



FY 2023 EPA ECCR Annual Report

Environmental Collaboration and Conflict Resolution FY 2023 Annual Report

Executive Summary

This report highlights the U.S. Environmental Protection Agency’s (EPA’s) key achievements in providing environmental collaboration and conflict resolution (ECCR) in fiscal year (FY) 2023 and the infrastructure that supports this work. In FY 2023, EPA’s Conflict Prevention and Resolution Center (CPRC) provided facilitators and mediators who helped EPA address some of its most challenging cases. CPRC provided these services either directly by its staff or, more often, through its \$53 million Conflict Prevention and Resolution Services (CPRS) contract. These professional facilitators and mediators assisted EPA on dozens of high-level cases and projects, including the East Palestine Facilitation/Hazardous Waste Public Forum, Michigan EGLE Ajax Facilitated Informal Resolution Agreement, Red Hill Administrative Order on Consent Facilitation and Red Hill Community Representation Initiative Facilitation, Fifth Ward/Kashmere Gardens Union Pacific Railroad (UPRR) Site Facilitation, and Circular Economy Stakeholder Engagement. EPA continued to serve as a leader among federal agencies in ECCR use, with 136 cases and projects in FY 2023, the highest usage the Agency has reported in the past five years. Each region and most program offices utilized ECCR in their work. CPRC also built EPA’s capacity to engage in ECCR practices; staff trained over 674 employees in 13 training sessions, totaling over 68 hours of training, and ECCR Specialists trained an additional 303 EPA staff in three sessions. EPA staff and managers continued to report important benefits from using ECCR, including timely outcomes, more efficient processes, better decisions, avoidance of litigation, and the advancement of EPA’s mission. ECCR continues to be an essential tool used to advance the Agency’s goals, including tackling the climate crisis, taking decisive action to advance environmental justice and civil rights, and strengthening tribal, state, and local partnerships.

Contents

Executive Summary.....	0
Introduction	2
Background	3
ECCR Infrastructure at EPA	4
FY 2023 ECCR Use at EPA	7
Overall Use of ECCR at EPA.....	8
FY 2023 ECCR Case Highlight:	16
ECCR Training at EPA.....	18
ECCR Evaluation at EPA.....	19
Opportunities for ECCR at EPA.....	20
Conclusion.....	21
Appendices.....	22

Introduction

Throughout its history, 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 mission. Each action EPA takes to serve the public is the product of dialogue with a diverse set of stakeholders. Developing environmental policies and involving multiple stakeholders in decision-making processes is often complicated. An impartial facilitator or mediator who has expertise in ECCR can help EPA staff and managers work more effectively with stakeholders. CPRC serves as EPA's primary office to help meet the challenges of stakeholder engagement and resolve environmental conflicts.

CPRC staff advise EPA staff and managers on topics such as public meeting design and communication with stakeholders. CPRC 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. CPRC offers services directly through its staff and through its Conflict Prevention and Resolution Services contract, which provides every EPA office with timely access to professional facilitators, mediators, and trainers who specialize in ECCR.

ECCR professionals also mediate cases before the Environmental Appeals Board (EAB) and the Office of Administrative Law Judges (OALJ). With CPRC's services, and with mediation offered through the EAB and the OALJ, EPA uses ECCR more than most other federal agencies. 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)¹ and is prepared by CPRC with input from its Regional ECCR Specialists. While it is important for a 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 enlighten readers about the variety of situations in which ECCR can be used to resolve conflict and to achieve better engagement with the public and other stakeholders.

In FY 2023, CPRC continued to provide ECCR services in support of EPA's FY 2022-2026 strategic plan. This plan sets goals for the enforcement of EPA's environmental laws and ensuring clean air, water, land, and chemicals for all the nation's residents. It also includes goals for addressing climate change and advancing and integrating environmental justice and external civil rights in all of EPA's work. As part of the Office of Environmental Justice and External Civil Rights, CPRC is well positioned to serve a critical role in these efforts. ECCR can help to achieve the Agency's priorities by resolving disputes, supporting meaningful public engagement, and improving communication with stakeholder groups.

¹Office 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.”² 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.”³

ECCR is defined 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.”

Several statutes direct or support EPA’s work to provide ECCR. The **Administrative Dispute Resolution Act** (1996) encourages the use of ADR in agency actions, directs all federal agencies to appoint a Dispute Resolution Specialist, promulgate an agency ADR policy, and provides guidance on the issue of



Photo: EPA

confidentiality during ADR processes. The **Negotiated Rulemaking Act** (1996) encourages the use of facilitated consensus in developing federal regulations, and the **Alternative Dispute Resolution Act** (1998) 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 and other conflicts.

