

**Alternative Dispute Resolution (ADR)/Conflict Prevention Program**  
(Natural Resources, CORE PLUS (EEO and Workplace),  
and Contracting/Acquisition program areas)

**Bureau Direction**

Implementation of National ADR Policy - All States, appropriate Centers, and the WO shall

continue to provide necessary resources to meet the statutory, regulatory, and policy mandates including the national policy requirements set out in the FY '07AWP. States shall implement national ADR policies by incorporating ADR strategies at appropriate stages of decision-making, employee actions, and related processes where applicable.

National ADR Policy Implementation Needs - States are encouraged to identify, on a continuing basis, any national ADR policy implementation need for resources that cannot otherwise be addressed.

Use of ADR: States' Natural Resources ADR – All States shall be involved in, and document, at least one ADR process where a potential or existing conflict would allow for ADR.

Natural Resources ADR Activities Case and Data Updating/Documentation – **Bureau ADR activities:** States shall establish and maintain up-to-date case files to document current and historical (past 3 years) information on ADR process within the State, including conflict prevention processes, situation assessments, negotiations, mediations, joint fact findings, and community-based stakeholder working groups. **Office of Hearings and Appeals and Court Orders and Notices:** In addition to establishing and maintaining case files on ADR activities, the States shall ensure that files/records are established and maintained containing up-to-date information on Orders and Notices from the Interior Board of Land Appeals through the ADR case referral program, from the Hearings Division, and from the Courts (Court-ordered mediations). Information should include case name and description of activities associated with the case and the Order/Notice.

All information from case files and files/records shall be available for State-wide tracking by the State's Natural Resources ADR Advisor or another person designated by the State. If tracking is assigned to another person, the Natural Resources ADR Advisor shall notify the Bureau Dispute Resolution Manager with the name of the State lead for ADR tracking...ADR information shall be tracked by data entry in the national ADR database or through another tracking system and kept up-to-date.

States' Representation on the Bureau's ADR Advisory Council - As Bureau policy, all States have an interest in representation on the Bureau's ADR Advisory Council. Thus, all States shall designate an ADR Manager-Advisor, a Natural Resources ADR Advisor, and a CORE PLUS (EEO/Workplace) ADR Advisor to participate as a member of the ADR Advisory Council. A replacement shall be designated as soon as an ADR Advisor transfers to another position or assumes other duties. Please e-mail your State's new nominee(s) to Paul Politzer.

Interagency Creeks and Communities Policy/Strategy – States shall ensure support of the Creeks and Communities policy/strategy and are encouraged to consider the services of the National Riparian Service Team to assist in the resolution of cases

involving riparian-wetland conflicts with national/regional/local impacts and/or consider the opportunity for field-based coaching and mentoring in the principles and policies of riparian-wetland conflict management.

CORE PLUS Implementation – All States shall support the implementation of CORE PLUS when the Department completes development of the process (ADR in EEO and CORE).

NTC-sponsored Natural Resources ADR Training – **Managers training:** Any State that has not conducted the Advanced ADR/Conflict Prevention for Managers training shall identify the FY '07 dates when they wish to schedule a session. It is mandatory for all States to meet the requirements of the 1996 Act. **Mid-level managers and supervisors training:** Natural resources ADR/Conflict Prevention courses planned for delivery in FY '07-'08 include required on-line training for all middle managers and supervisors having responsibility for natural resources and all staff having responsibility for natural resources and who have contact with the public. **ADR Advisors and others:** All States shall send at least one representative to the Advanced ADR training in managing situation assessments, negotiations, mediations, and facilitated community-based stakeholder working groups. State representation should include the Natural Resources ADR Advisor since the training will be an element of certification. The State ADR Manager-Advisors are encouraged to take this training as well.. The training also is open to interested staff who deal with the public and have responsibility for natural resources. The NTC has scheduled this training for late April or June 2007. An introductory/intermediate on-line ADR training also is being developed.

