John S. McCain III
National Center for
Environmental Conflict Resolution
Udall Foundation

UDALL
FOUNDATION | NATIONAL CENTER FOR
ENVIRONMENTAL CONFLICT RESOLUTION

Environmental Collaboration and Conflict Resolution for Federal Agencies

Brian Manwaring, Director
Stephanie Kavanaugh, Deputy Director
Alyssa Bonini, Program Associate

February 10, 2021

SESSION OUTLINE

1. Introduction - National Center for Environmental Conflict Resolution

2. Environmental Collaboration and Conflict Resolution (ECCR) Overview

3. ECCR in the Federal Government

4. Resources for Federal Agencies

5. Questions and Discussion

National Center for
Environmental Conflict Resolution
Udall Foundation

COLLABORATION

In the long history of humankind (and animal kind, too) those who learned to collaborate and improvise most effectively have prevailed.

- Charles Darwin

NATIONAL CENTER FOR ENVIRONMENTAL CONFLICT RESOLUTION

Introduction & Overview

UDALL FOUNDATION

Federal Agency that includes the National Center

NATIONAL CENTER FOR ENVIRONMENTAL CONFLICT RESOLUTION

Services

Case Services

- Consultations
- Assessments
- Process Design
- Convening
- Mediations / Facilitations

Training and Program Support

- ECCR Training
  - Open Sessions
  - Customized
- ECCR Program Support
- Tribal Consultation Training

ECCR Leadership

- Assist with implementation of NEPA Section 101
- Facilitate Federal ECCR Forum
- Manage Native American and Alaska Native Service Area

National Center for
Environmental Conflict Resolution
Udall Foundation

ENVIRONMENTAL COLLABORATION AND CONFLICT RESOLUTION

CONFLICT

Dualistic Nature of Conflict

"Divergence of interest, or belief that parties' aspirations cannot be achieved simultaneously"

- Pruitt & Rubin

"Managed well, "conflict" can power great change and creativity. Poorly managed conflict can generate disputes that consume massive quantities of time and money, destroy valuable relationships and sabotage important projects..." - McNaughton, 2002

National Center for
Environmental Conflict Resolution
Udall Foundation

ECCR DEFINED

Federal Definition from 2012 OMB-CEQ Memo

"Third-party assisted* **collaborative problem solving** and **conflict resolution** in the context of environmental, public lands, or natural resource issues or conflicts, including matters related to energy, transportation, and water and land management."

*An impartial, third-party has no stake in the outcome of the issue being discuss or decided.

National Center for
Environmental Conflict Resolution
Udall Foundation

ECCR DEFINED

Simply put, ECCR is…

> People with differing views and interests working together in a systematic and organized way to find workable solutions to shared problems about environmental issues.

National Center for
Environmental Conflict Resolution
Udall Foundation

ECCR IS HELPFUL WHEN…

- Manageable number of affected and interested parties who are incentivized to participate