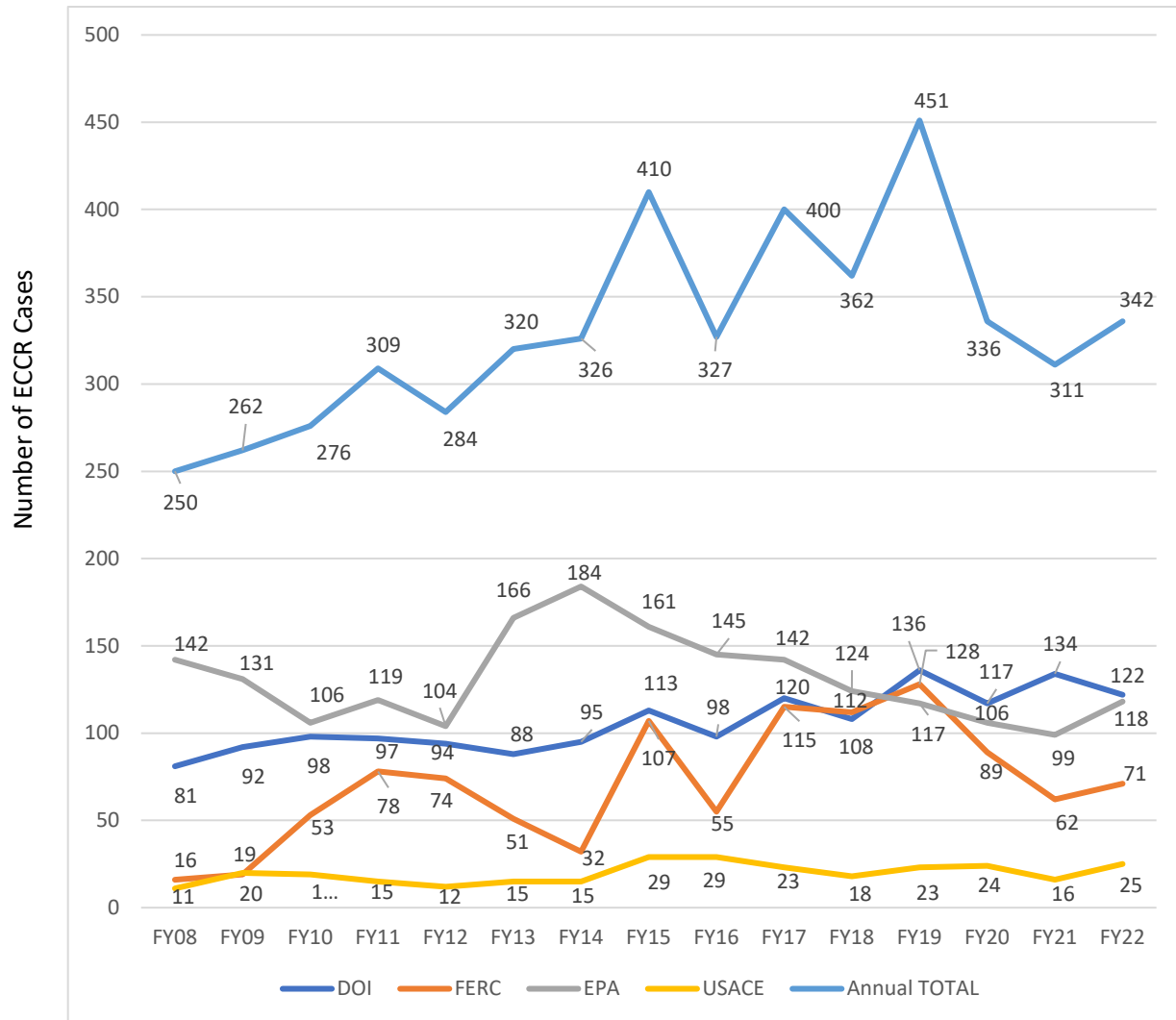
In addition to EPA, several federal agencies that implement environmental statutes and whose actions have significant environmental impacts also maintain ECCR services. In FY 2023, these agencies included the Department of the Interior (DOI), the Federal Energy Regulatory Commission (FERC), the U.S. Army Corps of Engineers (USACE), and several others. EPA has been and continues to serve as a government-wide model for effective use of ECCR. EPA has been a national leader in the practice, teaching, and evaluation of ECCR for

² 5 U.S.C. § 571(3)

³ 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

more than two decades. As of 2022, the most current year for which ECCR data are available, EPA continued to have one of the highest numbers of ECCR cases in the federal government (see Figure 1).⁴

Figure 1: Four Agency Index of ECCR Cases - FY 2008 to FY 2022



⁴ This chart comes from the John S. McCain III National Center for Environmental Conflict Resolution. *Environmental Collaboration and Conflict Resolution (ECCR) in the Federal Government: Synthesis of FY 2022 Reports*. Tuscon, AZ and is available online here: [FY22 ECCR Synthesis Report_FINAL.pdf \(udall.gov\)](https://www.ncecr.gov/fy22-eccr-synthesis-report-final.pdf)

ECCR Infrastructure at EPA

CPRC is the Agency lead for ECCR services and training. In addition to CPRC, the Office of Administrative Law Judges (OALJ) and the Environmental Appeals Board (EAB) support the Agency with ECCR services consistent with the EPA's ADR policy.⁵

The Conflict Prevention and Resolution Center (CPRC) leads EPA's ECCR program and provides most ECCR services at EPA. Its director also serves as EPA's Dispute Resolution Specialist, as designated in the Administrative Dispute Resolution Act of 1996 and EPA's ADR Policy. CPRC, which is part of EPA's Office of Environmental Justice and External Civil Rights (OEJECR), supports the entire Agency by helping any program or regional office to prevent and resolve environmental disputes. With six full-time employees, CPRC offers expert ECCR services provided by staff or through its \$53 million Conflict Prevention and Resolution Services (CPRS) contract. The contract offers access to services from private sector experts in the ECCR field. In addition to mediation and facilitation, CPRC staff and contracted ECCR experts provide training, coaching, and related services in support of ECCR.

ECCR services are also provided across the Agency by 30 skilled **ECCR Specialists**, who are in all ten EPA regions and work closely with CPRC staff. Many are attorneys in the Offices of Regional Counsel, but others work in a variety of contexts, including public involvement, environmental justice, and enforcement. ECCR Specialists perform their role as collateral duty. They have been trained in a variety of ECCR skills, including facilitation, mediation, negotiation, and conflict coaching. ECCR Specialists advance the use and understanding of ECCR at EPA by, among other things, serving as CPRC liaisons for ECCR activities; supporting ECCR education and training; building and supporting communities of practice; tracking requests for assistance, ECCR cases and projects; and contributing to the development of this annual report to OMB and CEQ. When possible, they also serve as mediators, facilitators, trainers, and conflict coaches. EPA's network of ECCR Specialists grew from 20 to 30 in FY 2023, and they actively engaged in providing ECCR services; they served as facilitators for multiple cases and delivered multiple conflict resolution trainings.

CPRC also works closely with EPA's Office of External Civil Rights Compliance (OECRC), which enforces several civil rights laws, most notably Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin, including limited English proficiency, by recipients of federal financial assistance. CPRC assists OECRC by offering mediation and facilitation to parties involved in Title VI complaints. In FY 2023, CPRC provided ECCR services to help resolve eight Title VI complaints through facilitated dialogues as part of the Informal Resolution Agreement (IRA) process.

