispute resolution opportunities through EPA's Office of Administrative Law Judges in contested administrative cases, although such opportunities were not necessary in FY 2019.

Region 8 (Denver, CO) - In FY 2019, Region 8 continued to be a robust user of ECCR and dedicated part of one staff person's time to serve as coordinator and clearinghouse for use of, and information regarding, all types of alternative dispute resolution processes in the Region's six-state domain. Region 8 staff and managers had quick and easy access to information about ECCR on their desktops using a tab on the 8Net, the region's intranet homepage. Resources outlined on the 8Net included a definition of what ECCR is, steps to take in assessing a variety of situations to determine if ECCR might be beneficial, and contact information for further support.

Region 9 (San Francisco, CA) - The Region 9 infrastructure consists of one national ECCR Specialist in the Office of Regional Counsel who functions in a collateral-duty capacity providing counseling and identifying resources and facilitating the development and implementation of training on an as-needed basis.

Over the years, many Region 9 staff have been exposed to facilitated meetings and workshops and/or ECCR training. This exposure has helped to foster a culture in Region 9 that increasingly uses collaborative skills. In FY 2019, the region began holding meetings of its Facilitator Cadre, a group consisting of approximately a dozen staff members from various program offices who were trained in facilitation skills by the now-retired Regional Facilitator. Each of these individuals brought their facilitation knowledge and skills to the non-ECCR work they do. The ECCR Specialist managed the region's Facilitator Cadre, which met several times in FY 2019. Requests for facilitation services were made through the Regional intranet site to both the ECCR Specialist and to individual members of the Facilitator Cadre.

The current ECCR infrastructure in Region 9 does not include any formal FTE, but includes several individuals working on ECCR as collateral duties. These individuals include one person who is on the National ECCR Workgroup and serves as a point of contact for ECCR matters in the Region, and 12

members of the Regional Facilitation Cadre who are available on a voluntary, as-needed basis primarily for meeting and process facilitation, although some have formal mediation training.

As it has done in prior years, Region 9 offered periodic ECCR training in FY 2019. The Region developed and delivered three one-day-long courses with CPRC staff: Bridging Cultural Divides and Difficult Conversations, which were open to anyone in the Region; and ADR for Advocates, which was provided for the Office of Regional Counsel. For FY 2020, the Region 9 Specialist is developing a series of informal Brown Bag discussions and anticipates providing other trainings to further develop Region 9 staff's meeting facilitation and conflict resolution skills.

Region 10 (Seattle, WA) - In FY 2019, Region 10 had three active ECCR Specialists, one in the Regional Counsel's Office, one in the Office of the Regional Administrator, and one in the Portland satellite office. ECCR is regularly employed in Region 10 and typically with CPRC's support. Region 10's ECCR program was implemented across a number of offices and programs and employed in both formal and informal contexts. In FY 2019, Region 10 staff regularly considered using ECCR in a variety of situations, including facilitation of meeting with stakeholders, enforcement, legal negotiations, and community involvement. Region 10 staff frequently reached out to CPRC for support when determining whether ECCR is appropriate for a variety of situations, either directly or through Region 10's ECCR Specialists.

In November 2018, Region 10 CPRC staff delivered two trainings to build the ECCR capacity of Region 10 staff. One training, "Become a Better Negotiator: An Interest-Based Approach", was a day and a half long training, open to all regional staff. Another, "ADR for Advocates", was a one-day course for the Office of Regional Counsel.

Office of Land and Emergency Management's (OLEM) - In FY 2019, OLEM's Office of Superfund Remediation and Technology Innovation (OSRTI), Community Involvement and Program Initiatives Branch (CIPIB) and CPRC continued to work closely to coordinate and assess third-party neutral services for Superfund sites through EPA's Conflict Prevention and Resolution Services (CPRS) contract. One CIPIB staff member served as the lead liaison with CPRC, coordinating and managing ECCR projects role. In FY 2019, OSRTI supported nine ECCR projects spending 5-20 hours per project and approximately \$232k under CPRC's Superfund Just-in-Time (JIT) Task Order (in addition to CPRC's support of Superfund projects). The task order provided regional and headquarters staff and parties involved in Superfund related activities with ADR assistance and facilitated communications and collaborative problem solving with stakeholders. This task order focuses on situations that need immediate attention or are short term. Sometimes, projects start under the JIT Task Order and then transition to site-specific task orders if, for example, a longer-term level of support is needed. Under the JIT Task Order, OSRTI, in consultation with CPRC, provided Superfund site teams with assistance in implementing consultation, collaboration, public engagement, dispute prevention, dispute resolution activities so that difficult issues and controversies can be avoided, where possible, and constructively discussed, addressed or resolved when they do occur.

OSRTI, CPRC and the regions worked together to determine the best approach to site-specific requests and situations. CIPIB consulted with CPRC and considered ECCR for use in Technical Assistance Services for Communities (TASC) requests and other site-specific situations through a project vetting process. The project vetting process considers the degree of conflict; types of technical assistance needed; subject matter of the type of assistance; whether the support can be broken into separate discrete parts; and timing of the various assistance needs. This vetting process, coordination and communication continued to work well.

Office of Research and Development (ORD) - EPA's ability to protect human health and the environment depends upon the integrity of the science on which it relies. The EPA Scientific Integrity (SI) Policy provides a vision and a roadmap for scientific integrity at the Agency. The SI Policy applies to all EPA employees and, therefore, involves all environmental statutes under which the Agency performs its duties. Since 2017, all new EPA hires must take a mandatory on-line training course on scientific integrity during their first 6 months on the job. The SI training conducted for all EPA staff includes topics that are related to ECCR principles, including information on the process for resolving allegations of a loss of scientific integrity. As of the end of FY 2019, the training for managers has been conducted in most EPA offices, programs and regions.

The SI Program is led by the SI Official, who chairs a cross-Agency Scientific Integrity Committee. The Program helps to implement the Scientific Integrity Policy. The Program also addresses allegations of a loss of scientific integrity and has used Environmental Collaboration and Conflict Resolution (ECCR) to obtain timely and cost-effective resolution of some types of disagreements involving scientific integrity issues. The Program's ECCR projects have included an authorship dispute and a differing scientific opinion regarding a scientific method. In each of these projects, the stakeholders agreed to the process, appreciated the neutrality of the mediators, and accepted the results.

Appendix E - Program Office and Regional Descriptions of ECCR Benefits

Region 1 (Boston, MA) - In FY 2019, Region 1 used neutrals to assist with meeting design and agenda development, giving form to meetings that were goal-oriented and realistic in their scope. Whether in the context of mediated settlement negotiations or facilitated collaborative processes, the unifying theme is that these neutrals continue to help parties make more productive use of their time to achieve their purposes.

The use of Office of Administrative Law Judge-sponsored ADR helped to move a Resource Conservation and Recovery Act (RCRA) administrative penalty negotiation towards resolution more efficiently, in terms of both time and resources expended, than might otherwise have been possible. Similarly, the use of independent mediators in a RCRA penalty case with Polycarbon Industries, Inc. (PCI), and a Superfund removal cost recovery case (Grant Street Fire) resulted in comparatively speedy agreements in principle without the associated additional cost, delay, and risk to all parties of pursuing litigation. In addition, the PCI mediation resulted in a settlement that included a supplemental environmental project that might not otherwise have been as seriously pursued.