- Decision-makers are committed to utilizing input in a meaningful way

- People who care about the issue have the opportunity to make an impact on the outcome
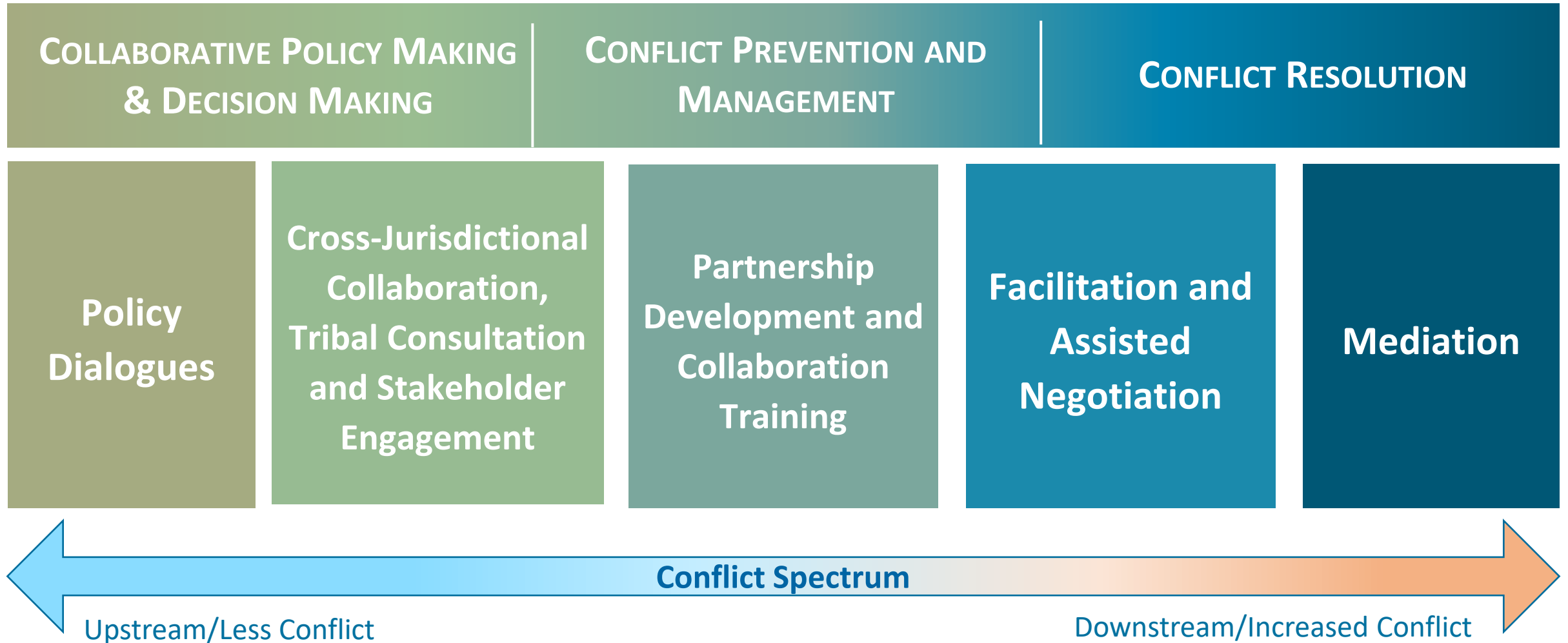
- Relationships are important and may be in jeopardy