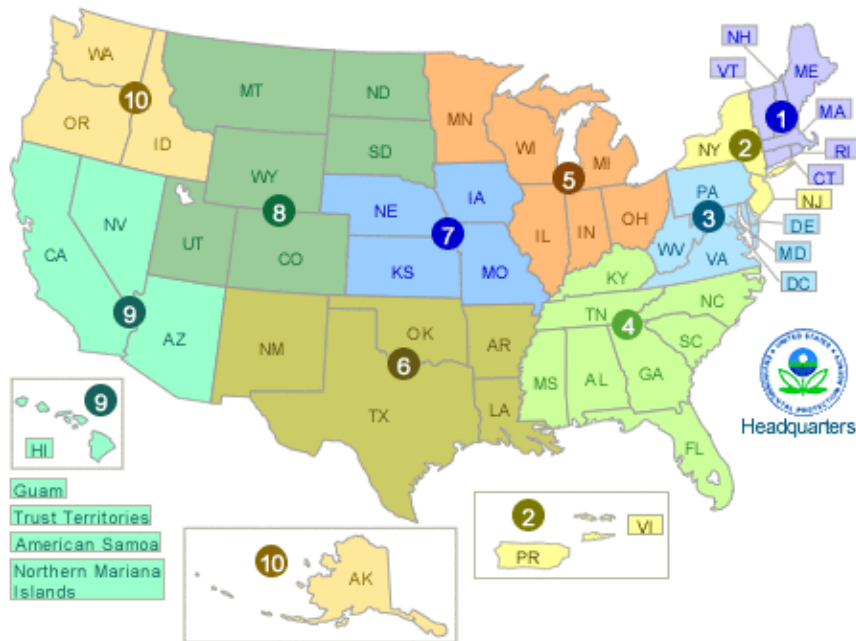
The Office of Administrative Law Judges (OALJ) is an independent office in EPA's Office of Mission Support (OMS). In accordance with the Administrative Procedure Act, the administrative law judges (ALJs) conduct hearings and render decisions in enforcement and permit proceedings between the EPA and those

⁵ https://www.epa.gov/sites/production/files/2018-04/documents/epa_adr_policy.pdf

regulated under environmental laws. The ALJs also may conduct hearings related to findings by OECRC of a violation of 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), administratively housed in OMS and reporting to the Office of the Administrator, hears appeals of permitting decisions and administrative penalty decisions. A wide range of stakeholders appeal to the EAB, including companies, state and local governments, tribes, non-governmental organizations, and citizens. The EAB offers parties the option to resolve disputes using ECCR with the assistance of an EAB judge and EAB senior counsel who serve as mediators. The EAB's ECCR program has fostered negotiated settlements that speed up resolution of EAB cases and conserve government resources. In FY 2022, the EAB did not conduct mediation. With the filling of a vacant EAB judge position, the EAB has been conducting mediations in FY 2023.

Figure 2: EPA Regions



epa.gov/aboutepa/visiting-regional-office

FY 2023 ECCR Use at EPA

Since 1978, EPA has used ECCR to fulfill its mission to protect human health and the environment. Using ECCR allows the EPA, its stakeholders, and the public it serves to more effectively engage with one another and develop a common understanding of environmental issues, prevent conflict, address differences, and resolve disagreements. **In FY 2023, the use of ECCR at EPA increased to near FY 2017 levels, which is the highest usage the Agency has reported in the past five years.**

Noted Benefits of ECCR

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

Over the years of reporting on ECCR, EPA's program and regional offices have noted its many benefits. They've reported that ECCR use **furthered the EPA's mission and strategic goals** to protect human health and the environment by helping them establish collaborative processes to resolve environmental problems. ECCR has been used to **improve collaboration and working relationships, which has resulted in more meaningful** engagement with a broad range of stakeholders, including federal, state, tribal, and community partners. In FY 2023, multiple projects served as examples that both advanced EPA's mission and involved extensive collaboration with many stakeholders. They include support for the East Palestine Train Derailment community-based stakeholder group (page 11), the Fifth Ward/Kashmere Gardens UPRR Site in Region 6 (page 12), and the Fall 2022 Tribal Leaders Summit & Environmental Conference (page 14).

The use of ECCR has also led to **more efficient and cost-effective processes**. When the Agency used an impartial third party, it provided structure and focus to negotiations and moved cases along more quickly. Offices also noted that, compared to litigation, ECCR provided an opportunity for early resolution of enforcement cases, which resulted in cost savings.

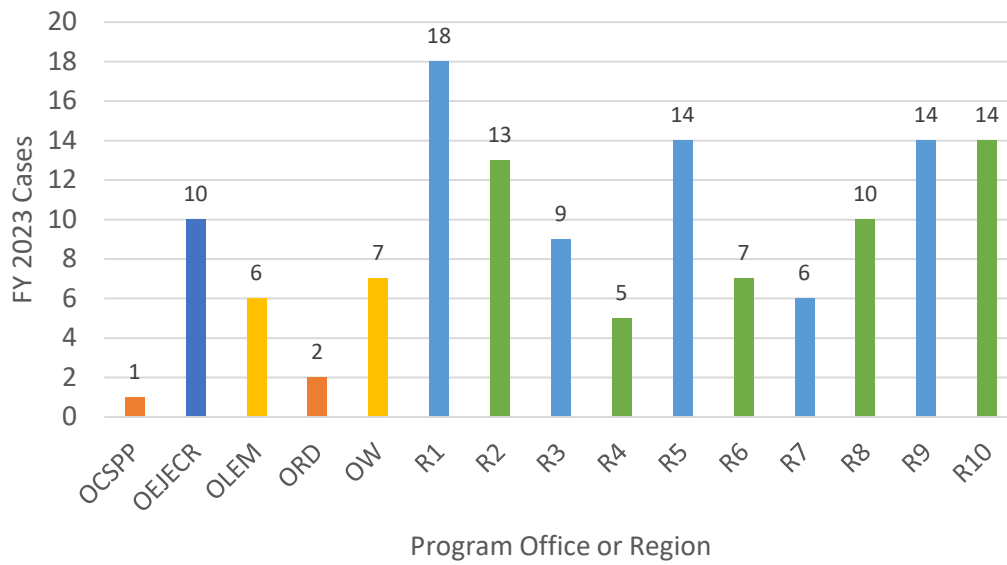
Finally, ECCR resulted in **better outcomes**, some of which could not have been achieved without impartial third-party assistance. These included outcomes that improved environmental conditions, were more creative, and fostered external stakeholder ownership in EPA's initiatives, programs, and agreements. In short, ECCR helps the Agency make better decisions, work with stakeholders more effectively, and attain sustainable environmental outcomes. For example, in FY 2023 CPRC supported the Northwest Tribal Asthma Team, which engaged Tribal leaders around shared goals and objectives to advance in-home asthma care (page 16).