In the Olin technical facilitation, an experienced Superfund mediator helped the agencies' and the performing parties' technical teams cut through communication challenges and restore a more efficient, problem-solving approach to their ongoing discussions. The efficiencies and enhanced listening that saved time and costs, and enhanced decision-making. In the words of the project manager, "The mediator's efforts helped restore trust among the parties and the project is now back on track."

In other non-agreement-seeking processes such as the GE-Housatonic Citizens Coordinating Council and several federal facility cleanups, among others, facilitators have helped maintain a line of communication between citizens, parties performing cleanups, EPA and EPA's state partners in overseeing the cleanups. These facilitators helped maintain a forum where citizen stakeholders can stay informed, feel heard and, to the extent possible, have their concerns addressed.

Both in-house EPA neutrals and outside facilitators also helped stakeholders frame and conduct dialogues addressing sustainability issues, especially in vulnerable coastal areas and other watersheds. Examples from this year include the Scituate stakeholder assessment, Southeastern New England Program, the Mystic River Watershed Partnership, and the Long Island Sound Study facilitation.

As in previous years, at the request of tribal and agency participants, Region 1 continued to assist with negotiations and dialogues involving tribal matters. The Region continued to participate in and support the St. John River cross-boundary mediation. EPA Region 1 facilitated the annual New England Tribes/EPA conference, including participating on the planning team led by the host tribe. The Region also continued to facilitate a dialogue on the implementation of the Tribal trust responsibility among a consortium of Federal agencies.

Region 2 (New York, NY) - ECCR provided important benefits to Region 2 and its stakeholders in FY 2019. Staff and managers have reported both resource-related and substantive programmatic benefits.

Engaging third-party neutrals in Region 2 saved staff time in several ways. Mediators in enforcement cases provided focus and organization to negotiations, which reduced wasteful gamesmanship and posturing, as well as delays between counter-offers. Enforcement cases were less likely to end up in costly trials and hearings, and discovery time and costs were reduced. Even where cases did not settle, parties reported that ECCR benefited them in that issues were clarified during the mediation. In an FY 2019 Superfund mediation, the case attorney noted that while a settlement was not achieved by the end of the mediation, the issues were clarified, and the Government team had a clearer picture of the strengths and weaknesses of EPA's case.

Region 2 users of facilitators for non-litigation "upstream" matters (e.g., matters that arise *before* a clear conflict emerges) also reported significant benefits including improved working relationships with other stakeholders, more productive conversations, better designed processes, better agendas, more efficient use of the participants' time, and better outcomes. They indicated that facilitated processes led to better environmental results and built capacity within established groups, such as partnerships and workgroups, for more productive conversations post-facilitation. In one facilitated FY 2019 dialogue involving a Tribal Government, the participants indicated that the facilitation helped them break through historic conflicts and communication barriers. The growth in upstream ECCR matters has led to adoption of ECCR strategies in non-neutral contexts by individuals who have experienced ECCR. For example, in Region 2 during FY 2019, facilitation techniques were used by non-neutral participants running meetings related to disaster preparedness and response efforts.

Region 3 (Philadelphia, PA) - In FY 2019, the primary benefits of using ECCR in Region 3 for administrative and judicial litigation matters were the avoidance of litigation and related time and transaction costs. With regard to matters that involved third-party neutral facilitation, additional benefits included enhanced relationships between EPA and stakeholders and significant improvements in communicating the interests, concerns, and desired goals of parties. Other benefits include cost savings, furtherance of EPA's mission, and positive environmental results.

Region 4 (Atlanta, GA) - Having the ECCR processes in place has benefitted Region 4 through cases having better outcomes and reduced litigation costs. The Region used technical facilitation for a Superfund remediation case at a federal facility in FY 2019. This project is ongoing and demonstrates that ADR processes are helpful in fostering an integrated inter-agency approach to problem solving which also promotes cooperative federalism. Also, applying ECCR to community outreach activities has helped facilitate a greater understanding of the issues and concerns involved by the Agency, communities, and other stakeholders.

Region 5 (Chicago, IL) - Region 5 continued its use of a wide range of ADR/ECCR processes in FY 2019, especially in the enforcement program. In one case, an EPA Administrative Law Judge served as a neutral

facilitator and assisted the parties in reaching a satisfactory resolution of a Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) matter, preserving the resources of both EPA and the respondent, as well as easing the burden on EPA's administrative docket. In a Superfund matter, the parties were able to bring in a private mediator in a multi-party cost recovery dispute. Using the mediator, the United States was able to reach resolution with one of the parties and intends to continue mediation in hopes of reaching resolution with the remaining litigant. As the Region has observed in the past, in this instance, the use of mediation reduced the drain on federal resources by avoiding a protracted trial in federal court.

In addition to enforcement activities, Region 5 used funding and guidance from CPRC to identify and retain experienced neutrals to facilitate effective communications with the public. In at least four instances this fiscal year, EPA staff identified the need for neutral facilitation to ease communications with the public in potentially contentious matters. In one instance, the facilitator planned and led one public meeting, while other matters relied on the ongoing contributions of neutrals to interact with community groups. One example where a neutral facilitator made substantial contributions to the dialogue between EPA and the public is the USS Lead Site in East Chicago, Indiana, an environmental justice area. The site includes part of the former USS Lead facility along with nearby commercial, municipal and residential areas. Being one of the most polluted sites in the country, the USS Lead site was listed on the National Priorities List in 2009. Residents have been vocal for years about the many concerns they have about how contamination is being handled by authorities, including EPA. This resulted in an initially contentious public meeting for which EPA staff members were not well prepared. Using neutral facilitation was helpful in making discussions of difficult issues more amicable, thus enhancing the working relationship between EPA staff and the public.

Region 6 (Dallas, TX) - When serving as facilitators, third party neutrals for Region 6 helped ease public discussions about complex environmental issues. Public meetings related to emergency preparedness can present unique challenges, so the presence of a third-party neutral can help by providing an organized, fair and creatively designed forum. Facilitators also helped the parties maintain focus on the objectives of meetings, leading questions and answers toward resolution, rather than to further conflict.

EPA Region 6 hosted a facilitated emergency preparedness workshop for Colonias (unincorporated, low-income communities) and Tribes surrounding the El Paso area on July 24, 2019, in the city of San Elizario, TX. The event was attended by approximately 97 participants and had ten agencies and non-governmental organizations as exhibitors. The goal of the workshop was to improve access to emergency preparedness and communication assistance for environmental justice communities, civic, faith-based and small organizations; and strengthen community-based resilience networks. The workshop resulted in a series of recommendations, including creation of a committee to address issues associated with flooding, conducting a community risk assessment, and conducting trainings with a focus on community leadership.

Region 6 was also the lead partner in the Urban Water Federal partnership, which promotes community preparedness and resiliency. Urban Waters served as a model for the flood management planning workshops conducted in 2019 in Texas regions impacted by major flooding events. A professional

facilitator helped the federal partners design a toolkit for medium to small-sized communities on how to prepare for natural disasters.

Region 7 (Lenexa, KS) - Use of ECCR generated substantial benefits for Region 7 in FY 2019. The region furthered EPA's mission to protect human health and the environment through mediating two judicial enforcement cases. In one, the collaborative adaptive management (CAM) process used to improve Hinkson Creek from an impaired status continues to result in effective stakeholder coordination, action, and recommendations. Also consistent with the goals of the Piper Creek/Town Branch CAM, the city of Bolivar continues to evaluate the impairment and work collaboratively with the state to review the associated water quality standards and the Total Maximum Daily Load. In addition to those advances, a third-party facilitator helped advance meaningful community engagement with landowners within multiple Superfund sites along the Big River watershed in the Southeast Missouri Lead District. Finally, ECCR enabled timely project progression of an ongoing Superfund cleanup near St. Louis, Missouri, encouraging negotiation of remedial action cost allocation among potentially responsible parties, conserving EPA and Department of Justice resources. In these collaborative cases, benefits include better environmental and natural resource results, furtherance of agency mission, improved working relationships with stakeholders, and timely project progression.