National Center for
Environmental Conflict Resolution
Udall Foundation
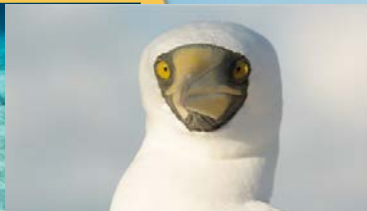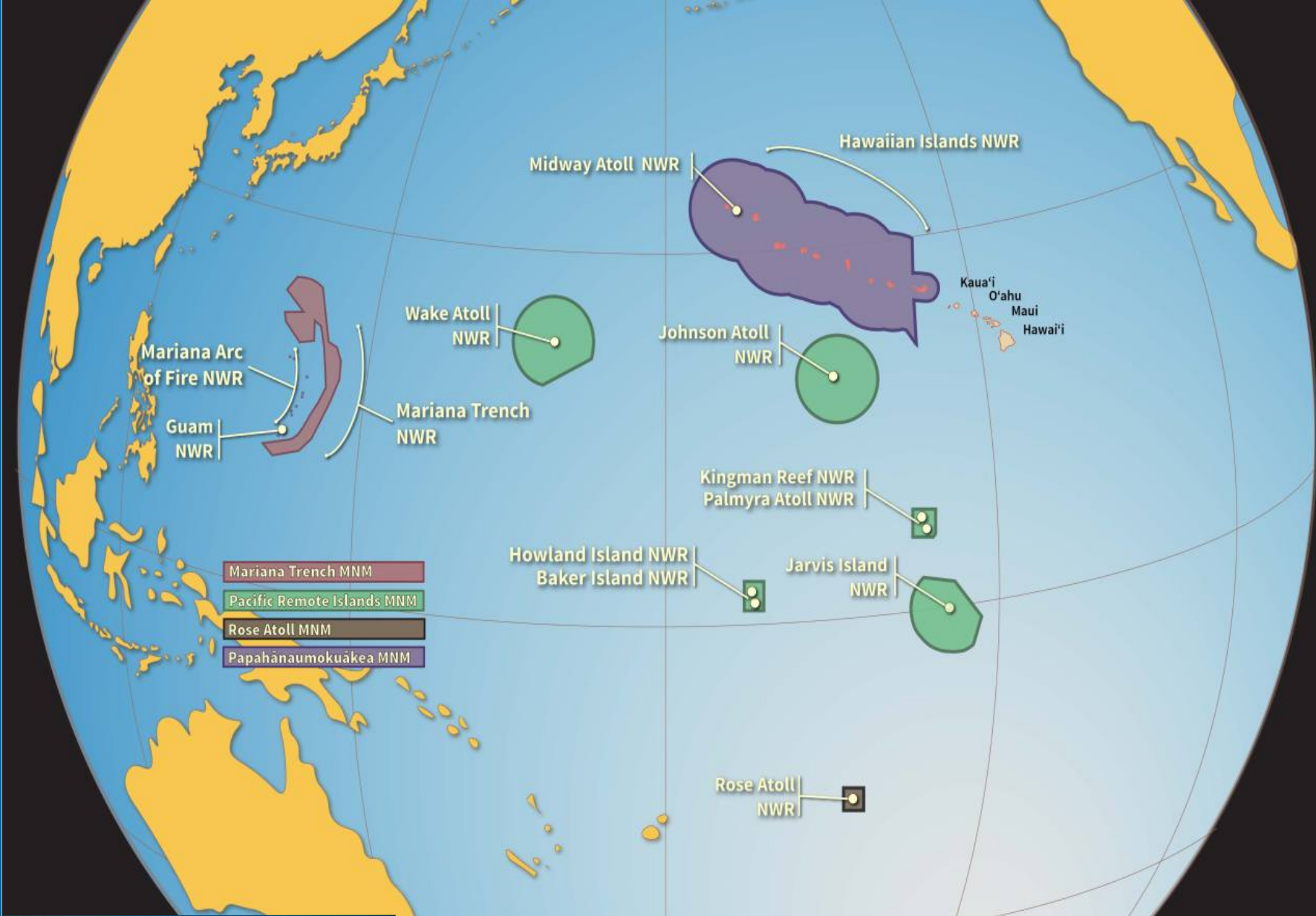
ECCR MAY NOT HELPFUL WHEN…

- Parties believe other approaches will better serve their interests (legal rights or political solutions)

- Key parties won't participate in good faith

- Decision-makers are not able or committed to utilizing input received, "decision is already made"

  - Good intentions are not enough….agency decision-makers must be empowered and willing to make changes based on the interests of stakeholders.

National Center for
Environmental Conflict Resolution
Udall Foundation

ECCR APPLICATIONS

COLLABORATIVE POLICY MAKING & DECISION MAKING	CONFLICT PREVENTION AND MANAGEMENT	CONFLICT RESOLUTION

Policy Dialogues

Cross-Jurisdictional Collaboration, Tribal Consultation and Stakeholder Engagement

Partnership Development and Collaboration Training

Facilitation and Assisted Negotiation

Mediation

Conflict Spectrum

Upstream/Less Conflict

Downstream/Increased Conflict

INTERAGENCY COLLABORATION AND STAKEHOLDER INPUT ON MARINE MONUMENT MANAGEMENT

Pacific Remote Islands Marine National Monument Community Group

INTERAGENCY COLLABORATION SUPPORTING STAKEHOLDER INPUT

Interagency Collaboration

- Navigation of different agency missions and cultures to jointly manage a Marine Monument