In addition, the Department is planning to offer CORE PLUS training for current EEO and CORE mediators and for staff interested in qualifying as a CORE or EEO mediator (CORE PLUS Neutral). This training is planned for late Spring or Summer in FY '07.

Matrix of the Bureau's Performance Expectations for ADR Advisors and the WO ADR/Conflict Prevention Staff by Project and Responsibility/Role – Please see table at the end of the ADR/Conflict Prevention directives. These performance expectations for the Bureau's ADR Advisors represent the Bureau's minimum expectations to enable the BLM to fulfill its statutory and policy mandates and to begin a process of accountability and performance measurement in Bureau ADR and conflict prevention activities as required by OMB and CEQ. States are encouraged to include these performance expectations in the performance standards for the Natural Resources ADR Advisors and CORE PLUS ADR Advisors.

### **Congressional and Related ADR Direction and Policy**

**The Congress** - The Administrative Dispute Resolution Act (ADRA), as amended in 1996 requires Federal agencies to: 1) develop an ADR policy and program; 2) encourage the use of ADR and examine alternative means of resolving disputes in connection with adjudications, enforcement actions, licenses and permits, contract administration, litigation, and other agency actions; 3) provide training for employees involved in ADR in the principles and practices of ADR; and 4) establish the position of dispute resolution specialist as a senior agency position (titled Bureau Dispute Resolution Manager in the BLM). Under the act, the position is responsible for ensuring implementation of the Act in the agency and for developing and implementing the

agency's policy on alternative means of dispute resolution and case management. ADR includes negotiation, mediation, facilitation, negotiated rulemaking, joint fact-finding, and the use of ombudsman and conflict coaching. (*P.L. 104-320*). (The Solicitor's Office determined that the BLM is an "agency" under the law and is thus required to conform with the direction in the Administrative Dispute Resolution Act and other legislative authorities relating to conflict prevention and conflict management, including the Contract Disputes Act and Negotiated Rulemaking Act among others.)

**Administration policy** requires establishment of, and documentation of annual increases in, natural resources ADR capacity and use within the agency under a joint OMB/CEQ Memorandum to Agency heads dated November 2005. The agency's annual report also is required to identify Field natural resources ADR cases. Additional Executive Branch direction has been provided over time through an Executive Order, letters from Attorneys General to Executive Branch agency heads, and a Secretarial memorandum. In addition, the Equal Employment Opportunity Commission (EEOC) has directed each agency to establish or make available an alternative dispute resolution program for EEO cases; the agency must make ADR available during both the pre-complaint and formal complaint stages.

**State ADR statutes and Western Governors Association ADR policy** - State ADR statutes govern or influence Bureau natural resources ADR activities, and WGA policy is embodied in their resolution on *Enlibra*.

**Departmental policy** reflects the 1996 ADRA and the findings of the statutory Federal Inter-agency ADR Working Group in directing each bureau to develop an ADR Plan, establish the agency's Bureau Dispute Resolution Specialist as a senior position at a "high enough level in the organization to be visible and have access to upper managers [and] to mirror the ADR staffing in the Secretariat." The Department has directed that each of the bureaus' Dispute Resolution Specialists coordinate and ensure implementation of CORE PLUS in their bureaus.

**Bureau policy – Vision of ADR:** BLM natural resources management and a workplace where increased effective use of conflict prevention, management, and resolution principles results in: 1) enhanced land use management and improved conditions on the ground, 2) strengthened and more durable relationships with the public and collaboration in appropriate stages of the decision making processes; and 3) strong relationships among employees. **Mission:** 1) To serve communities and contribute to improved multiple use management of resources and lands through proper development, use, conservation, and protection in support of the Directorate, the States, and the public through use of ADR principles and strategies; 2) To provide expertise, guidance, and support to Bureau management and staff in ADR principles, policies, and strategies with the intent of strengthening BLM decision making and enhanced relationships with stakeholders, employees, and contractors; 3) To foster the use of conflict prevention or conflict management and resolution principles through early communication and involvement between BLM and local and Tribal communities, States, other stakeholders, and the public; 4) To ensure opportunities for members of the public seeking assistance in conflict prevention, management, and resolution through enhanced Bureau ADR expertise; and 5) To ensure internal and external opportunities for prevention and/or early resolution of potential and existing conflicts and disputes. **Strategic goals:** 1) To continuously enhance BLM's capacity, capability, accountability, and transparency in ADR and conflict