Region 8 (Denver, CO) - In FY 2019, Region 8 primarily used ECCR for facilitation of stakeholder involvement processes. These included finishing a complex multi-year cleanup effort on the Richardson Flat Superfund site. The Richardson Flat team met with the potentially responsible party on this site four to six times a year for several years to work out mutually agreeable and financially feasible cleanup actions at this mining site located near Park City, Utah. The series of facilitated meetings resulted in a more effective working relationship between the parties and better protection of human health and the environment for this community.

Region 8 also conducted monthly Community Advisory Group (CAG) meetings on the Colorado Smelter and Lincoln Park Superfund sites using a third-party neutral facilitator. Both of these sites are in the remedial investigation/feasibility phase of long-term remedial action and have highly engaged community members who monitor cleanup activities closely. Using a facilitator allowed these communities to understand the Superfund process more thoroughly and obtain information they wanted about the site quickly and easily. This ECCR support freed up Agency staff to focus their time and attention on moving cleanup efforts at these sites forward more efficiently.

Region 9 (San Francisco, CA) - Region 9 has noted several benefits of ECCR including improved efficiency; time and cost savings compared to litigation; furtherance of the Agency mission; improved working relationship with stakeholders; help for parties to have more realistic expectations; more creative and sustainable problem-solving; and more flexible and durable agreements. Sometimes participating in ECCR has helped the parties get court approval to extend litigation deadlines, which gives parties additional time to resolve differences and settle rather than proceeding to litigation.

For example, in FY 2019 Region 9 had one matter involving a neutral facilitator. The neutral was very helpful in keeping meetings running smoothly and allowing EPA to focus on its role as provider and receiver of information.

Region 10 (Seattle, WA) - All of Region 10's reported FY 2019 ECCR cases provided significant benefits, primarily an increase in meaningful stakeholder participation. Region 10 staff described ECCR as a tremendous resource for Region 10 to use in furtherance of EPA's mission. EPA improved its facilitation and coordination efforts by efficiently using ECCR, which allowed stakeholders to engage more meaningfully in multiple cases. Other reported benefits included increased cost savings; increased efficiency; avoidance of conflicts; and improved relationships.

Office of Land and Emergency Management (OLEM) - In FY 2019, OLEM used ECCR to support nine projects including meeting and process facilitation, situation assessments, CAG assessments, formation, and facilitation services. These uses of ECCR saved or shifted time spent on conflict or difficult situations to constructive dialogue, improved working relationships, improved processes and communication and more meaningful community involvement. The skilled meeting facilitation for a variety of Superfund sites enabled conversations to occur that otherwise would have been stymied due to conflict. This led to more time discussing constructive solutions, which led to greater progress during the cleanup process. The situation assessments provided EPA with an understanding of existing conflicts and challenges among stakeholders. This in turn led to recommendations resulting in collaborative dialogue about the Superfund process and cleanup activities.

The Dewey Loeffel Landfill Superfund site established a functional CAG which re-engaged previously involved stakeholders and brought in new community members to broadly represent the community. This newly formed CAG is interested in having meaningful dialogue with EPA and participating in the decision-making process. ECCR helped with four other CAG projects making constructive dialogue about complex sites and potential controversial issues possible and enabling more effective participation in the decision-making process.

Office of Research and Development (ORD) - Benefits of using ECCR to resolve scientific integrity issues include 1) efficiently resolving issues to protect the integrity of the Agency's science, 2) using a process that the stakeholders trust, 3) achieving a timely resolution, and 4) resolving the issue at a reasonable cost.

EPA's Scientific Integrity Program (SI) Program used a neutral party to initiate dialogues on scientific integrity, to learn about the leaders' understanding and perspective of the SI Policy, and to obtain their recommendations for policy implementation and new initiatives related to scientific integrity. The SI Program considered the project's resulting recommendations while developing the FY 2020 work plan. Effective use of ECCR also helped maintain the trust between EPA staff and the public in the quality and integrity of the Agency's science.

Appendix F - Additional Notable ECCR Cases

EPA regions and program offices highlighted the following cases from FY 2019 which show how the EPA involved stakeholders and used ECCR to help overcome conflict to help achieve better protections for human health and the environment.

Region 1 (Boston, MA) – In the fall of 2018, after cost recovery negotiations stalled, EPA pursued mediation for the Grant Street Fire Superfund Site in Bridgeport, Connecticut. The site was contaminated in 2014 due to a large fire in a building filled with containers of chemicals. After the owner declined to cooperate with the State, EPA performed a cleanup under its removal program at a cost of about \$3.5 million. After learning of EPA’s planned cleanup actions, the owner made itself insolvent through numerous cash distributions of insurance proceeds for losses from the fire.

EPA sued to recover the cleanup costs, alleging that this transfer of assets was a fraud against the government. The parties included family owners of a realty trust, represented by counsel, the EPA case team, and the U.S. Department of Justice (DOJ). The main issue was determining an appropriate Superfund cost recovery settlement in consideration of the alleged fraud and EPA’s unrecovered response costs.

With assistance from the Regional ECCR Program, the parties selected a mediator previously unknown to EPA and with limited environmental experience after narrowing their list and interviewing 2 candidates. With some apprehension, EPA agreed to this neutral based on the defendants’ trust in him as well as the impression of neutrality, competence, and respect for the mediation process he conveyed during the interview. This proved to be a wise choice as the mediator was a good fit for the case. Despite seemingly long odds given the starting place, at the conclusion of a one-day mediation session, an agreement was reached and later embodied in a Consent Decree for EPA to recover \$1.75 million.

Region 2 (New York, NY) - Combined Sewer Overflow (CSO) Permittees/Supplemental Team Facilitation - EPA Region 2 facilitators assisted the New Jersey Department of Environmental Protection in the planning and execution of a workshop to explore the respective roles of, and best practices for partnerships between, CSO permittees and supplemental teams of local stakeholders. New Jersey DEP had included in its CSO permits a requirement that the permittees establish supplemental teams of local stakeholders to ensure adequate public engagement in the development of Long-Term Control Plans (LTCPs). However, communication between CSO permittees and supplemental teams was often challenging, and disagreements emerged about the role and level of involvement that the supplemental teams should have in the LTCPs. The goal of the workshop was to foster improved communications between CSO permittees and supplemental teams to identify best practices, work through common challenges, and set a path to achieving more effective public participation in the LTCP development process. Approximately 75 attendees participated in the workshop.

A team of three Region 2 facilitators provided significant help to the New Jersey DEP in planning the workshop and clarifying the causes of the disagreements and lack of progress so that the workshop could be organized to shift the unproductive dynamic between the CSO Permittees and the Supplemental Teams. The facilitators organized the workshop to begin with a clarification by New Jersey DEP of their vision for the supplemental teams so that all attendees would understand New Jersey DEP's intent. The facilitators then brought in a guest speaker who had participated in a successful permittee/stakeholder engagement to demonstrate what is possible with a successful collaboration. The attendees then participated in CSO permittee/supplemental team breakout groups. The participants and facilitators observed that, during the breakout sessions, the parties began talking collaboratively about achieving their respective goals and planning for future meetings. The participants also mapped their stakeholder landscapes so that they could leave the workshop with a plan to engage additional people and groups not yet at the table and, thereby, avoid 11th hour conflicts.