In FY 2023 CPRC and the other ECCR offices at EPA continued to serve an important Agency function by supporting meaningful virtual public engagement through expert virtual facilitation and mediation. ECCR support for virtual engagement, which was born of necessity during the COVID-19 pandemic, has helped EPA to obtain valuable input from members of the public, many of whom may not have previously been able to participate in Agency events.

Overall Use of ECCR at EPA

EPA increased its use of ECCR in FY 2023; there were 136 cases and projects in FY 2023, up from 118 in FY 2022. In FY 2023, EPA used ECCR in all ten regions and several program offices for a broad range of applications. Figure 3 illustrates the current level of ECCR use across EPA's program offices and regions.

Figure 3: FY 2023 ECCR Use by EPA Program Office and Region



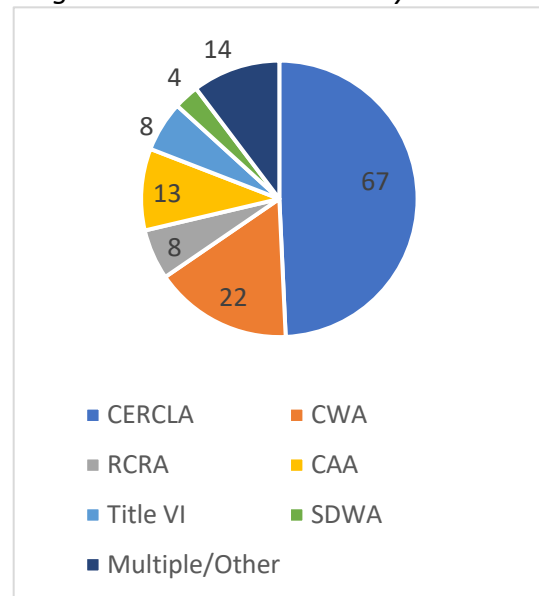
Note: Cases or projects that were tied to a specific location are included in the counts for the regions; those counted as program office cases were national or programmatic in scope or were led by a program office.

EPA also used ECCR in a wide variety of circumstances. For example, EPA used ECCR to mediate disputes over Superfund cleanups, gather public input during complex and high-tension meetings, and mediate environmental enforcement disputes in EPA regions. In these matters, facilitators and mediators designed and led meetings so EPA staff could focus on technical and substantive issues and keep projects moving forward.

In FY 2023, EPA used ECCR in 136 cases and projects. Every EPA region and several program offices had an ECCR case, which included matters involving environmental justice and civil rights, Superfund cleanups, brownfields redevelopments, and permit disputes.

As in past years, in FY 2023 EPA used ECCR most frequently to address issues under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund, used in approximately 67% of cases) and the Clean Water Act (CWA, used in approximately 22% of cases), as seen in Figure 4. Cases classified as “multiple” were predominantly facilitated processes involving communities with several environmental issues.

Figure 4: FY 2023 ECCR Cases by Statute



In FY 2023, CPRC handled most of EPA’s ECCR cases, while EPA was also involved in several ECCR matters with other Agencies. CPRC handled 106 cases on behalf of client programs and regions, and the ECCR Specialists and other EPA facilitators were responsible for 10 cases. The Environmental Appeals Board mediated four ECCR cases, and an Administrative Law Judge mediated one case. Of the CPRC cases, eight were Title VI civil rights complaints where OECRC used CPRC facilitation assistance to include complainants from communities with environmental justice concerns in meaningful dialogue about the complaints with the recipient agencies and EPA. EPA was involved in four environmental enforcement matters in litigation that were mediated with the assistance of the U.S. Department of Justice. Other federal agencies mediated or facilitated five cases to which EPA was a party. Finally, EPA was involved in six ECCR cases that were handled by a combination of means (for example, multiple parties paid for a 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 and projects in FY 2023, including:

- Michigan EGLE Protocol for Assessing Community Excellence in Environmental Health (PACE-EH) Cumulative Impacts Facilitation
- East Palestine Facilitation/Hazardous Waste Public Forum
- EPA’s Meaningful Participation Policy Revision Facilitation
- Fifth Ward/Kashmere Gardens UPRR Site Facilitation
- St. Regis Site Situation Assessment
- Michigan EGLE Ajax Title VI Facilitated Informal Resolution Agreement
- Circular Economy Stakeholder Engagement
- Clean School Bus Program Outreach
- Sustainable Solano Partner Mediation Services
- GE-Pittsfield/Housatonic Citizens Coordinating Council Facilitation
- National Water Reuse Action Plan Facilitation

- Nampa Hispanic Community Engagement
- Portland Harbor Southeast Superfund Facilitation
- Red Hill Administrative Order on Consent Facilitation
- Red Hill Community Representation Initiative Facilitation
- Tijuana River Watershed Stakeholder Engagement
- Trash Free Waters Facilitation and Public Involvement

In FY 2023, EPA used ECCR in air, water, and land cases and projects under the Clean Air Act (CAA), CWA, Superfund, the Resource Conservation and Recovery Act (RCRA), and the Safe Drinking Water Act (SDWA). EPA also used ECCR in multiple cases involving Title VI of the Civil Rights Act, one case involving the Toxic Substances Control Act (TSCA) and in one case involving the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Air - The air program at EPA continues to consistently use ECCR services, both for facilitating efforts to reduce air pollution in communities and for mediating cases in litigation. EPA used ECCR in 13 air cases in FY 2023. One case involved the facilitation of a multi-stakeholder session focused on wood pellet facilities in the Southeast, while another supported EPA's initiative to advance in-home asthma programs in tribal communities in Region 10 by providing facilitation and collaboration support.