prevention processes on the ground; 2) To develop national ADR policy initiatives and legal frameworks that help to ensure savings of scarce budget resources through faster, less expensive, and non-contentious or less contentious decisions through reduction in the number of traditional challenges in Bureau decision making; 3) To build on Bureau ADR transparency and evaluation; national consistency in ADR quality assurance, information, and case reporting; and ADR program oversight; 4) To strengthen the BLM's ADR information base; and 5) To provide a CORE PLUS implementation framework in all States.

**ADR and Conflict Prevention Principles in the Bureau** – The BLM's ADR/Conflict Prevention Program policies and legal framework for natural resources reflect a spectrum beginning with conflict prevention ("upstream ADR"), spanning through conflict management (after a conflict has arisen - "downstream ADR") and ending with conflict resolution. Natural resources ADR processes in the Bureau include community outreach/early communication and involvement; negotiation; community-based stakeholder working groups, mediation, facilitation, and joint fact-finding. Strategies include situation assessments, among others.

**EEO and Workplace Disputes** - The BLM is committed to providing its employees with a work environment that enables them to deliver quality service for the lands we sustain. To do this, employees must have access to effective and efficient mechanisms for resolving EEO and workplace disputes. In addition to the traditional administrative adjudication processes, every BLM employee must have the opportunity to utilize an ADR process to resolve the EEO or workplace dispute. The CORE process will continue to be available for workplace disputes until new Departmental and bureau policy is developed.

While there are numerous forms of ADR currently being used in the Federal sector, in accordance with BLM policy, mediation is the preferred ADR process used to resolve EEO disputes and must be conducted in accordance to Title 29 Code of Federal Regulations (CFR) 1614 and EEOC Management Directive (MD) 110 (EEOC MD-110).

BLM encourages the use of mediation to resolve disputes as early in the process as possible; however, it is available at any stage of the complaint process.

Mediation is the preferred ADR technique for grievances. Although mediation is not mandatory, it is strongly encouraged. (*Source: A Supervisor's Desk Guide to Conflict Resolution (September 2003)*).

**FY 2007 AWP - ADR/Conflict Prevention Program  
ADR Advisory Council's ADR Advisors  
MATRIX**

**of  
The Bureau's Performance Expectations by Project and Responsibility/Role**

Project/ Responsibility	Roles in Policy and Program Activities			
	ADR/Conflict Prevention Program Staff (Bureau Dispute Resolution Manager and WO ADR staff)	ADR Manager- Advisors	Natural Resource (NR) ADR Advisors	STATE/CENTER CORE PLUS ADR Advisors
<b>Statutory and Policy Authority for ADR in BLM:</b> Administrative Dispute Resolution Act and related legislation; DOI and National Bureau ADR policy	<b>National lead-</b> Bureau Dispute Resolution Manager is responsible for ensuring national conformance with ADR statutes and national policies; represents the Bureau with the Department and other agencies on BLM ADR statutory responsibility/policy; National ADR champion; provides briefings within the Directorate.	<b>State co-lead-</b> May advise, coordinate with, and/or assist State NR ADR Advisor, CORE PLUS ADR Advisor, and contracting/acquisition staffs; assists State in implementing ADR statutes/policy; ADR champion with State management and staff; may provide briefings within the State.	<b>State co-lead-</b> May consult/ coordinate with the State ADR Manager-Advisor; assists State/Center natural resources programs in implementing ADR statutes/policy; State/Center ADR champion with natural resources programs; may provide briefings within the State/Center.	<b>State co-lead-</b> May coordinate with the State ADR Manager-Advisor; assists State HR and EEO in implementing ADR statutes/policy; State/Center ADR champion in HR and EEO programs within the State/Center; may provide briefings within the State/Center.
<b>Bureau ADR Plan; National ADR/Conflict Prevention Strategic Plan</b>	<b>National lead-</b> ADR staff develops, updates, and maintains the strategic plan; provides briefings within the Directorate.	<b>State lead-</b> May coordinate with the State NR ADR Advisor and CORE PLUS ADR Advisor; may review, or ensure review, and may provide feedback; provides briefings within the State.	<b>State co-lead-</b> May coordinate with the State ADR Manager-Advisor; reviews and provides feedback to the WO ADR staff; may provide briefings within the State/Center.	<b>State co-lead-</b> May coordinate with the State ADR Manager-Advisor; reviews and provides feedback to the WO ADR staff; may provide briefings within the State/Center.
<b>OMB/CEQ ADR (Environmental Conflict Resolution) Policy Implementation</b>	<b>National lead-</b> Bureau Dispute Resolution Manager is responsible for ensuring national conformance with OMB/CEQ ADR policy mandates; serves as BLM	<b>Support-</b> May advise, coordinate with, and/or assist State NR ADR Advisor on obtaining	<b>Support-</b> May consult and/or coordinate with the State ADR Manager-Advisor; provides Statewide natural resources input to the	<b>N/A</b>