Region 3 (Philadelphia, PA) - Delaware Site/U.S. District Court Magistrate - This matter involved a Superfund site that included contaminated property that was formerly operated as landfill. The remedial action for the site was implemented by potentially responsible parties, not including the property owner. In 2004, EPA issued a Comprehensive Environmental Response, Compensation, and Liability (CERCLA) Section 106 order to the property owner requiring the owner to comply with a number of institutional controls to protect the integrity of the remedial action. The property owner did not comply with the Order, and in December 2017, EPA commenced an action in U.S. District Court for the District of Delaware against the property owner, seeking injunctive relief and penalties as a result of the owner's noncompliance. EPA, DOJ, and the property owner met with a court-appointed magistrate in order to explore potential settlement of the matter.

EPA believes that the magistrate promoted communication between EPA/DOJ and the property owner, helped refine issues subject to negotiations, was trusted by the parties, and promoted settlement of this matter.

Hidden Lane Charrette - This matter involved using a charrette for a Superfund site that includes a property on the location of an old construction debris landfill. There were also wetlands on a portion of the property. The landfill had been capped but has remained vacant. The goal of the charrette process was to seek to obtain a consensus among interested groups and parties as to potential sale or reuse of the property. EPA issued a Record of Decision for the site to provide, among other things, for installing a waterline to address groundwater contamination concerns. The property owner had entered into a Consent Decree with EPA pursuant to which the property owner was required to sell the property, with a portion of the sale proceeds to be paid to EPA, and the Commonwealth of Virginia to reimburse EPA and Virginia for response costs incurred in connection with the Site.

A variety of parties have specific views about the sale and potential reuse of the property, including interests in keeping the property undeveloped or limiting development and/or providing for public use

and trails on the property. Parties include the property owner, EPA, State, County Property developers, a National Historic Scenic Trail Organization, local nature groups, and neighboring property owners.

The third-party neutral conducted a stakeholder analysis, which helped identify parties with interests pertaining to the sale or reuse of the property. The third-party neutral facilitated an initial visioning session involving EPA, Virginia, and stakeholder groups and interested parties to help identify potential reuses of the property. EPA believes the process was successful in promoting communications and the sharing of ideas among disparate groups and parties. Although the final report will not be issued until the end of December 2019, the process has resulted in generating enough interest in the property that three prospective developers have indicated they will submit notices of intent to purchase the property.

Lower Darby Creek - Third party neutral facilitation was provided to assist in the formation of a Community Advisory Group (CAG) associated with the Lower Darby Creek Area Superfund Site and in managing and improving the CAG's effectiveness and outreach. The facilitator helped the CAG become more effective at engaging the community, generating interest in the CAG, managing day-to-day CAG operations and in dealing with unexpected issues and challenges. The facilitator was very effective in promoting communications and obtaining community consensus and support of EPA site activities. The facilitator has been retained during FY 2020 to continue CAG outreach and communication efforts and to promote community involvement in site-related developments.

Region 4 (Atlanta, GA) – The Metro Atlanta Community-Based Composting Collaborative is a neutral, community facilitation currently conducted quarterly by the Food Well Alliance and the Georgia Recycling Coalition. The Collaborative was formed to start the conversation about community-based composting in Georgia. Community-based composting operations that currently exist in Metro Atlanta are often located at community gardens and urban farms or may be stand-alone operations on vacant lots within communities. Many of those operations engage area residents and small-scale businesses to source separate food scraps for composting at the community site.

The facilitator organized those interested in composting and the compost value chain in Georgia. The Community-Based Composting Collaborative engaged community members to process organic material on a scale that is typically smaller than full-scale composting. The Food Well Alliance convened a Community-Based Composting Working Table, bringing together compost experts, entrepreneurs, educators and advocates to team up on how to systematically advance community-based composting for Atlanta's community gardeners and farmers. Food Well Alliance held four structured, facilitated convening sessions for the Community-Based Composting Working Table, with 15 private, public and not-for-profit stakeholders who had more than 15 years of combined composting experience. The Working Table developed a set of recommendations to scale and support community-based composting in Metro Atlanta.

Region 5 (Chicago, IL) - Velsicol Chemical Corp. (formerly Michigan Chemical Corp.) produced various chemical compounds and products at its 54-acre main plant site in St. Louis, MI, from 1936 to 1978. To address contamination discovered at the former plant site, Velsicol, EPA and the state of Michigan entered

a consent agreement in 1982. Velsicol agreed to construct a slurry wall around the former plant site and put a clay cap over it. The Pine River, which borders the former main plant site on three sides, was significantly contaminated, which caused the state of Michigan to issue a no-consumption advisory for all fish species. From 1998 to 2006, actions taken at the site addressed contamination in the Pine River at a cost of over \$100 million. In the early 2000s, studies showed the slurry wall and clay cap at the main plant site were failing to keep contamination out of the river and additional investigation found that soil and groundwater were contaminated.

There are four superfund sites in the immediate area and residents were concerned about the level of contamination in their community. When the slurry wall was discovered to have failed, an already skeptical public lost trust in EPA. EPA used CRPC's assistance to hire neutral facilitators to improve communications between the community and EPA. In addition, funds were used to provide coaching to EPA employees to build their capacity to explain EPA's plans, obligations, and limitations to the community. This work significantly reduced tension and enabled the groups to communicate more effectively.

Region 6 (Dallas, TX) - The Lane Plating Works, Inc. site is a former electroplating facility in Dallas County, Texas. The site was in operation for more than 90 years but shut down in 2016 after investigations uncovered multiple violations of environmental laws, and the company filed for bankruptcy. Large volumes of liquid plating wastes were left at the site following closure. In November 2016, the EPA removed 188,000 lbs of waste material from the Site and disposed of the remaining solid and liquid hazardous wastes at the electroplating facility. The site was added to the National Priority List in May 2018.

EPA hosted a meeting in September 2019 to commence the formation of a CAG. Eleven members of the community and two city council members attended. The facilitator presented information on building a CAG, and shared successful examples of other EPA CAGs from around the country. The group received the facilitator very well and requested that he facilitate future meetings. Region 6 has engaged this facilitator for meetings in early 2020, and the formation of the CAG has greatly improved the relationships with concerned citizens.

Region 7 (Lenexa, KS) - Region 7 successfully used neutral facilitation for several public meetings involving high-profile Superfund sites in FY 2019. Historical mining in the Southeast Missouri Lead District has resulted in large amounts of harmful metals contamination in the Big River watershed, which threads through Washington, Jefferson, and St. Francois counties. The EPA has been working for more than two decades to address the sources of mining-related contaminants and has continued to seek landowner permission to sample sediment and soil along the Big River and its floodplain that may have high levels of lead and other toxic metals.

In FY 2019, Region 7 held three public availability sessions to raise public awareness about the Superfund sites and to communicate opportunities for free lead sampling on private properties. The region engaged

an experienced third-party facilitator for these meetings to ensure that EPA was able to clearly communicate key messages and successfully distribute site-related educational materials during each event. With this third-party assistance, the meetings ran smoothly as the facilitator ensured that participants had an opportunity to hear EPA's full presentation. This, in turn, allowed meeting participants to not only have their voices heard, but to receive the same information from EPA at each event.

