

Dr. James L. Connaughton
Chairman
Council on Environmental Quality
730 Jackson Place, NW
Washington, D.C. 20503

Dear Mr. Chairman:

Enclosed is the *Army Civil Works First Annual Environmental Conflict Resolution (ECR) Report* for the period November 28, 2005, through November 27, 2006. The report reflects the efforts of the Army Corps of Engineers, through its civil works activities, to use ECR. The program areas that could benefit most from ECR include the planning of new water resources projects and implementation of the Regulatory Program under the Clean Water and Rivers and Harbors Acts. The Corps uses ECR and is looking for opportunities to increase its use of this important tool, especially since, as noted in the enclosed report, the Corps has been able to document cost and performance-related benefits. The report also identifies several challenges with the Corps implementation of ECR, including limited training opportunities, the fact that few current Commanders and senior leaders have been trained, and inconsistencies in application of ECR principles. To address these challenges the Corps is considering the implementation of an ECR program similar to previous alternative dispute resolution programs, located at the Institute for Water Resources. Additionally, the Corps will evaluate case studies, compile and apply lessons learned, and incorporate ECR into guidance documents.

Please do not hesitate to contact me if you have any questions. Your staff may contact Mr. Chip Smith, Assistant for Environment, Tribal and Regulatory Affairs, at (703) 693-3655 or Chip.Smith@hqda.army.mil.

Very truly yours,

John Paul Woodley, Jr.
Assistant Secretary of the Army
(Civil Works)

Enclosure

CF:
CRC
SACW (Read, Sign, Cile)
CECW-ZB
CECW-IWR (Delli Priscoli)

Mr. Joshua Bolten
Director
Office of Management and Budget
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Washington, DC

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Army Civil Works
First Annual ECR Report to CEQ

1: Check in each box

USACE CW Programs encounters all of these at different times

2. Yes: The most frequently suggested areas in need of ECR are; CW regulatory functions; Training, Places within the agency to get help, Cases from Corps as examples, Updating Regulations, how to fund and pay for ECR; CW planning; CW operations; in all of CW business areas such as ecological restoration; navigation; recreation; hydropower.

3. a) To what extent does your department already use ECR?

Check box 3: Sometimes used but could use more often. USACE Legal Counsel 2006 ADR report to DOD refers to 2 uses of environmental mediations used and successfully concluded through use of government neutral.

b) Discuss the extent of use of ECR

Historically: 1970s – 2000's

- 1970s ECR encouraged in Public Involvement in CW programs of USACE
 - USACE was USG Leader in PI and collaborated with white House to create Interagency council on PI
 - USACE Training, which included ECR training, sets USG standards (Documentations and case attached)
- 1980s- 1990s: Alternative Dispute Resolution (ADR), which included ECR, was encouraged, primarily Military programs and less in CW.
 - Achieved 50% /yr. reduction in Contract Claims = \$500 million/yr; many on environmentally related projects
 - USACE ADR Training, which included all the standard ECR tools, sets USG standard
 - Hammer Award presented by VP Gore
 - USACE cancels formal Program – informal ECR continues (Documentations and Cases Attached)

Current: 2000-2006

- Field surveyed on use of ECR
- Uneven Use of ECR tools - little systematic Knowledge of what USACE is actually doing in area
- Anecdotal evidence - Little understanding
- Few ECR related Training Programs Left but demand for them increasing
- No Current District and Division Engineers and few Senior Leaders have any ECR Training

- **Field Professionals have limited Knowledge of needs and tools**
- **Most often cited ECR tool are process approaches such as meetings and facilitation.**
- **Most field offices have no Formal System for ECR or a Designated ECR POC**
- **Field Reports they are doing ECR mostly without third Parties and that their attempts range from successful to not successful with very high cost for use of third parties.**
- **Third party ECR tools are used mostly in the large cases such as; Missouri master plan, pacific northwest controversies between salmon and hydropower, everglades restoration, San Francisco bay, and others.**

- **Training:**

- 1. Between 1975 – 1990**

Estimate over 3000 field personnel and every district engineer and division engineer trained in ECR techniques and how to manage to use them. Formal course in which ECR tools were central included: Basic Public Involvement (PI) ; Advanced Pubic Involvement; PI for Executives; PI for Regulatory Functions and specially tailored courses for field offices.

- 2. Mid 1990s – early 2000's Limited training done in this area**

- 3. 2000's: a) Collaborative Planning, course which included ECR tools created;**

FY03, 1 session, 20 students

FY04, 3 sessions, 70 students

FY05, not held

FY06, not held (one field tailored courses held)

- b) Conflict Management & ADR which includes ECR tools**

FY04 – Session 04-01 in Huntsville - - - - 23 students

FY05 – Session 05-01 in D/FW - - - - - 25 students

Session 05-02 in San Francisco - 26 students Sub-Total = 66

Session 05-03 in - - - - ? - - - - - 15 students

FY06 – Session 06-01 in Huntsville - - - 30 students

Session 06-02 in Denver - - - - 41 students Sub-Total = 71

FY07 – Session 07-01 in Jacksonville - 35 students allocated

Session 07-02 -St. Louis -34 students allocated

Session 07-03 in Portland, OR - 33 students allocated

Session 07-04 in Los Angeles – 20 students on-site

Sub-Total = 122

Total = 282

- 4. No special or designated ECR spaces in HQ or program for field referral. Past programs ranged from 1-3 person years programmatic space for ADR and ECR.**

- 5. Yes: The USACE is discussing the creation of an ECR program similar to previous ADR programs lodged at its IWR. It will include:**
- a. Delivering the format and process to gain information for the annual report on ECR – create Corps wide indices to measure ECR use and effectiveness (e.g. claims reductions...)**
 - b. A Roster of Assistance Help and compendium of materials for acquisition of outside ADR resources.**
 - c. Field Assistance Cases: (for assistance but not do or pay for...)**
 - d. Evaluation Studies which will include:**
 - The annual self assessment requirements**
 - Consistently formatted- lessons learned, after action, case reports**
 - e. Training: (1). DE's and Senior SES's**
 - Bring training to Field as units**
 - (2) Revise and update Courses**
 - (3) Provide short ECR sessions at Leaderships**
 - USACE conferences**
 - f. Assist HQ in Consolidations and Rewrite of ERs, ECs, and Technical Notes relevant to ECR**
 - G. Special ECR and ECR Policy Partnering with selected University programs and not for profit firms.**