

FY 2004 AWP Directives

ADR/Collaborative Action (Natural Resources, Contracting/Procurement, and Workplace Programs)

Bureau ADR/Collaborative Action policy and field/State/Directorate implementation

The BLM's ADR (Alternative Dispute Resolution)/Collaborative Action Program is a high Secretarial and Bureau priority and serves as a cornerstone of Bureau policy. The Program's primary overall mission is the development of a collaboration/conflict prevention and management and dispute resolution framework across resource, workplace, and support programs in the Bureau. Each Interior bureau is required by the Department to develop an agency ADR Plan to address the mandates of the *Administrative Dispute Resolution Act of 1996* and Executive Orders, as well as significant Congressional interest. The BLM's ADR Plan is being developed by the Bureau's ADR Advisory Council. The Plan is being prepared in coordination and consultation among the States, Centers, and Directorate, and with the Department, partners, and other stakeholders. The Office of the Assistant Secretary for Policy, Management, and Budget, through the Departmental Office of Collaborative Action and Dispute Resolution, and the Interior Dispute Resolution Council endorse the Bureau's policy and implementing program initiatives in the ADR/Collaborative Action directives and recognize the Bureau's continuing commitment to the Program through funding and other resource support.

Field offices should direct particular attention to the first 5 directives which emphasize that the priority of the ADR/Collaborative Action Program is on support for field activities, including field pilots, field assistance teams, and bureauwide training. The directives are followed by the BLM's definition of ADR/Collaborative Action and a listing of the current ADR Advisors representing the States, appropriate Centers, and the Directorate on the Bureau ADR Advisory Council.

The Bureau's ADR/Collaborative Action Program mandate, through the ADR Advisory Council, focuses on development for the field offices of policy initiatives and strategies that emphasize collaboration -- early communication and consultation strategies before a conflict or dispute arises ("Upstream ADR Strategies"). Also, as part of the Bureau's mandate, the ADR Advisory Council develops more formal strategies ("Downstream ADR Strategies") for ongoing conflicts or disputes, including initiatives to address formal judicial or administrative filings (litigation, appeals, protests, contests and objections, and complaints).

Bureau ADR/Collaborative Action Program objectives are being designed to foster or strengthen ADR-based collaborative engagement with communities; partners; Tribal, State, and local governments; and other stakeholders and customers. Primarily focused on field assistance, the Program's goals support the Bureau's core statutory missions by providing resources and technical on-the-ground assistance to field offices for situation and stakeholder assessments; convening of community, partner, and other ADR-based stakeholder collaborative working groups and related facilitated/mediated one-on-one or multi-party meetings or workshops; and other collaborative processes.

Cooperative issue identification and other collaborative initiatives to address strategies for conflict prevention often will result in savings of significant budget resources through

a reduction in formal judicial or administrative filings, as well as an increase in community and regional trust and support. The principles of sustainable development at the community, regional, and national levels constitute an important part of the Bureau's ADR/Collaborative Action Policy.

The work plan priorities for the ADR/Collaborative Action Program in FY '04 include field support for a major administrative, quasi-judicial resource program workload in negotiation and related ADR-based collaborative strategies (see the seventh directive below). The Bureau is receiving an increasing number of pre-adjudication Orders from Administrative Law Judges to negotiate with contestees. In addition to the Orders from the Hearings Division of the Department's Office of Hearings and Appeals (OHA), the Interior Board of Land Appeals (IBLA) has begun to return appeals cases to the Bureau with an Order to attempt to initiate negotiations or other ADR strategies prior to adjudication. In coordination with the ADR Advisory Council, OHA is developing procedures that will contain formal screening criteria for determining which cases should be subject to return to the Bureau. The procedures will apply to both the Hearings Division and IBLA. Several appeals already have been returned to the Bureau, with the Bureau orders or direction stayed pending attempted resolution through negotiations or other ADR strategies.