The facilitation also ensured that additional time remained during each event for individuals to engage in one-on-one interactions with EPA's project managers. The expertise of the third-party facilitator established a positive and empathetic tone, defusing an emotionally charged atmosphere that could have frustrated EPA's important community engagement function. As a result, many landowners decided to sign up for the free sampling and grant access to their properties, with many more attendees gaining increased awareness of the site and EPA's ongoing cleanup efforts.

Region 8 (Denver, CO) - The ongoing facilitation of the CAG at the Lincoln Park Superfund site in Fremont County, Colorado has significantly improved how the EPA and the Colorado Department of Public Health and Environment interact with affected citizens. The facilitator has been highly effective in bringing community concerns into sharper focus and getting the new site owner, Colorado Legacy Land, to spend time listening and responding to community concerns. The Lincoln Park CAG has gone from being suspicious of the new site owner to embracing Colorado Legacy Land and its fresh approach to site cleanup. The rejuvenated CAG has energized the cleanup process making it more likely that this site can be returned to the inventory of lands in Fremont county that are safe and ready for redevelopment.

As background, in FY 2019, the EPA, in cooperation with the Colorado Department of Health and Environment, was conducting a Remedial Investigation and Feasibility Study at Operating Unit 1 of the Lincoln Park Superfund site located south of Cañon City in Fremont County, Colorado. The purpose of this investigation was to find effective ways to address radioactive materials and heavy metals that were released into the environment by the Cotter Corporation during its many years as operator of this facility. This work was conducted pursuant to a 2014 Administrative Order on Consent with Cotter Corporation and the new site owner, Colorado Legacy Land, LLC, who became a party to the administrative order on consent took over work at the site in 2018. Cotter Corporation operated the Cañon City facility from 1958 through 1979, when they milled vanadium and molybdenum, and produced yellowcake, the solid form of mixed uranium oxide which is a by-product of the uranium milling process. The site was listed on the National Priorities List in 1984.

Region 9 (San Francisco, CA) - EPA Region 9 used the CPRC contract to obtain the services of a neutral facilitator for two public meetings associated with the Agency's decision to issue a Toxic Substances Control Act (TSCA) permit to the Kettleman Hills facility in California and to provide information and receive public comment on the proposed permit. The facilitated meetings enabled EPA to complete its public comment process and it is now proceeding with the remaining steps in the permit process. The neutral was very helpful in keeping meetings running smoothly and allowing EPA to focus on its role as provider and receiver of information.

Region 10 (Seattle, WA) - The United States employed mediation in the Bill Case enforcement action, which has been ongoing for almost a decade. In 2009 and then again in 2012 and 2013, Bill Case, a farmer in Oregon, violated Section 404 of the Clean Water Act by discharging dredged and/or fill material without a permit. After the United States fully prevailed on a motion for summary judgment on liability, Mr. Case agreed to mediate the remedy.

In September of 2018, the parties met twice before the federal magistrate judge. The magistrate helped the parties work through issues that had been sticking points for years by providing a realistic perspective and assessment to each party. During the mediation, the parties reached a framework agreement. The United States secured full removal and restoration of the violations, compensatory mitigation, and a \$100,000 penalty. While negotiating the details of this framework has taken over a year, it is unlikely that this outcome would have been secured without mediation.

Office of International and Tribal Affairs (OITA) In FY 2019, in meetings led by neutral facilitators from CPRC and its contract, OITA successfully launched the first phase of a robust evaluation of the 2013 Indian Environmental General Assistance Program (GAP) guidance in close collaboration with the National Tribal Caucus. The NTC is an EPA tribal partnership group that advises OITA on national program matters. Several tribes, including members of the NTC, had raised concerns about various aspects of the GAP guidance. The facilitators set the stage for productive dialogue with internal and external partners about the guidance. Tribal users of the guidance reported that they felt their concerns were heard as a result of these interactions.

OITA is the national program manager for the GAP, through which EPA provides technical and financial assistance to more than 500 federally recognized tribes across all ten EPA regions. In recent years, Congress has appropriated approximately \$64 million each year for non-competitive grants and cooperative agreements to eligible recipients. OITA issues and works with EPA regions to implement national guidance for administration of GAP financial assistance agreements

Office of Land and Emergency Management (OLEM) - Shaffer Equipment Arbuckle Creek Superfund Site - The Conflict Prevention and Resolution Services contract provided neutral facilitation services to support community engagement at the Shaffer Equipment site. The site has historically seen EPA removal actions, follow up assessments, proposal and addition to the National Priorities List, in a community that feels they have experienced disproportionate health effects and unfair treatment by government officials.

The neutral facilitator provided expert planning, consultation, and meeting facilitation services. These services helped the EPA site team begin to build relationships in a community with a long standing distrust of EPA. The professional experience and advice of the neutral was paramount to assisting in the community feeling acknowledged. The neutral facilitation services also enabled EPA to plan and implement a plan for the site team to work effectively with the community to establish trust and enhance communications.

Office of Research and Development (ORD) – As evidenced by ORD’s ECCR portfolio, ORD is committed to dynamic engagement for its internal and external stakeholders. For example, ORD, Region 5 and the EPA Great Lakes National Program Office conducted a health impact assessment (HIA) at two project sites along the St. Louis River - Kingsbury Bay and Grassy Point in Duluth, Minnesota. The goal was to inform the Minnesota Department of Natural Resources (DNR) and City of Duluth’s decisions about the design and implementation of these habitat restoration and park improvement projects.

The project goals were to assist the community in exploring alternatives for habitat loss mitigation actions and engage stakeholders in defining a long-term vision and sustainable strategic plan. A neutral third party conducted the workshops and interactions. Conflict arose because Minnesota DNR’s remediation and restoration plans were not aligned with the City of Duluth’s park master plans. Conflict resolution was carried out using the HIA to provide harmonious design recommendations to both the state and city. The agreed-upon resolution designed by both parties helped to mitigate and improve health outcomes for the community.

Appendix G - Examples of Non-Third Party Assisted Cases

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

E-Enterprise/sharing EPA's Lean Management System (ELMS) with state partners - Region 1 continues to be significantly engaged in the E-Enterprise for the Environment initiative, aimed at modernizing the business of environmental protection through collaboration with the Environmental Council of the States and EPA's state and tribal partners. Region 1's Deputy Regional Administrator played an active role and was on the E-Enterprise Executive Leadership Council; the Region's emphasis on collaborating with state and tribal partners has been the cornerstone of this effort. Region 1 was instrumental in establishing the E-Enterprise Regional Coordinators (EERC) network which links all ten regions.

Region 1 also developed its own state/tribal regional network, the "New England E-Enterprise State/Tribal Network." Through this network, each state and one tribe has assigned a point of contact for the group. Since most states and tribes are working to improve inefficiencies and have plans for a multitude of long-term improvement projects, sharing information about projects relevant to EPA saves time and money for states and tribes. In FY 2019, one of the major initiatives that EPA shared with its state partners through the EERC is its continuous improvement efforts implemented through ELMS.

As a result of the collaboration with states and tribes through the EERC, Region 1 shared its implementation of EPA's Lean Management System with its New England state partners. After a full-day meeting and tour of Region 1's visual management boards, five of six state partners expressed interest in developing capacity to deploy ELMS in their own state agencies. In turn, Region 1's ELMS trainers worked to stand up ELMS at the Connecticut Department of Energy and Environmental Protection (CT DEEP). Specifically, Region 1 will train CT DEEP to use visual management and ELMS tools to continuously improve at least three permit processes.