Water - Historically, EPA has used ECCR to resolve issues with water-related cases more than any other media, except land (i.e., Superfund and RCRA), and this continued to be the case in FY 2023. EPA has many different water programs, and contentious disputes often arise in the context of water permitting, planning, and enforcement actions. Of the 26 water-related (both CWA and SDWA) ECCR cases in FY 2023, 20 arose in nine of EPA's 10 regions and six were programmatic or national in scope. These cases included mediation involving the Standing Rock Sioux Tribe, involved watershed or community water-resource planning, compliance and enforcement issues, storm and hazard mitigation planning, policy dialogue facilitation, and stakeholder engagement.

In FY 2023, the Office of Water (OW) benefited from ECCR support for a series of nine webinars focused on the Wetland Protection Development Grant (WPDG) program. These webinars were intended to promote engagement and receive input from states and tribes on the changes to the WPDG program related to the White House's Justice40 Initiative. Many of the grants administered by OW flow through the states, and communities can apply for and receive the grant funding. Many of the communities receiving this funding are from more prosperous areas that have the resources and are better situated to apply for and manage the funds. ECCR facilitators worked directly with OW staff to develop and plan a series of webinars designed to provide information on the Justice40 initiative and its impact on the WPDG program. The facilitators were key in helping to design webinars that were informative, inclusive, and allowed for a dialogue in which EPA received important feedback from participants.

During the final webinar of the series, EPA responded to the key input that was gathered during the series from participants, including states and tribes. This feedback received through the webinars is

invaluable to OW as it learns how to implement Justice40 and educate disadvantaged communities about resources available to them.

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 cleanup 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), facilitate challenging public meetings, provide conflict coaching so EPA staff involved in site cleanups can work more effectively with stakeholders, and mediate disputes over responsibilities and terms of cleanups. In FY 2023, EPA provided ECCR support for 67 Superfund cases; approximately one-third (21) of the cases involved facilitation and other ECCR support for CAGs. Other cases included facilitating various community involvement processes, conducting situation assessments, conducting allocation negotiations with potentially responsible parties, and helping to resolve conflicts and improve collaboration between EPA and other federal agencies at Superfund sites on federal facilities.

EPA often uses ECCR to improve the functioning of community engagement during Superfund emergency responses or time-critical response actions. In FY 2023, ECCR support for the East Palestine Train Derailment helped to manage a large and complicated emergency response action. A professional facilitator worked with EPA response staff to assist with a multifaceted approach involving four key components to engage with the impacted community following the derailment.

First, EPA management kicked off a weekly series of open houses with a town hall meeting. Knowing this could be a very contentious situation, EPA started working with a professional facilitator to manage the town hall meeting, but as the date approached, the mayor was selected to serve as the meeting facilitator. The facilitator effectively pivoted to provide informative and helpful input and guidance during the town hall. Concurrently, the facilitator helped the EPA community engagement team to organize weekly meetings with the community-based stakeholder group that was supporting EPA in holding highly effective meetings. The facilitator quickly helped to develop a summary of the stakeholder group's



Community Engagement Stakeholder Meeting at the East Palestine Memorial Public Library.

Photo: EPA Region 5

purpose and charge; EPA engagement staff used it to effectively communicate about the community-based stakeholder group to internal stakeholders and management. The stakeholder group remains highly effective as a sounding board for EPA engagement activities related to the train derailment and provides valuable feedback as EPA transitions work from short term cleanup to long-term recovery as new federal, state, and local entities join engagement discussions and planning.

The EPA also used ECCR in eight cases involving the Resource Conservation and Recovery Act (RCRA) in FY 2023. These cases spanned a broad range of topics, including the formation of the Community Representation Initiative (CRI) to address the Red Hill Underground Fuel Storage Facility in Hawai'i, the facilitation of bi-weekly multi-agency workgroup meetings in Region 2 to address brownfields and smart growth, and stakeholder engagement for a RCRA corrective action in Region 5.

In Region 3, a professional mediator was utilized by the Department of Justice and defendant in a RCRA case to assist with meaningful settlement talks when the parties reached an impasse. This highly technical situation involved multiple facilities across the United States and multiple EPA Regions. The mediator was engaged to bring perspective to the parties about the relative strength and weaknesses of the claims, defenses, and positions. The mediator's intervention was critical as it allowed the parties to restart meaningful negotiations after a stalemate and ultimately lead to a negotiated settlement. Additionally, it is expected a Consent Decree will be lodged imminently as a result of this work.

In addition to using ECCR to address specific environmental and civil rights issues, EPA also uses it to improve the overall work of the Agency. A few notable uses of ECCR at EPA include working to advance meaningful engagement on environmental justice with communities experiencing the disproportionate impacts of pollution, improving transparency in government operations, and engaging the public to protect human health and the environment.

Take Decisive Action to Advance Environmental Justice and Civil Rights – As noted above, ECCR can be an essential element for engaging meaningfully with communities struggling with environmental injustices. An impartial facilitator can help EPA design processes that better ensure communities are heard and their concerns are addressed. In FY 2023, several EJ cases benefitted from ECCR practices, including the Fifth Ward/Kashmere Gardens UPRR Site.



A community member asks an EPA representative a question at a UPRR public meeting.