Differing Levels on Interest from Stakeholder Groups

- Pristine ecosystem facing risks from environmental and human factors
- Few people will ever visit this remote Monument

Process Elements

- Facilitated interagency collaboration to determine composition of a group for giving input on a new management plan
- Agencies have developed a joint vision for Monument management using input from the Community Group

ECCR PROCESS

Our Approach to Collaborative Processes

ASSESS THE SITUATION

- Identify all **perspectives**
- Identify areas of **agreement** and **disagreement**
- Recommend a **process** to move forward
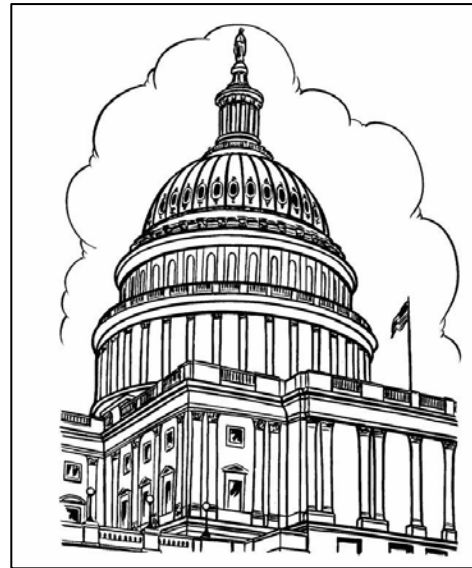
CREATE A COLLABORATIVE ENVIRONMENT

- Bring parties **together**
- Develop a **process**
- Manage **group dynamics**
- Identify **goals**
- Set meeting **agreements**
- Define **responsibilities**
- Increase understanding of **interests**

FACILITATE A SOLUTION

- Agree on **criteria**
- Generate **options**
- **Agree** on a solution
- **Implement** the agreement
- **Evaluate and adjust** implementation
- **Recognize** accomplishments

ASSESSMENTS

A process to gain a deeper understanding of the issue and surrounding circumstances, interested and affected parties and their needs, and whether or not a collaborative process is likely to be successful.

National Center for
Environmental Conflict Resolution
Udall Foundation

SOURCES OF CONFLICT

Political Realities
- Trends
- Pet projects
- Election cycles

Value Differences
- Personal values
- Organization cultures
- Operational preferences

Organization Constraints
- Decision-making processes
- Resources
- Missions and mandates
- Regulations

