



# CADR NEWS

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



## From the Director's Desk Our First Issue

The Office of Collaborative Action and Dispute Resolution (CADR) welcomes you to our very first issue of CADR News! We have established this newsletter to educate and raise awareness of collaborative processes and conflict resolution at DOI for both workplace and program related issues. Our hope is that CADR News reaches a wide audience throughout the entire Department of the Interior family.

Established in October 2001 in the Office of the Secretary, the CADR office works with representatives from every bureau and office to promote, coordinate, and facilitate effective use of consensus-building and alternative dispute resolution processes in all areas of the Department's work including workplace/employment issues, program areas, procurement, and policy/regulatory arenas.

The Senior Counsel for CADR is a new position established in the Office of the Solicitor in 2006. The position is held by Shayla Simmons who shares leadership responsibility with the CADR office to ensure consistent policy and legal guidance and support. Shayla and I are partners in this effort and we are creating a model of collaborative leadership. We want to hear from you about how we can better meet your needs.

We are excited to report that we have a new five year strategic plan for achieving the Department-wide goal of establishing effective conflict management practices and the appropriate use of collaborative decision-making and alternative dispute resolution processes as standard business practice to prevent, manage, and resolve internal and external conflicts in all areas of the Department's work. In the coming weeks and months you will be hearing more about two priority initiatives: (1) the implementation of DOI's CORE PLUS program for managing conflict in the workplace and (2) DOI's efforts to implement the OMB-CEQ Memorandum on Environmental Conflict Resolution. For more information, please go to our website at [www.doi.gov/cadr](http://www.doi.gov/cadr).

This newsletter will share information on activities and initiatives going on throughout our bureaus and offices and provide useful information on conflict management and conflict resolution tools. We look forward to making this a resource for you and welcome your feedback and suggestions.

Look for the Solicitor's Office column in our next issue.

Sincerely,

Elena Gonzalez, Director, CADR Office

## Conflict Competency at DOI: CORE PLUS

Departmental leaders recognize that there is a critical link between the internal culture of an organization and its success in achieving its overall mission. When an organization's internal culture is out of alignment with its mission and core values or with its external services, the need for an effective way to manage conflict becomes critically important. Problems arise when front line employees discern that the communication within their own organization and the internal dispute resolution processes do not treat them,

particularly when in conflict, in the same way that they are expected to treat their external customers, clients, stakeholders, or business partners.

Successful cooperative conservation requires alignment of the Department's internal approach to managing workplace conflict with its external collaborative approach to dealing with the public, customers, and other third parties. Internal

*See conflict competency page 2*

*In the middle of  
every difficulty lies  
opportunity.*

- Albert Einstein

### Inside this issue:

- Conflict Competency at DOI: CORE PLUS 1
- What is CORE PLUS 2
- Conflict Management Training 2
- An Evaluation of Negotiated Rulemaking 3
- Windpower FACA Process 4
- CADR Announcements 5
- CADR Contacts 6
- Bureau Dispute Resolution Specialists 6



**CORE PLUS can help you reach agreement on how to resolve a dispute.**

*You may enter CORE PLUS through multiple doors including your bureau dispute resolution specialist, an EEO counselor, an HR specialist, your supervisor or by calling the CADR office.*



**CORE PLUS can help you improve your work environment.**

*(Conflict competency continued)*

systems are then transferable to external conflict because they emphasize skills and accountability and support risk management.

The Department of the Interior is fulfilling its commitment to institute an **integrated workplace conflict management system** that creates an environment throughout the organization for raising all kinds of concerns, listening and being heard respectfully, and solving problems

### What is CORE PLUS?

**CORE PLUS** is a coordinated, department-wide **integrated conflict management system** within DOI. It provides a network of resources and assistance to all employees for any type of concern, problem or disagreement that occurs at work. The goal is to help every employee become effective at conflict management and to spread the skill of conflict competence throughout the Department.

**CORE PLUS** uses cooperative approaches to address problems and concerns at the earliest opportunity and at the lowest level possible.

**CORE PLUS** uses the full spectrum of conflict resolution tools including effective communication and conflict management skills training, informal discussions with a conflict management specialist, process and conflict coaching, conciliation, facilitation, and mediation. The option for more formal litigation and adversarial conflict resolution (such as formal EEO or grievance complaints)

effectively. An **integrated conflict management system** helps to develop a workplace where issues and concerns can be raised at the appropriate level, with confidence that they will be respectfully heard and responsibly dealt with, and creates a system for raising and resolving concerns that is fair, friendly, flexible and fast, and provides support and structures to ensure that this becomes routine daily practice.

always remains available.