Photo: EPA Region 6

The UPRR Site in Region 6 involves a historic Black neighborhood known as the Greater Fifth Ward. The community has expressed that its members feel disregarded and not heard or considered in site actions. An impartial facilitator supported by CPRC's contract has been working with the community and EPA site team since March 2023 to design a process that effectively engages interested parties. This support has led to an improved working relationship with community members and two public meetings that were well facilitated.

The facilitator has played a key role in helping EPA deliver a clear message to the public and focus on steps it can take to protect human health and the environment.

The facilitator's participation has dramatically improved the openness and effectiveness of EPA's public meetings in a short period of time. As a result, senior leaders in Region 6 are now seeking the facilitator's support in establishing a Community Advisory Group (CAG) for the site. A Community Advisory Group (CAG) is composed of members who represent diverse community interests. Its purpose is to provide a public forum for community members to present and discuss their needs and concerns related to the Superfund decision-making process. A CAG can assist EPA in making better decisions about site cleanup and offers EPA a unique opportunity to understand and consider community preferences for site cleanup and remediation.

To further support EPA's goal of advancing environmental justice and civil rights, ECCR facilitators helped to improve the process to resolve Title VI civil rights complaints by providing a forum for members of communities with environmental justice concerns who have filed complaints to engage in constructive dialogue with the state and local governments at the center of the complaints. In FY 2023, ECCR facilitators provided support for eight Title VI cases and afforded parties the opportunity to have meaningful discussions about the discrimination issues raised in these complaints as part of the effort to reach informal resolution agreements.

Tackle the Climate Crisis - ECCR can also be an effective tool for addressing climate change and planning for future severe weather. The causes and impacts of climate change are very complex, which makes finding consensus when dealing with them especially challenging. Using ECCR can not only help stakeholders understand complex issues, but also productively work together to find long-term, durable, solutions. An example of that is ECCR support for Region 2's Facilitated Dialogue on Resiliency Planning.

Region 2 staff collaborated with facilitators provided through CPRC's contract to support a community conversation in Trenton, New Jersey on options to address climate change-related extreme flooding. The facilitators worked with local and federal agencies, including FEMA and HUD, to create a process for dialogue with residents of a small residential "island" community in Trenton. The goal of the effort was to engage the community to hear their experiences with and concerns about flooding, as well as hear their concerns related to the projected intensification of flooding over time. The format of the meeting included information-sharing by governmental officials and experts about the flooding risks facing the community. Presentations were followed by table conversations among the residents who shared their own experiences and concerns with flooding in the community, as well as opinions on future resiliency efforts. The meeting resulted in initial conversations about the possibility of retreat, including home buyouts, and other options to contend with the extreme flooding impacts on the community. The concerns and potential solutions were incorporated into Trenton's city-wide resilience plan. The facilitation support also helped the federal team understand more fully the needs and complexities that Trenton faces.

Strengthen Tribal, State, and Local Partnerships and Enhance Engagement

- As one of the Agency's experts in public participation and the main providers of contracted public participation support, CPRC staff and ECCR Specialists routinely support all EPA programs and regions to increase transparency and public participation. In FY 2023, ECCR Specialists from Region 1 provided support to the Fall 2022 Tribal Leaders Summit & Environmental Conference, hosted by the Passamaquoddy Tribe at Pleasant Point, Maine, in October 2022. The annual conference, held as a hybrid meeting for the first time, embraced the theme, "Emergence from the Pandemic: Reconnecting with all our Relations."

The conference brought together keepers of Traditional Ecological Knowledge, grant, and policy specialists, as well as experts in Western science, instrumentation, and data analysis, to share information, resources, and opportunities about important environmental topics. R1 facilitators moderated the meeting sessions and adapted to technological difficulties, facilitating discussion among participants and presenters by carefully engaging both in-person and virtual attendees.

The facilitators guided participants through sensitive discussions on ecological concerns that are also of Indigenous cultural significance, such as the impact of waterway impairment on fish and eel passage, bioremediation of PFAS compounds on Tribal lands, and access to sweetgrass used for basket weaving in the nearby Acadia National Park. Conference attendees visited the park to see where the Passamaquoddy Tribe and National Park Service are working together to protect sweetgrass growth and harvesting. The conference created many connections among partners working toward environmental protection on Tribal lands while also providing many lessons learned for hosting future hybrid meetings.



A view of the park visit as part of the Fall 2022 Tribal Leaders Summit & Environmental Conference in Pleasant Point, Maine

Photo: EPA Region 1

ECCR can be essential for meeting EPA's internal needs to ensure that there is effective collaboration in that employees and offices throughout the Agency are speaking a common language. This year, ECCR support was provided in an atypical way that led to that a common understanding of ecosystem services language, tools, and approaches. The Office of Research and Development utilized facilitation and structured decision-making expertise to support the translation and application of ecosystem services tools and approaches in support of community-based Remediation to Restoration to Revitalization related decision making, and other relevant decision contexts involving environmental cleanups. This effort sought to provide approaches and case study demonstrations that can be used to expand on previous efforts to give contaminated site managers, risk assessors, and community involvement coordinators practical information on the potential relevance of ecosystem services to their sites.

A series of virtual workshops, facilitated by subcontractors under the CPRC contract, provided a research space where translational work on ecosystem services was intentionally co-developed between Office of Research and Development scientists and other EPA regional and program office partners within EPA over the course of this effort. As a result of the project, EPA employees such as Ecological Risk Assessors, Remedial Project Managers, Community Involvement Coordinators, and others have a broader understanding of ecosystem services language, tools, and approaches. The facilitators also provided content for a webinar presentation to the Contaminated Sites Clean-Up Information Forum (CLU-IN forum). This forum provides information about innovative treatment and site characterization technologies while acting as a roundtable for all waste remediation stakeholders. This webinar was advertised to more than 40,000 people, resulting in more than 250 participants attending, including participants from 10 other countries.