Additionally, Region 1 has trained one team at the New Hampshire Department of Environmental Services to improve Household Hazardous Waste implementation. It is also including several key members from the Massachusetts Department of Environmental Protection in an upcoming project to improve institutional controls at Superfund sites. By sharing EPA's ELMS boards and teaching state partners how to use visual management, the Region facilitated long-lasting improvements in relationships and understanding of how EPA does our work with our state partners.

Region 2 (New York, NY) - Post-Disaster Collaboration with Universities and Other Stakeholders - Region 2 participated in a post-disaster collaboration in FY 2019 with universities and other stakeholders in service of communities impacted by Hurricane Maria. The collaboration, known as the "Water Coalition" helped to provide clean drinking water solutions to citizens in geographically remote areas of Puerto Rico. These

remote drinking water systems are not served by the Puerto Rico Aqueduct and Sewer Authority, were largely out of compliance with environmental regulations before Hurricane Maria, and were in many cases, damaged by the storm and unable to run due to the lengthy power outages.

In order to provide safe, resilient, and sustainable drinking water to these low-income communities, the Coalition embarked on a program to install solar-powered water systems and make other improvements. The partners included Polytechnic University of Puerto Rico, Inter-American University of Puerto Rico, the University of Puerto Rico, the American Red Cross, OXFAM, and numerous local non-governmental organizations (NGOs) that leveraged more than \$10 million in funding. Many of the drinking water systems have already seen improvements due to the collaborative effort, the respective expertise of the partners, and the ability of individual partners to leverage money because they are part of the Coalition.

Region 3 (Philadelphia, PA) – In FY 2019, Region 3 sought to engage in facilitative and collaborative activities involving EPA, states, tribes, local communities, NGOs, and other federal agencies where appropriate within the Region. Region 3 also sought opportunities to minimize potential disputes with responsible parties in matters, when possible, through negotiation.

In FY 2019, Region 3 sponsored health workshops in communities where residents had concerns about the health effects from lead contamination caused by historic smelting and refining operations. These workshops were designed to provide information to residents about lead exposure and to identify health resources to community members. Region 3 has found that these workshops not only provided helpful information to residents, but also enhanced communication between EPA and affected communities.

Region 3 also has engaged in collaborative meetings involving Brownfields and redevelopment, where the Region brought together parties, such as property owners, state authorities, EPA regulators, and community stakeholders, to help navigate the process of redeveloping a site.

Region 3 further engaged in productive consultations with Region 3 tribes on Virginia's proposed Clean Water Act (CWA) Section 303(d) impaired waters list. EPA offered consultation to all seven (7) federally recognized Indian tribes in Region 3: Pamunkey Indian Tribe, Upper Mattaponi Indian Tribe, Rappahannock Tribe, Chickahominy Indian Tribe, Chickahominy Indians Eastern Division, Monacan Indian Nation and Nansemond Indian Nation. Three tribes requested consultation, which involved meetings attended by tribal officials and EPA Region 3 staff, where EPA staff explained the nature of EPA's action. As the result of the meetings, EPA was able to inform the tribes of what the 303(d) list is, what local waters are impacted by it and why the tribe might want to comment on EPA's action on the 303(d) list approval or disapproval.

Region 4 (Atlanta, GA) - Region 4 participated in the "Local Foods, Local Places" (LFLP) federal initiative that helps communities reinvest in their neighborhoods and improve quality of life as they develop the local food economy. The initiative was offered to only 16 communities nationwide.

In FY 2019, representatives from Region 4, U.S. Department of Agriculture, the Centers for Disease Control and Prevention, and the Delta Regional Authority held an interactive workshop in Frankfort, Kentucky to engage the community and stakeholders on the implementation of LFLP in the downtown area. The EPA worked with the City of Frankfort and the LFLP initiative to increase access to healthy food and support healthy businesses, farmers, and developing local economies.

The workshop included interactive discussions about opportunities to use local food initiatives to (1) introduce the role local food can play in strengthening the community's downtown, (2) improve the town's economic outlook and health, and (3) identify community values, visions and goals. Action planning sessions highlighted case studies and best practices to create a community action plan with specific implementation steps. Representatives developed an implementation plan that helped identify potential resources from the participating federal agencies to support implementation and execution of the program in the local community. The local partners included farmers markets, community gardens, and cooperative grocery stores—each of which improve local environmental, economic and health outcomes.

Another good example of enhanced public engagement in Region 4 was the partnership with the Glynn Environmental Coalition (GEC). Concerned citizens in Glynn County, Georgia formed GEC in 1990 to investigate the historical presence of pollution in its community and to create an action plan to deal with this problem. Region 4 and GEC co-hosted a workshop to help the public understand the Superfund risk assessment process; review the findings of a 2018 report on toxicity; and consider timing of the cleanup and county-supported redevelopment. The presentation was followed by an interactive session among agency representatives, community leaders and residents on how to address concerns about the Superfund sites in their area. County officials questioned when the entire site would be remediated, emphasizing that the county wants complete removal of contamination to foster redevelopment of the area. They also asked when risk assessment studies would be conducted for weathered toxaphene so that more could be known about its toxicity.

Region 5 (Chicago, IL) - Region 5 detected high levels of toxic and explosive gases in the public sewers next to Chemical Solvents, Inc. (CSI's) hazardous waste recycling facility in Cleveland, Ohio. The levels were so high that the Northeast Ohio Regional Sewer District (NEORS) considered evacuating sewer workers in the area. The risk of an explosion drove an especially urgent need to bring CSI into compliance with a host of environmental requirements, including Resource Conservation and Recovery Act (RCRA) air emission regulations for its numerous hazardous waste tanks, and CWA and Clean Air Act requirements.

To immediately assess the risk of explosive gases, the CSI enforcement team brought in the EPA Superfund emergency removal program and formed a successful alliance with NEORS and the City of Cleveland (which owns the public sewers) on numerous complex technical and enforcement issues. Similarly, the

team successfully collaborated with Ohio EPA to promptly complete the focused investigation. By successfully forming alliances with other governmental agencies, the CSI team enabled the agencies to effectively address several of the longstanding environmental problems at CSI's facility in a holistic way that extends beyond the scope of EPA's traditional enforcement capabilities. The RCRA result, part of the RCRA Air Emissions National Compliance Initiative, has been promoted by the Office of Enforcement and Compliance (OECA) national compliance initiative workgroup as a new standard for injunctive relief for RCRA air emissions control.

Region 6 (Dallas, TX) - In FY 2019, Region 6 continued work under a Partnering Agreement with the Army Corps of Engineers (USACE) to examine the review process for large water supply projects in Texas and to identify actions that will make the process clearer and more predictable for permit applicants and stakeholders. The Texas Water Development Board (a state entity) is not a signatory but is heavily engaged as a contributor. The main areas of coordination are CWA section 404 permitting and National Environmental Policy Act (NEPA) compliance. The agreement addresses major water supply projects where predictable impacts are significant enough to require an environmental impact statement. Under this agreement, the partnership will develop materials to help water suppliers calculate population growth, water use, water conservation, reuse measures, industrial water demands, water supply reserves, and impacts. The work of this group is ongoing, as it is planned as a collaborative multiyear project.

Region 6 also worked closely with the Texas Commission on Environmental Quality to create approaches to beneficially reuse millions of scrap tires in the state. Through this ongoing collaboration, the state and federal agencies worked with industry stakeholders to exploring ways, under the law, to eliminate legacy tire piles that can serve as disease vectors.