The purpose of **CORE PLUS** is to provide DOI employees with processes, tools, and skills that will allow them to prevent the escalation of differences and collaboratively solve problems as close to the origin as possible. It includes the adoption of corporate wide practices and structures that assist the organization in preventing and managing conflict.

**CORE PLUS** is a shared responsibility of management, employees and the organization. It depends on everyone supporting the implementation and adoption of **CORE PLUS** throughout the DOI. It starts with you!

For more information on CORE PLUS policies and procedures or for assistance in managing a conflict or dispute, you should contact your Bureau Dispute Resolution Specialist (see list on page 6) or the CADR office at 202-327-5383 or visit [www.doi.gov/cadr](http://www.doi.gov/cadr).

### Conflict Management Training to Support CORE PLUS

Under the leadership of the Office of Collaborative Action and Dispute Resolution (CADR), specialized conflict management skills training is being offered to members of the Department's Senior Executive Service, managers and supervisors. This initial course has been designed to improve performance in the following key areas: the efficient management and resolution of conflict, actions taken to prevent escalation of conflict, interpersonal conflict management and resolution skills, and the inclusion of all affected parties in resolving conflicts.

Participants will hone their skills in effectively managing conflict within the organization and with external parties

in a way that is consistent with the Department's commitment to implementing an integrated workplace conflict management system for addressing workplace concerns as well as advancing cooperative conservation.

#### Course Objectives

1. Identify conflict as an opportunity to create change and build relationships.
2. Recognize conflict and its causes, including behaviors that escalate or de-escalate conflict.
3. Describe five conflict handling strategies.

*See conflict management training page 4*

## An Evaluation of Negotiated Rulemaking

Negotiated rulemaking allows parties who will be significantly affected by a federal rule to participate in the rule's development. In the 1990s Neil Kerwin and Laura Langbein interviewed participants in EPA reg-neg processes and conventional rulemaking processes and compared the attitudes of the two groups. They found that reg-neg processes had advantages over conventional processes and that the majority of reg-neg participants had positive views of the reg-neg processes and results.

**Legitimacy Benefit.** Kerwin and Langbein found that rules resulting from a reg-neg process were perceived as more legitimate than rules produced through conventional rulemaking. Participants preferred negotiated rulemaking to the conventional process and emerged from the process with a higher level of satisfaction with the rulemaking process and substance.

**Process efficiency.** Reg-neg participants felt the process had superior efficiency and cost effectiveness. They believed that the reg-neg process resulted in a high-quality rule that would pass judicial review and have successful implementation. The ratio of benefits to costs was about the same in both methods, meaning benefits did not outweigh costs more or less in one rulemaking process than the other.

**Group Learning.** The reg-neg process educated more people about the issues than conventional rulemaking, and reg-neg participants learned mostly from each other. Information tended to flow across group members and not through hierarchical chains of information that are more common in conventional rulemaking. As a result, participants developed a more detailed view and understanding of the issues, technical matters, and other parties' positions. They also perceived the negotiated rules to be more complex than those created under the conventional process. The researchers found that the agency chose to use the reg-neg process with more complicated issues.

**Participation of Small Organizations.** The costs of participation were a greater burden for small organizations than for large ones. Smaller groups had to devote a greater proportion of their staff time and other resources to the rulemaking process. They found it more difficult to decide

whether to participate in the reg-neg process because of the strain it would put on their resources, but were also fearful that their interests would not be represented if they chose not to participate in the reg-neg. Consequently, they may have felt coerced into participation. Small groups were also at a disadvantage because they did not have the resources to generate their own information for decision-making and negotiations.

**Relationship benefits.** The flexibility of the reg-neg process allowed the formal ground rules to become less important and informal discussions to become more important as participants developed familiarity and trust with other group members. The participants expressed that the informal relationships were important and facilitated significant agreements that were reflected in the final rule. A small number of reg-neg participants had concerns about the secretive nature of informal contacts.

**Rates of Litigation.** Previous studies had shown a higher litigation rate for reg-neg rules. Kerwin and Langbein's study showed that litigation rates for rules produced using the two different methods were similar, although the reg-neg process was more consensual.

**Influence of Participants.** Those who took part in either a reg-neg or a conventional process felt they had an impact on the final rule, although reg-neg participants saw their impact on the proposed rule while participants in the conventional process saw their impact on the final rule after the public comment period. Parties to a reg-neg may continue their involvement in rulemaking after the proposed rule is released for public comment, which sometimes results in changes in the final rule. Results also show that participants do not perceive the negotiated process to put the agency at risk of being unduly influenced by any one interest group.