FY 2023 ECCR Case Highlight:

While there were multiple successful ECCR cases and projects this year, this case stands out due to the many and diverse stakeholders involved, the building of significant trust through the process, and the critical environmental impact the project is expected to have.

Tribal representatives in EPA Region 10 (Idaho, Oregon, Washington, and Alaska) consistently voice concerns about respiratory health disparities, especially for children with asthma and those who experience frequent lower respiratory tract infections. EPA Region 10 is working to fulfill its Tribal trust responsibility by responding to these needs and facilitating partnership discussions to identify and support implementation of sustainable, culturally appropriate solutions through its Northwest Tribal Asthma Initiative. This work has been a high priority since its inception, funded by multiple program offices, and it continues to align with multiple national policy directives related to healthy housing, asthma disparities, and children's health. Since 2014, EPA has maintained an active interdisciplinary team of stakeholders known as the Northwest Tribal Asthma Team, which engaged Tribal leaders around shared goals and objectives.



Several members of the Northwest Tribal Initiative discuss topics at the Northwest Tribal Summit on Improving Asthma Outcomes in Children.

Photo: EPA Region 10

CPRC supported Region 10 staff in this work by providing a culturally competent facilitation team through its contract. Health outreach specialists also joined the project team, and together the team:

- Planned, facilitated, and documented recurring meetings of the Northwest Tribal Asthma Team.
- Identified and engaged key stakeholders throughout Region 10 regarding ways to support and advance in-home asthma management for Native Americans, approaches to integrate community health workers into these programs, and opportunities for sustainable financing.
- Supported pilot projects, including the EPA grant-funded Tulalip Tribes of Washington State pilot, the Indian Health Service Yakama Service Unit administered project, and the Nez Perce Tribe's project with the Nimiipuu Health Center.

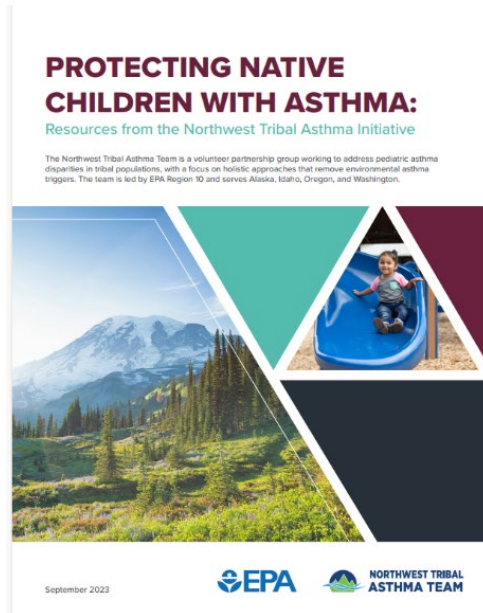


Image: EPA Region 10

- Engaged with environmental health specialists on the development, delivery, and evaluation of in-home asthma management in Tribal communities during the COVID-19 pandemic.
- Researched and developed a collection of resources for stakeholders addressing key topics in Tribal asthma, with a focus on holistic approaches that address environmental triggers.

The successful engagement of key stakeholders and opportunities to work together through the Northwest Tribal Asthma Team resulted in materials that EPA can share and distribute to advance in-home asthma care.

ECCR Training at EPA

In FY 2023, CPRC and the ECCR Specialists led the Agency’s ECCR training activities to strengthen EPA staff’s skills and promote the use of ECCR. In FY 2023, CPRC trained 674 EPA staff, in 13 sessions, totaling over 68 hours of training. Furthermore, ECCR Specialists trained an additional 303 EPA staff in three training sessions. ECCR Specialists in Region 1 led training on active listening, while specialists in Region 4 led collaboration and conflict resolution training as part of the Environmental Justice Academy, and specialists in Region 5 led an interest-based negotiation training.

“I will use this in both my professional and personal life to come to more effective agreements.”

- EPA Interest-Based Negotiation Trainee

CPRC continually improved its trainings after each delivery and developed two new role-play exercises for its popular training, *Negotiate Better: An Interest-Based Approach (IBN)*. CPRC and ECCR Specialist trainers unveiled a Superfund-focused role-play for the IBN training, which was delivered to Region 7 Superfund attorneys, and a Title VI-focused role-play, which was delivered to the Office of External Civil Rights Compliance. The new role-plays support negotiations practice for two of CPRC’s key EPA clients. In FY 2023, CPRC staff and ECCR Specialists taught other core trainings, such as *Designing Effective Public Involvement* and *Facilitating Dialogue*, both virtually and in person on multiple occasions.

CPRC provided training for 129 EPA personnel during its 16th annual Conflict Resolution Day program in October 2022. CPRC holds this annual event to increase EPA staff and managers’ awareness of ECCR services at EPA and improve their ECCR knowledge and skills. CPRC hosted four virtual sessions to mark Conflict Resolution Day, including *Embracing the Tools of Conflict Prevention and Resolution to Advance Environmental Justice and External Civil Rights*, led by Vernice Miller-Travis, mediator and co-founder of WE ACT for Environmental Justice.

“I now have a clear understanding of how to structure my public involvement for a particular case. The impact will be that everyone can understand up front what type of public involvement is expected and what are the desired outcomes.”

- EPA Public Involvement Trainee

ECCR Evaluation at EPA

As part of its commitment to continuous improvement, CPRC continued to conduct survey-based case, training, and contract evaluations in FY 2023, the 16th year of its evaluation program. CPRC evaluated two trainings during FY 2023. CPRC used training evaluation data to improve the overall quality and effectiveness of the trainings it delivers for EPA employees. For example, evaluation data revealed opportunities to improve CPRC's delivery of its trainings on virtual meeting platforms.

CPRC also evaluated one Title VI facilitated IRA case in FY 2023. CPRC continued to evaluate its Conflict Prevention and Resolution Services contract by annually surveying the dozens of task order contracting officer representatives who use it. Their input helped CPRC improve the quality, efficiency, and effectiveness of the contract's use.