Region 7 (Lenexa, KS) - In FY2019, Region 7 engaged the CPRC's specialized expertise to advise and coach regional staff and managers through a challenging risk communication scenario. The region received personalized coaching from the CPRC that enabled it to engage and strategize with local elected leadership on community outreach activities related to ethylene oxide, an emerging contaminant.

In addition to this focused assistance, the region continued its practice of using pre-filing negotiations in most administrative enforcement actions seeking a monetary penalty. As a result, many actions were successfully resolved prior to the filing of an administrative or judicial complaint, minimizing resources necessary to ensure environmental compliance. Region 7 also realized benefits and efficiencies by integrating community involvement coordinators into the Office of the Regional Administrator, which also houses environmental justice and congressional liaisons. This organization concentrates community relations expertise, allowing rapid application of ECCR approaches to cleanup sites and enforcement matters that are likely to generate community and congressional concerns.

Region 9 (San Francisco, CA) - In FY 2019, Region 9 continued to recognize the necessity of fostering and sustaining collaborative approaches with key stakeholders and partners to address the region's most significant environmental issues. At all levels of the organization, Region 9 employees have embraced

collaborations with stakeholders because they produce creative solutions, better outcomes, and promise longer-term gains.

For example, on two occasions in FY 2019, Region 9 attorneys travelled to China and on one occasion a Region 9 attorney travelled to Cambodia to make presentations and work with environmental regulators in those countries to improve their environmental regulatory, permitting, cleanup and enforcement programs. These presentations included sharing links to useful information, including EPA's web-based Waste Tracking tools. During these trips EPA Region 9 attorneys also met with officials at the Agency for International Development and the U.S. Embassy to further discussions of international environmental cooperation.

Also, in FY 2019, staff and managers in Region 9 coordinated with other first responders and local officials to counter environmental hazards associated with the aftermath of Super Typhoon Yutu in the Pacific Islands, and several extensive wildfires throughout the State of California. At all levels of the organization, Region 9 employees have embraced collaborations with emergency responders, state, tribal and local government officials, community members and other stakeholders to facilitate improved responses, creative solutions and better outcomes.

Office of International and Tribal Affairs (OITA) - Tribal Consultation Policy - The EPA's Policy on Consultation and Coordination with Indian Tribes is based on a Federal government to Tribal government relationship. The Agency defines its consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to the EPA taking actions or implementing decisions that may affect tribes.

EPA programs and regions conducted 63 tribal consultations in FY 2019. Under its Consultation Policy, the EPA identifies actions and/or decisions that may affect tribal interests. Tribal government officials are given an opportunity to provide input directly to the EPA prior to an EPA final decision. This consultation leads to more informed and implementable decisions by EPA.

EPA-Tribal Environmental Plans (ETEPs): ETEPs are planning documents developed collaboratively between the EPA and individual tribal governments. ETEPs define intermediate and long-range tribal environmental program priorities and inform funding decisions by linking ETEP goals to annual financial assistance agreement work plans. The ETEPs and resulting grant work plans also provide a mechanism for measuring tribal progress in meeting tribally-defined program development goals, consistent with EPA administered programs.

As of September 30, 2019 -- In part through General Assistance Program funding - 472 tribes (93% of those receiving funding) had an ETEP in place with their respective EPA regional office. A further 26 plans were under development. ETEPs represent a shared understanding and commitment of intermediate and long-term environmental priorities and the associated roles and responsibilities of the EPA and the Tribe.

Local Environmental Observers (LEO): LEO networks are an observation tool that recognizes a broad spectrum of local knowledge, traditional ecological knowledge, and scientific knowledge to facilitate the sharing of information on changes in the arctic environment. In FY 2019, through the Arctic Council Arctic Contaminants Action Program and in support of the Icelandic Chairmanship of the Arctic Council, OITA continued to work with ORD, Region 10, and the Alaska Native Tribal Health Consortium to expand the use of the LEO network and to further develop tools to strengthen observer engagement. The Swedish EPA, Finnish Ministry of Environment, and Norwegian EPA are key partners involved in the Phase 2 activities of the Circumpolar LEO project to expand the LEO Network across the circumpolar Arctic.

In FY 2019, two workshops were conducted in Anchorage, Alaska and Tromso, Norway to deepen youth engagement in the network and to expand the network into the Sapmi region of northern Europe. These workshops increased the community engagement of Sami communities in Finland, Sweden, Norway, and Russia and resulted in the launch of the first LEO Hub outside of North America. The International Centre for Reindeer Husbandry and the Association of World Reindeer Herders will operate a LEO Hub in Kautokeino, Norway that focuses on extreme weather events and snow.

The information gathered through LEO Observations has strengthened cross-sector, interdisciplinary communication and has connected remote communities with international experts, scientists, government officials, and academics who provide technical consultation and assistance, or even use this data as part of agency decision-making. Monthly webinars have fostered long-term dialogue on a range of issues and in FY 2019 focused on engaging and mobilizing youth in Alaska, Finland, Sweden, and Norway. The Circumpolar LEO project continued to operate in a neutral space, where actors from across sectors and disciplines, representing multiple knowledge bases, can collaborate and cooperate to address changes to the Arctic environment.

Public Participation: In FY 2019, OITA provided capacity building and support on public participation to several international partners:

- EPA delivered a two-day interactive workshop in Morocco for 35 elected government representatives. The workshop included a public participation component to discuss ways to involve the public in addressing Solid Waste Management (SWM) and implementing the Province of El Kelaa’s SWM plan in an efficient and sustainable way.
- EPA successfully launched the newly developed Solid Waste and Public Participation website and mini-library that highlights SWM principles and best practices. This “living website”⁸ contains existing resources and can be continually updated with more resources as they become available in the future.

⁸ <http://ecopeaceme.org/publications/sustainability/>

- EPA delivered a workshop for 44 stakeholders in Jordan that included a component on SWM and Public Participation concepts and practices, with a focus on waste management resources available in the new SWM and Public Participation website.
- EPA completed the Regional Public Participation in the Environmental Impact Assessment Process Guidelines for Dominican Republic-Central America Free Trade Agreement (CAFTA-DR) countries (El Salvador, Honduras, Nicaragua, Guatemala, Costa Rica and Dominican Republic). The Guide was completed in close collaboration with a technical group that consisted of representatives from CAFTA-DR country governments and local NGOs. As part of the guide development process, each CAFTA-DR country held public sessions to discuss the guide, which validated the importance of the initiative to increase public participation. The guide, distributed to each CAFTA-DR country, is expected to be used as a model for Panama in FY 2020.

This technical assistance has provided EPA's international partners with improved tools to engage their stakeholders in environmental decision-making.

Transboundary Cooperation with Canada - Potential and real impacts from transboundary pollution from mining operations in British Columbia (BC) have been a matter of concern to citizens in the U.S. for many years. Since early 2014, EPA Regions 8 and 10, with encouragement and facilitation from OITA, the State Department, and the U.S. Consulate in Vancouver, have raised this to Canadian counterparts at the federal level, including to Global Affairs Canada and Environment and Climate Change Canada (ECCC). At the most recent U.S.-Canada bilateral meeting the governments held a working session on the transboundary impacts of mining. During the technical briefing portion of the session, EPA provided updates on a recent water quality study of Lake Koochanusa and the Kootenai River in BC, Montana, and Idaho that found elevated levels of selenium and nitrates (from blasting materials) from BC's Elk River mine in fish tissue 150 miles downstream of the Canadian border. The contaminants result in toxicity and shifts in the food web. The EPA recommended further study and ECCC concurred that all parties (state and provincial actors) should be included. EPA also provided updates on the Lake Koochanusa Monitoring and Research working Group as it works to jointly develop selenium standards.