Relationship Problems
- Baggage from the past
- "Personalities"
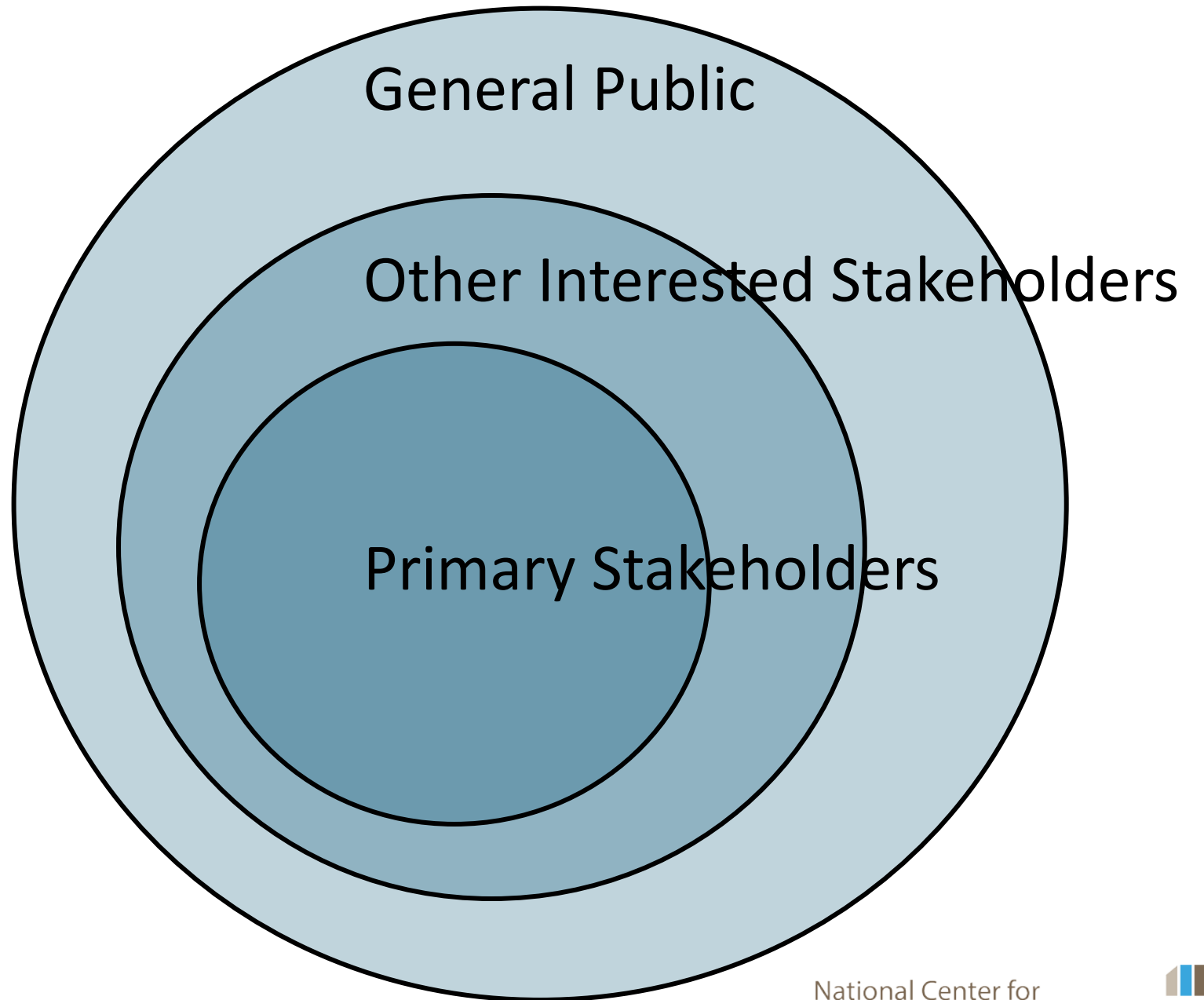- Communication
- Structure & style