The full article entitled "Regulatory Negotiation and the Legitimacy Benefit" by Jody Freeman and Laura I. Langbein appeared in *N.Y.U. Environmental Law Journal*, 9, 60 (2000). The article is accessible online at <http://www.law.nyu.edu/JOURNALS/ENVT/LLAW/issues/vol9/1/v9n1a3.pdf>



In a reg-neg process participants share information and work collaboratively to resolve issues.

*The most important finding of their study is the legitimacy benefit of undertaking a reg-neg process, meaning that the final rule resulting from a reg-neg process is more acceptable to those it affects than one produced in conventional rulemaking.*



Negotiated Rulemaking allows affected parties more direct input.





The committee will review potential impacts of wind turbines to bats and migratory birds.

*The goal of a FACA committee is to provide a fair balance of the interests involved.*



Wind turbines provide renewable energy but may face opposition from local residents and wildlife advocates.

## Windpower Siting FACA Process

An increasing number of windmills or wind turbines are being built to produce electricity by harnessing the power of wind, a renewable resource. According to the American Wind Energy Association, large wind turbines used by utilities to generate electricity may have rotor blades up to 130 feet long, making the rotor diameter 260 feet. The turbines are mounted on towers up to 260 feet tall and can produce electricity for up to 600 homes. Smaller turbines that supply a home or farm with electricity may be mounted on a 120 foot tower.

The siting and operation of wind turbines can be controversial. Residents near proposed sites for wind farms are typically concerned about the wind turbines' impact on scenic vistas and the noise they produce. Wildlife advocates have additional concerns about the effect of the wind turbines on habitat and bird and bat populations, and claim that tens of thousands of birds and bats are killed by the spinning rotors each year.

In 2003, the Fish and Wildlife Service issued interim, voluntary guidance to the wind industry on minimizing the risk of impacts to endangered species and migratory birds. A subsequent two year comment period on the interim guidelines reflected that neither industry, nor nongovernmental conservation organizations and not all states were fully supportive of the guidelines.

Through informal discussions, the affected interest groups sought a collaborative approach to drafting new guidelines with FWS. The FWS then explored options with the Office of the Solicitor and the Office of Collaborative Action and Dispute Resolution, and in August 2006, decided to form a committee under the Federal Advisory Committee Act (FACA). The Federal Register Notice requesting nominations for the committee

and the committee's Charter were published on March 13, 2007. States, industry and nongovernmental conservation organizations support a FACA process and are eager for the process to begin.

The Wind Turbine Guidelines Advisory Committee will be charged with advising the Secretary of the Interior and the Director of the Fish and Wildlife Service on the development of effective measures to assist the wind industry in avoiding or minimizing impacts to wildlife and their habitats, streamline the site selection and facility design process, and avoid unanticipated conflicts after construction.

The goal of a FACA committee is to provide a fair balance of the interests involved by including representatives of the industry, nongovernmental conservation organizations, States, Federal agencies, tribes and the general public. Members for the Windpower committee will be selected based on their ability to effectively represent the varied stakeholders associated with wind energy development and wind/wildlife interactions. All committee members are appointed by, and serve at the discretion of, the Secretary.

FWS has decided to use a third-party neutral to facilitate the process, which will be conducted in two phases. The first phase consists of identifying the appropriate stakeholders, organizing a committee and holding the first organizational meeting – typically referred to as "convening." In the second phase, FWS will host policy and technical meetings with the committee with the intent of developing consensus-based, voluntary guidelines. The committee will provide recommendations and advice to DOI and FWS on developing effective measures to protect wildlife resources. The committee will last for approximately 2 years, after which its charter may be renewed or

*( Conflict Management Training continued)*

4. Increase use of collaborative problem solving approaches.
5. Increase awareness and engagement of all affected parties in the resolution of conflict.

This training can be provided for the cost of travel for the trainers. If you are interested in scheduling a conflict management training session for your organization, office or team or want to attend this conflict management training, please contact your Bureau Dispute Resolution Specialist (see listing on page 6) or the CADR office at 202-327-5383.

## Links of the Month

<http://www.adr.gov>

Learn about the Interagency ADR working Group established to coordinate, promote and facilitate the effective use of ADR in the government pursuant to the Administrative Dispute Resolution Act of 1996.

<http://www.ecr.gov>

Learn about environmental conflict resolution (ECR), Federal ECR policy, the Institute for Environmental conflict resolution and its programs and services, and the national roster of ECR practitioners.