The Directives

States, Centers, and directorates are expected to:

- Provide full commitment and dedication of resources to ensure full participation in development of the program initiatives and designate at least one back-up to the designated ADR Advisor. Through the respective managers and designated natural resources ADR Advisors, ensure that ADR Advisors can participate in a leadership role for at least one of the ADR Advisory Council's program or functional teams built around the directives.
- Provide necessary funding and resources to ensure substantial progress on contracting and on the ADR/Collaborative Action program directives. WO shall provide contracting funding of \$175K and resources in support of the field.
- Nominate natural resources cases for on-the-ground pilot projects: participation and support. Three to five pilot projects in the States are planned. Nominations for these pilots to be e-mailed by January 30, 2004, to Paul Politzer, the Bureau Dispute Resolution Manager (BDRM), WO-200. The pilot project nominations should require ADR-based collaboration or conflict/dispute resolution for which national support is needed. The pilots will focus on addressing situations involving high priority Bureau program areas (planning/NEPA, fire, energy and minerals, Tribal, T+E, forestry, wild horses and burros, National Landscape Conservation System (NLCS), recreation, rangeland resources, and others).
- Ensure participation in national ADR/Collaborative Action field support team. The ADR Advisory Council is developing a national field support team to provide assistance to field offices wishing to obtain technical support or assistance in collaboration/conflict prevention or in addressing potential and existing conflicts or disputes. State ADR Advisors shall participate as needed. A State/Field

Office may request assistance in obtaining a third party neutral and/or in obtaining the expertise of BLM staff trained and experienced in ADR-based collaboration or conflict resolution. Such assistance could be in: issue and stakeholder identification, case/situation assessment, negotiation, convening, facilitation/mediation, or other ADR strategies and processes for preventing, mitigating, and/or resolving conflicts or disputes. States and Centers should plan to provide an ADR Advisor to this field support team on request.

- Ensure participation in ADR/Collaborative Action negotiation/conflict prevention and management training. The ADR Advisory Council, with the support of the NTC, is developing Bureau-wide ADR/Collaborative Action training to develop or enhance collaboration, negotiation, and conflict prevention/management/resolution skills throughout the BLM. All supervisors and managers below the executive level in the States/Centers and WO directorates should complete the Department's ADR awareness training and at least one appropriate Bureau ADR training course. All staff who works externally with communities, partners, and other stakeholders as well as those who work internally with customer-based ADR issues should complete at least one Bureau ADR training course. Bureau workplace ADR training will be developed in coordination with the Department based on completion of procedures implementing the consolidated CORE/EEO Plus policy. All natural resources ADR Advisors should complete the Department's ADR awareness training and BLM's NTC course 1620-25 as well as site-specific training as appropriate.

For the following action items, the States, Centers, and directorates, through the ADR Advisors, shall:

- Provide input and support for current and recent natural resources case issue-analysis (litigation, appeals, protests). Through the ADR Advisory Council, the BLM will conduct a Bureau-wide review and analysis of current and recent natural resources cases involving litigation, appeals, and protests to identify common themes/issues/allegations. Remedial ADR/Collaborative Action strategies then will be developed to address those common themes for field testing.
- Ensure participation in development of uniform national criteria and procedures for cases that are returned to the Bureau by the Office of Hearings and Appeals. The BLM ADR Advisory Council will develop uniform national criteria and procedures for addressing and expediting attempted resolution of cases returned to the Bureau by the Hearings Division and Interior Board of Land Appeals for use of negotiation or other ADR strategies prior to decision or adjudication.
- Participate in development of ADR/Collaborative Action primer (guidebook) for field managers. The ADR Advisory Council will develop a national primer that will include the Bureau's ADR/Collaborative Action Policy Framework, model strategies, and "best practices" based on cases from all States.
- Participate in the development/refinement of an ADR/Collaborative Action website. Through the ADR Advisory Council, a website will be developed/refined.