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	ADR/Conflict Prevention Program Staff (Bureau Dispute Resolution Manager and WO ADR staff)	ADR Manager- Advisors	Natural Resource (NR) ADR Advisors	STATE/CENTER CORE PLUS ADR Advisors
	point of contact and represents the Bureau with the Department and other agencies on BLM OMB/CEQ policy implementation.	Statewide information and on obtaining/ providing input for the annual reporting requirement.	ADR staff for the annual reporting requirement.	
<b>CORE PLUS Policy and Implementation in the Bureau</b>	<b>National lead-</b> ADR staff oversees and coordinates DOI CORE PLUS policy implementation in the Bureau in accordance with the DM in coordination with HR and EEO; develops BLM CORE PLUS policy, as a coordinated effort among ADR staff, HR, and EEO; National CORE PLUS champion together with HR, EEO.	<b>State co-lead-</b> May advise, coordinate with, and/or assist the State CORE PLUS ADR Advisor in facilitating development and implementation of CORE PLUS within the State; State CORE PLUS champion within the State; may provide briefings within the State.	<b>N/A</b>	<b>State lead-</b> Develops and implements, or ensures development and implementation of, CORE PLUS within the State; State CORE PLUS champion in HR and EEO programs within the State/Center; provides briefings within the State/Center.
<b>Natural Resources ADR Cost Effectiveness Study: ADR vs. litigation, appeals, protests</b>	<b>National lead-</b> ADR staff develops assumptions, measures/metrics, and parameters for the study; conducts the analysis; analyzes the information and develops study.	<b>Support-</b> As appropriate, may advise/coordinate with the State NR ADR Advisor on obtaining State ADR, litigation, appeals, and protest data.	<b>State lead-</b> Obtains and provides the State's natural resources data needed for the study as requested.	<b>N/A</b>
<b>ADR Manual, Policy Guidance, and Policy Guides</b>	<b>National lead-</b> ADR staff develops and processes the manual, policy guidance on IBLA's ADR Case Referral program, and the policy guides (Natural Resources ADR/Conflict Prevention in BLM, BLM/Tribal ADR-	<b>State co-lead-</b> May advise and/or consult or coordinate with the State NR ADR Advisor; may review, or ensure review, and may provide feedback.	<b>State co-lead-</b> May consult and/or coordinate with State ADR Manager-Advisor; reviews draft, circulates it within the State, obtains and consolidates all State	<b>State co-lead-</b> May consult and/or coordinate with State ADR Manager-Advisor; participates in the development of Bureau CORE PLUS policy.