Future training opportunities to support the conflict competency goals of the CORE PLUS program will be announced in the near future. See [www.doi.gov/cadr](http://www.doi.gov/cadr).

## DOI Dialogues on Collaborative Conservation and Cooperative Resolution

In March 2007, CADR held the latest event in the Dialogue on Collaborative Conservation and Cooperative Resolution series: "New Ways to Collaborate in NEPA Analysis." The March event was co-sponsored with the DOI Office of Environmental Policy and Compliance. The dialogue allowed DOI practitioners, attorneys and others who work with NEPA to discuss many aspects of using collaborative decision-making in the NEPA process. Among the topics discussed were the Council on Environmental Quality's draft NEPA Collaboration Handbook with strategies, case studies, examples of memoranda of understanding and other resources, such as information on requirements under the Federal Advisory Committee Act, and tips on attitudes and behaviors that foster successful collaboration.

The next DOI dialogue, "Evaluating the Outcomes of Environmental Conflict Resolution Processes," is being planned for October 16th from 2:00pm to 4:00pm in the Rachel Carson Room of the Main Interior Building. RSVP to CADR at (202) 327-5343.

## Announcements

### Reports available for review:

*Report for the President on the Use and Results of Alternative Dispute Resolution in the Executive Branch of the Federal Government, April 2007* can be found at [www.adr.gov](http://www.adr.gov)

*CEQ Draft Handbook on NEPA collaboration* can be found by selecting "implementing the recommendations" of the CEQ NEPA Task Force at [www.NEPA.gov](http://www.NEPA.gov).

*First annual report to OMB-CEQ on Environmental Conflict Resolution.* Contact Dave Emmerson for further information, tel: 202-327-5318.

**The following list of training opportunities is a sampling and not intended as an endorsement of particular courses or vendors:**

### Basic Negotiation Training Course for Natural Resource Professionals

Next course offered September 18-20, 2007

Offered by U.S. Geological Survey. For more information, go to

<http://www.fort.usgs.gov/NegTraining/announcement.htm>

### 7th Annual Conference of Association for Conflict Resolution: Rethinking the Table: People, Places, and Practices

Phoenix, Arizona, October 24-27, 2007

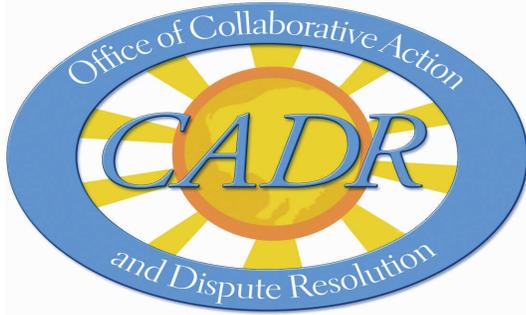
[www.ACRnet.org](http://www.ACRnet.org)

### IAP2 Training in Public Participation

For more information go to:

<http://www.theperspectivesgroup.com/capabilities/training.html>





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

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

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

## Interior Dispute Resolution Council

CADR Office			
Name	Position	Phone	Email
Elena Gonzalez	Director	202-327-5352	Elena_Gonzalez@ios.doi.gov
Dave Emmerson	ECR Program Coordinator	202-327-5318	David_Emmerson@ios.doi.gov
Susan Goodwin	Conflict Management Specialist	202-327-5346	Susan_Goodwin@ios.doi.gov
Vacant	Workplace coordinator	202-327-5317	
Office of the Solicitor			
Name	Position	Phone	Email
Shayla Simmons	Senior Counsel for CADR	202-208-7950	Shayla_Simmons@ios.doi.gov
Tonianne Baca-Green	Attorney/Advisor-CADR	505-831-3095	(Mon.-Wed. 8am-4pm MST)
Bureau Dispute Resolution Specialists			
The Bureau Dispute Resolution Specialists (BDRSs) represent the bureaus on the Interior Dispute Resolution Council. To find out more about conflict management and ADR in your bureau, contact your bureau's BDRS listed below.			
Bureau	BDRS	Phone	Email
BLM	Paul Politzer	202-254-3325	Paul_Politzer@blm.gov
BOR	James Hess	202-513-0543	JHess@usbr.gov
FWS	Sara Prigan	703-358-2508	Sara_Prigan@fws.gov
MMS	Eric Hager	202-208-2941	Eric.Hager@mms.gov
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OSM	Ruth Stokes	202-208-2611	Rstokes@osmre.gov
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