Opportunities for ECCR at EPA

While EPA has effectively used ECCR in a variety of cases, as described above, there are still opportunities for greater use of ECCR in the Agency, such as in its EJ work. Although ECCR support for EPA's work in EJ contexts increased in FY 2023, there are new opportunities to provide ECCR, such as facilitation and other ECCR services for the Environmental Justice Thriving Communities Technical Assistance Centers (EJ TCTACs). Each of the 16 TCTACs will receive at least \$10 million to remove barriers and improve accessibility for communities with EJ concerns. The centers will provide guidance on community engagement and meeting facilitation, which creates an opportunity for CPRC and ECCR Specialists to support these efforts. In addition to the TCTACs, there is still room for growth in the use of ECCR to support EJ. ECCR can be used to help build the Agency's capacity for EJ work through practices such as facilitated dialogues to bring communities together more effectively with EPA staff and other stakeholders to promote meaningful engagement, address long-term problems and promote a healthy environment for future generations.

Another growth opportunity for ECCR in EPA is to provide support for negotiated rulemaking. Although CPRC has provided extensive facilitation and other ECCR support in the past for negotiated rulemaking efforts, requests for assistance have diminished in recent years. Past successes with negotiated rulemaking demonstrate the value of consensus decision making across stakeholder groups. Finally, in its efforts to address the urgent and complicated climate crisis, EPA can make greater use of impartial facilitators to lead processes to gather and share information on complex issues and plan for action.



Photo: EPA

Conclusion

In FY 2023, EPA remained a lead federal agency in the provision of ECCR services and CPRC offered easy access to high quality ECCR services to help the Agency achieve its mission and strategic goals. As described above, ECCR was used in every EPA region and most programs to assist with cases across all media in EPA (land, water, air, and chemicals), as well with as the resolution of civil rights cases. ECCR services help EPA to engage meaningfully, effectively, and efficiently with stakeholders and facilitate informed, transparent, fair, and just decision making. As the Agency strives to combat climate change and ensure environmental justice, ECCR processes are essential tools for making progress on those goals. ECCR helps the Agency to plan as well as prevent and resolve disputes so that we better serve all communities in the United States.



Photo: EPA

Appendices

Appendix A - OMB & CEQ Questionnaire

In collaboration with the John S. McCain III National Center 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. Agency Submission Information

Name of Department/Agency responding: U.S. Environmental Protection Agency

Name and Title/Position of person responding: Gina Langan Garcia, Director, Conflict Prevention and Resolution Center

Division/Office of person responding: Conflict Prevention and Resolution Center, Office of Environmental Justice and External Civil Rights

Contact information (phone/email): 202.564.0838

Date this report is being submitted: January 27, 2024

Name of ECCR Forum Representative: Gina Langan Garcia

2. ECCR Capacity Building and Investment:

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 2023, including progress made since FY 2023.

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 the mechanisms and strategies presented in Section 5 and attachment C of the [OMB-CEQ ECCR Policy Memo](#) for additional guidance on what to include here. Examples include but are not restricted to efforts to:

- Integrate ECCR objectives into agency mission statements, Government Performance and Results Act goals, and strategic planning;
- Assure that your agency's infrastructure supports ECCR;
- Invest in support, programs, or trainings; and focus on accountable performance and achievement.

- ECCR programmatic FTEs
 - Dedicated ECCR budgets
 - Funds spent on contracts to support ECCR cases and programs
- a) Please refer to your agency's FY 2022 report to only include new, changed or actively ongoing ECCR investments or capacity building. **If none, leave this section blank.** Please describe the trainings given in your department/agency in FY 2023. Please include a list of the trainings, if possible. If known, please provide the course names and total number of people trained. Please refer to your agency's FY 2022 report to include ONLY trainings given in FY 2023. **If none, leave this section blank.**

Description of EPA infrastructure on pages 5 and 6

EPA ECCR trainings on pages 18

3. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably **completed** in FY 2023). If possible, focus on an interagency ECCR case. Please limit the length to **no more than 1 page**.

- Name/Identification of Problem/Conflict: *[Please add case "title" here]*
- Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance, and how the ECCR effort was funded.
- Summary of how the problem or conflict was addressed using ECCR, including details of any innovative approaches to ECCR, and how the principles for engagement in ECCR outlined in the policy memo were used.
- Identify the key beneficial outcomes of this case, including references to likely alternative decision-making forums and how the outcomes differed as a result of ECCR.
- Please share any reflections on the lessons learned from the use of ECCR.

Other ECCR Notable Cases

Briefly describe any other notable ECCR cases in FY 2023. **(OPTIONAL)**

ECCR case example on page 16

Other notable ECCR case examples on pages 10-15.

4. ECCR Case Numbers

Final ECCR Case Numbers for EPA on pages 8 and 9

Appendix B – Abbreviations

ADR - Alternative Dispute Resolution

ALJ - Administrative Law Judge

CAA – Clean Air Act

CAG - Community Advisory Group

CAIP - Climate Adaptation Implementation Plan

CEQ - Council on Environmental Quality

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act, also known as “Superfund.”

CPRC - EPA’s Conflict Prevention and Resolution Center

CPRS - Conflict Prevention and Resolution Services contract

CWA - Clean Water Act

DOI - U.S. Department of the Interior

EAB – EPA’s Environmental Appeals Board

ECCR - Environmental Collaboration and Conflict Resolution

EJ - environmental justice

EPA - U.S. Environmental Protection Agency

FERC - U.S. Federal Energy Regulatory Commission

FIFRA - Federal Insecticide, Fungicide, and Rodenticide Act

FTE - full-time employee

FY - fiscal year

OALJ - EPA’s Office of Administrative Law Judges

OECRC - EPA’s Office of External Civil Rights Compliance

OMB - Office of Management and Budget

PCE - tetrachloroethylene

RCRA - Resource Conservation and Recovery Act

SDWA – Safe Drinking Water Act

TSCA - Toxic Substances Control Act

USACE - U.S. Army Corps of Engineers