Data Challenges
- Too much
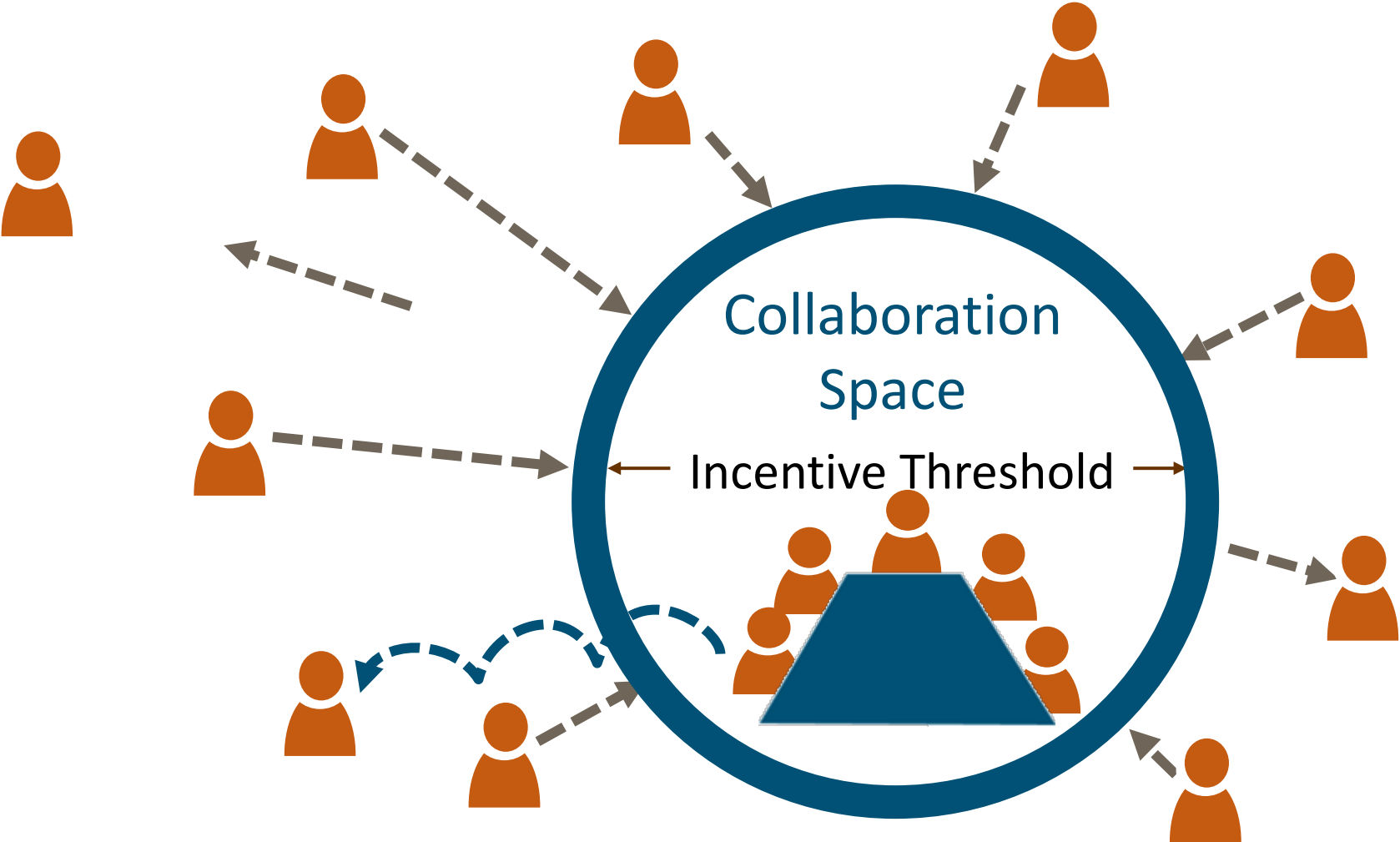- Too little
- Differing interpretations

COLLABORATION SPACE

OBSTACLES TO PRODUCTIVE COLLABORATION

- Limited capacity

- Funding & time constraints

- Pressure to deliver solutions in fixed timeframes

- Decision-maker unsure if they can utilize input

- No history of collaboration or severely damaged relationships

National Center for
Environmental Conflict Resolution
Udall Foundation

ECCR PROCESS

Our Approach to Collaborative Processes

ASSESS THE SITUATION

- Identify all **perspectives**
- Identify areas of **agreement** and **disagreement**
- Recommend a **process** to move forward

CREATE A COLLABORATIVE ENVIRONMENT

- Bring parties **together**
- Develop a **process**
- Manage **group dynamics**
- Identify **goals**
- Set meeting **agreements**
- Define **responsibilities**
- Increase understanding of **interests**

FACILITATE A SOLUTION

- Agree on **criteria**
- Generate **options**
- **Agree** on a solution
- **Implement** the agreement
- **Evaluate and adjust** implementation
- **Recognize** accomplishments

STAKEHOLDER INFLUENCE AND ENGAGEMENT

Right-sizing stakeholder processes

One-way Communication

Two-way Communication

Inform	Low	Medium	High
Provides others with information to assist them in understanding the problem and the final decision made.	Inform others about decision-making process and also seeks their feedback on analysis & proposed actions.	Work directly with others to ensure their issues and concerns are understood, considered, and directly reflected in the options developed and decisions made. Feedback is provided.	Work directly with others to share information, explore options and potential solutions, and to seek agreement where possible on decisions and actions.
	Agency retains authority for final decisions in all degrees of collaboration.		