- Participate in development of proposals to integrate ADR/Collaborative Action strategies in resource program guidance. The ADR Advisory Council will develop an ADR-based collaboration framework and collaboration language for integration into resource program guidance in coordination with program leads.
- Contribute to review of Bureau MOUs and other agreements for appropriate ADR language. The ADR Advisory Council will develop ADR-based collaboration language in coordination with appropriate program leads.
- Ensure participation in national ADR/Collaborative Action workshop involving communities, partners, and other stakeholders and customers. A Bureau ADR/Collaborative Action national workshop will be held in 2004 at a place and time TBD (4-days). On the first day, stakeholders will have the opportunity for consultation on applicable frameworks for the Bureau's on-the-ground ADR/Collaborative Action strategies/primer (1-day). For the next three days, Bureau employees will develop products associated with stakeholders' input and new Bureau policies (3-days).
- Provide input for a natural resources conflict inventory for the Department. The Department is requesting an inventory detailing cases and program issues where the principles of ADR/Collaborative Action and Dispute Resolution are being or have been used during 2003. By January 30, 2004, States', Centers', and the affected WO directorates' natural resources ADR Advisors shall provide the case information to the Bureau Dispute Resolution Manager (WO-200).

The Bureau's definition of ADR/Collaborative Action

ADR/Collaborative Action is defined as informal engagement with communities; Federal, Tribal, and local governments; partners and other stakeholders; and customers in the workplace, with the goal of ensuring a successful outcome for Bureau decision making. The informal engagement would include: identifying, assessing, and developing common ground and shared interests and objectives; reconciling or mitigating the impacts of any differences; denoting issues on which agreement is attainable at the outset; and resolving issues through communication and cooperation early in time. Although the primary emphasis is on prevention of conflict, ADR/Collaborative Action initiatives also address more formal conflicts or disputes as well as those associated with formal administrative or judicial filings where the BLM's goal is to prevent, resolve, or mitigate adverse impacts to the Bureau where possible and to address all the parties' interests. Collaboration/ conflict management strategies include one-on-one collaborative resolutions or convening of collaborative processes such as formal or informal stakeholder working groups or workshops with or without facilitation/mediation assistance.

The Bureau's ADR Advisory Council

The Bureau's ADR Advisors serve on the ADR Advisory Council, which is chaired by Paul Politzer, as the Bureau Dispute Resolution Manager. Please advise the BDRM if any changes need to be made in designations of natural resources ADR Advisors. As the formal representative of a State, Center, or WO Directorate management team, each

ADR Advisory Council member reflects the interests and needs of their management, supports the policy and program leadership of the WO Directorate which is represented by the Bureau's Bureau Dispute Resolution Manager.

The State/Center natural resources ADR Advisors are as follows. Alaska: Taylor Brelsford; Arizona: Paul Buff; California: Tom Pogacnik Colorado: Joe Stout; Eastern States: Howard Levine; Idaho: Gary Wyke, John Martin, Patty Gentle, and Jill Silvey (ID/WO); Montana: Steve Hartmann; Nevada: Brian Amme (primary), Elvis Wall; New Mexico: Na'ama Tubman and Ron Huntsinger; NIFC: Debie Chivers; NSTC: Janet Youngdahl, Vicki Josupait; NTC: Cathy Humphrey; Oregon: Tom Wawro and Rosemary Mazaika; Wyoming: Marty Griffith and Vicki Herren; and Utah: A.J. Martinez and Veronica Herkshan. The WO Directorate ADR Advisors are as follows: Paul Politzer (Bureau Dispute Resolution Manager and Chair of the Bureau's ADR Advisory Council WO-200); Jerry Cordova (Cultural Resources Group, Native American Coordinator WO-240); Mary Linda Ponticelli (Solid Minerals Group WO-320); Cynthia Moses-Nedd (Intergovernmental Affairs Group, NACO Liaison WO-640); Sie Ling Chiang (Energy and Minerals Advisor WO-300); Mark Lambert (Planning, Assessment, and Community Support Group WO-210); Lee Larson (Acting Group Manager, Recreation WO-250); Bob Barbour (Lands, Realty, and Cadastral Survey Group, Sr. Land Ownership Adjustment Spec. WO-350); Gordon Hansen (National Energy Office WO-380); and Tamara Sadoo (NLCS).

In addition, certain Bureau staff responsible for workplace or contracting/procurement ADR represent their States, Centers, and directorates on the ADR Advisory Council.