Project/ Responsibility	Roles in Policy and Program Activities			
	ADR/Conflict Prevention Program Staff (Bureau Dispute Resolution Manager and WO ADR staff)	ADR Manager-Advisors	Natural Resource (NR) ADR Advisors	STATE/CENTER CORE PLUS ADR Advisors
	based Early Involvement/ Early Communication); establishes subject-matter drafting team(s); as a part of a team with HR, EEO, and the ADR Advisory Council, develops Bureau CORE PLUS policies based on DM in coordination with HR, EEO, and ADR Advisory Council.		comments, and provides the State's comments to the ADR staff.	
<b>National Ombudsman and National Conflict Coaching Services for the Bureau and the public</b> (Workplace conflict/CORE PLUS services provided by ADR Staff are only for non-EEO related matters; CORE PLUS dispute prevention or resolution in EEO is the responsibility of EEO in the Bureau).	<b>National lead-</b> ADR staff establishes a policy and outreach framework for the Bureau's National Ombudsman and National Conflict Coaching services (natural resources, CORE PLUS, contracting/acquisition) and for the public (natural resources); conducts the services on behalf of the ADR/Conflict Prevention Program; ensures close coordination on public contacts with appropriate managers in State/Field offices and programs.	<b>State co-lead-</b> May advise and/or coordinate with the State NR ADR Advisor and/or CORE PLUS ADR Advisor on requests for ADR-based resolution from within the State; may work with the ADR staff.	<b>State co-lead-</b> May consult and/or coordinate with the State ADR Manager-Advisor; may work with the ADR staff on requests from within the State for ADR-based resolution; ensures appropriate, close coordination with managers in State/Field offices.	<b>State co-lead-</b> May consult or coordinate with the State ADR Manager-Advisor; may work with the ADR staff on requests from within the State for ADR-based resolution; ensures close coordination with State/Field office managers as appropriate.
<b>National ADR Case Tracking ADR activities in databases and/or files</b>	<b>National lead</b> – ADR staff manages and maintains national natural resources databases; obtains information on State natural resources ADR cases and Orders and Notices; conducts national analyses; provides	<b>Support</b> – May assist, consult, or coordinate with State NR ADR Advisor (or other State-designated responsible staff) and CORE PLUS ADR Advisor;	<b>State lead-</b> Unless otherwise assigned, tracks information on ADR activities based on State case files and files/records as follows: 1) ADR processes involving conflict prevention	<b>State lead</b> – Gathers, enters, and maintains, or ensures gathering, entry, and maintenance of, accurate, up-to-date, and complete State/Center/

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	analyses, input, and briefings to the Directorate; and develops Bureau responses to the Department and OMB/CEQ.	advises on/facilitates, as appropriate, the gathering of State natural resources ADR information and the establishment and maintenance of case data in the database and/or files.	processes, situation assessments, negotiations, mediations, joint fact-finders, and community-based stakeholder working groups; 2) Orders and Notices from IBLA, the Hearings Division, and the Courts..	Directorate CORE PLUS case data in current database and then in new Departmental database once developed.
<b>Natural Resources ADR Training Conducted through the NTC</b>	<b>National lead-</b> ADR staff sponsors and oversees Bureau ADR training; participates in development of agendas; participates in training.	<b>Support-</b> May provide advice and input on training; may attend training as appropriate and feasible.	<b>NTC lead-</b> NTC ADR Advisor co-leads development; provides scheduling, contracting, and delivery. NR ADR Advisors review and provide input.	<b>Support-</b> May attend training as practical and feasible.
<b>BLM ADR websites</b>	<b>National lead-</b> ADR staff maintains and updates external website and develops internal website.	<b>Support-</b> May review and provide feedback to the ADR staff or in coordination with NR ADR Advisor.	<b>State co-lead-</b> Reviews and provides feedback.	<b>State co-lead-</b> Reviews and provides feedback.
<b>Credentialing &amp; certification for Natural Resources ADR Advisors &amp; Facilitators</b>	<b>National lead-</b> ADR staff develops the criteria and process with the ADR Advisory Council.	<b>Support-</b> May review criteria and process and provide input.	<b>Support-</b> Reviews criteria and process and provides input to the ADR Staff.	<b>N/A</b>