The two countries decided to increase communication by restarting annual meetings of the Council on Environmental Quality, the EPA, and the Impact Assessment Agency of Canada, and to consider quarterly working-level discussions moving forward. As in previous meetings, Canada was amenable to having more focused discussions on the issues outlined, and the initial results have demonstrated a positive attitude by both parties to work through the issues without assigning blame. This more collaborative model has demonstrated that through frequent communication and sharing of information the countries may, in time, resolve the issues through improved decision-making processes and mitigation of pollution.

Office of Land and Emergency Management (OLEM) - The Federal Mining Dialogue (FMD) is a forum for federal agencies that manage abandoned mine lands to coordinate with EPA and share information amongst themselves. While the Department of the Interior, the Department of Agriculture, and EPA are the key FMD partners, the Department of Justice, the Office of Management and Budget, and the Department of Energy are also FMD members. The cleanup of these abandoned mine sites is challenging.

The FMD continued to focus on a variety of cross-cutting issues to help identify the scope of the problems, address best practices, and share successful techniques.

Office of Research and Development (ORD) - In FY 2019, the Scientific Integrity (SI) Program, within the Office of Science Advisor, Policy and Engagement, and the SI Committee (comprised of senior leaders from each of the Agency's programs, offices, and regions) continued to implement the SI Policy. The SI Program lead the effort to address and resolve allegations of a violation of the Scientific Integrity Policy. If an allegation was complex, the SI Program convened an Internal Review Panel to evaluate the case and recommend a resolution. Circumstances that could warrant a Review Panel include evidence that is complex or that involves multiple offices, or an allegation that involves a senior official or political appointee. The Review Panel is comprised of three to four members of EPA's SI Committee, including at least one member from an office not affiliated with the subject of the allegation or the submitter. The Review Panels are comprised of respected leaders within the Agency. These members have technical expertise and years of experience, which lend credibility to their reviews and conclusions.

The Panel reviews the information provided by the submitter of the allegation, which usually includes a statement of facts in support of the allegation at issue, a timeline, annotated documents, and other relevant materials. The Review Panel summarizes its findings, determination, and recommendations. For example, a situation arose where an EPA employee disagreed with a methodology used by EPA. A Scientific Integrity Panel found that the Scientific Integrity Policy was not violated, because the employee expressed a differing scientific opinion and there was no evidence of retaliation.

Health Impact Assessment of Proposed Code Changes in Suffolk County, New York – ORD and Region 2 conducted a health impact assessment (HIA) to inform the County's decision about potential changes to the sanitary code by evaluating how the proposed changes may impact individual and community health. HIA's are one of many decision-support tools that can be used for enhanced engagement to provide science-based resources and information for community driven initiatives. EPA successfully worked with the community, stakeholders, and decision makers at the local, state, regional, and federal levels to promote health, equity, and sustainability. This was accomplished through several trainings, workshops and public meetings. Since reporting the preliminary HIA findings to the decision makers and stakeholders, the County undertook several recommended activities, including an amendment to the sanitary code to prevent use of outdated technologies, a demonstration project to feature alternative and innovative technologies, as well as a new incentive program.

Appendix H - Comments and Suggestions for OMB and CEQ on Reporting

In their questionnaire, OMB and CEQ requested comments on any difficulties encountered in collecting data and if so, how the agency overcame them. As is common in the field of alternative dispute resolution, EPA noted specific challenges related to collecting cost and particularly benefit information on ECCR. Otherwise, collecting data posed little difficulty as EPA has a history of tracking ECCR. EPA has a history of properly evaluating cases and producing quality reports. However, EPA's ability to collect data, evaluate cases and training, and produce reports is directly linked to the level of funding and staffing that CPRC receives. Adequate resources and a centralized ECCR program at the EPA are necessary to collect these data, provide extensive ECCR support, and assess the benefits described in this report.

Appendix I – Abbreviations

AIEO - EPA's American Indian Environmental Office

ADR - Alternative Dispute Resolution

ALJ - Administrative Law Judge

ATNI - Affiliated Tribes of Northwest Indians

BC - British Columbia

CAA - Clean Air Act

CAFTA-DR - Dominican Republic-Central America Free Trade Agreement

CAG - Community Advisory Group

CAM - collaborative adaptive management

CEQ - Council on Environmental Quality

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act, also known as "Superfund"

CIPIB – EAS's Superfund Community Involvement and Program Initiatives Branch

CPRC - EPA's Conflict Prevention and Resolution Center

CPRS - Conflict Prevention and Resolution Services contract

CSI - Chemical Solvents, Inc.

CSO - combined sewer overflow

CT DEEP - Connecticut Department of Energy and Environmental Protection

CWA - Clean Water Act

DEP - Department of Environmental Protection

DEQ - Department of Environmental Quality

DNR - Department of Natural Resources

DOE - U.S. Department of Energy

DOI - U.S. Department of the Interior

DOJ - U.S. Department of Justice

EAB – EPA's Environmental Appeals Board

ECCC - Environment and Climate Change Canada

ECCR - Environmental Collaboration and Conflict Resolution

ECRCO - EPA's External Civil Rights Compliance Office

EERC - E-Enterprise Regional Coordinators

EIA - environmental impact assessment

EJ - environmental justice

ELMS - EPA's Lean Management System

EPA - U.S. Environmental Protection Agency

ETEP - EPA-Tribal Environmental Plan

FEB - Federal Executive Board

FEMA - Federal Emergency Management Agency

FERC - U.S. Federal Energy Regulatory Commission

FIFRA - Federal Insecticide, Fungicide, and Rodenticide Act

FMD - Federal Mining Dialogue

FTE - full-time employee

FY - fiscal year

GAP - American Indian Environmental General Assistance Program

GEC - Glynn [County in Georgia] Environmental Coalition

HIA - Health Impact Assessment

JIT - Just-In-Time, a type of task order on CPRC's contract designed to provide quick service

LTCP - long-term control plan

LEO - local environmental observer

MOU - memorandum of understanding

NEORS - Northeast Ohio Regional Sewer District

NEPA - National Environmental Policy Act

NGO - non-governmental organization

NPL - National Priorities List

NTC - National Tribal Caucus

OALJ - EPA's Office of Administrative Law Judges

OAR - EPA's Office of Air and Radiation

OECA - EPA's Office of Enforcement and Compliance Assurance

OEI - EPA's Office of Environmental Information

OITA - EPA's Office of International and Tribal Affairs

OLEM - EPA's Office of Land and Emergency Management

OMB - Office of Management and Budget

OMS - EPA's Office of Mission Support

OPM - Office of Personnel Management

OPP - EPA's Office of Pesticide Programs, within OCSPP

OPPT - EPA's Office of Pollution Prevention and Toxics, within OCSPP

ORC - Office of Regional Counsel, within each EPA region

ORD - EPA's Office of Research and Development

OSCP - EPA's Office of Science Coordination and Policy, within OCSPP

OSRTI – EPA's Office of Superfund Remediation and Technology Innovation

OW - EPA's Office of Water

RCRA - Resource Conservation and Recovery Act

RSC - Regional Science Council

RTO - Regional Training Officer

SI - Scientific Integrity

SRI - Superfund Redevelopment Initiative

SWM - Solid Waste Management

TASC - Technical Assistance Services for Communities

TSCA - Toxic Substances Control Act

USACE - U.S. Army Corps of Engineers

USDA - U.S. Department of Agriculture