COLLABORATIVE PROCESS DESIGN

Key Elements

- Interested and affected parties need to have an incentive to collaborate, and understand their level of influence over a solution

- The process need to be clear to all parties before beginning the process

- Investment in relationship and trust-building amongst all parties

- Sufficient amount of data or ability to collect data needed

- Professional facilitation by a third-party neutral

National Center for
Environmental Conflict Resolution
Udall Foundation

ECCR PROCESS

Our Approach to Collaborative Processes

ASSESS THE SITUATION

- Identify all **perspectives**
- Identify areas of **agreement** and **disagreement**
- Recommend a **process** to move forward

CREATE A COLLABORATIVE ENVIRONMENT

- Bring parties **together**
- Develop a **process**
- Manage **group dynamics**
- Identify **goals**
- Set meeting **agreements**
- Define **responsibilities**
- Increase understanding of **interests**
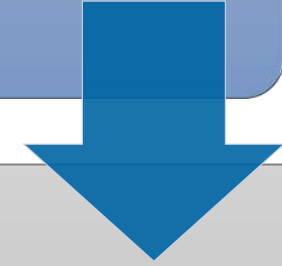
FACILITATE A SOLUTION

- Agree on **criteria**
- Generate **options**
- **Agree** on a solution
- **Implement** the agreement
- **Evaluate and adjust** implementation
- **Recognize** accomplishments

COLLABORATIVE MINDSET
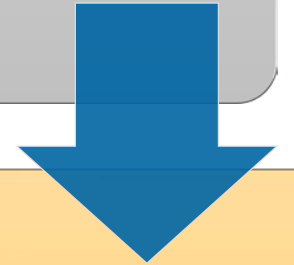
Attitude Leads to Action in Overcoming Impasse

Collaborative Intention

- Seek to understand: Be "others" centered
- Be open-minded

Problem Solving Mentality

- Create climate of openness & sharing
- Develop criteria/options, build consensus

Interpersonal Skills

- Communication
- Listening & asking good questions

PERCEPTIONS OF CONFLICT

As a Negative:

- Zero sum
- Competing
- Bargaining
- Neglecting long-term or unintended consequences

As a Positive:

- Win-win
- Multi-party problem-solving
- Building consensus
- Partnership and relationship development

NEGOTIATION IS...

"....back-and-forth communication designed to reach an agreement when you and the other side have some interests that are shared and others that are opposed."

– "Getting to Yes" by Robert Fisher & William Ury

National Center for Environmental Conflict Resolution
Udall Foundation

WHAT IS POSITIONAL BARGAINING

Each side:

- Takes a position

- Argues for a position

- Makes concessions until agreement is reached

- Characterized as "haggling"

National Center for
Environmental Conflict Resolution
Udall Foundation

INTEREST-BASED NEGOTIATION

A multi-party problem-solving approach

Interest-based negotiation is a strategy in which parties collaborate to find a "win-win" solution to their dispute. This strategy focuses on developing mutually beneficial agreements based on the interests of the disputants.
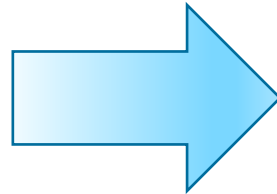
FOCUS ON INTERESTS

To facilitate understanding and allow for creative problem-solving

Positions:

- Suggested solutions
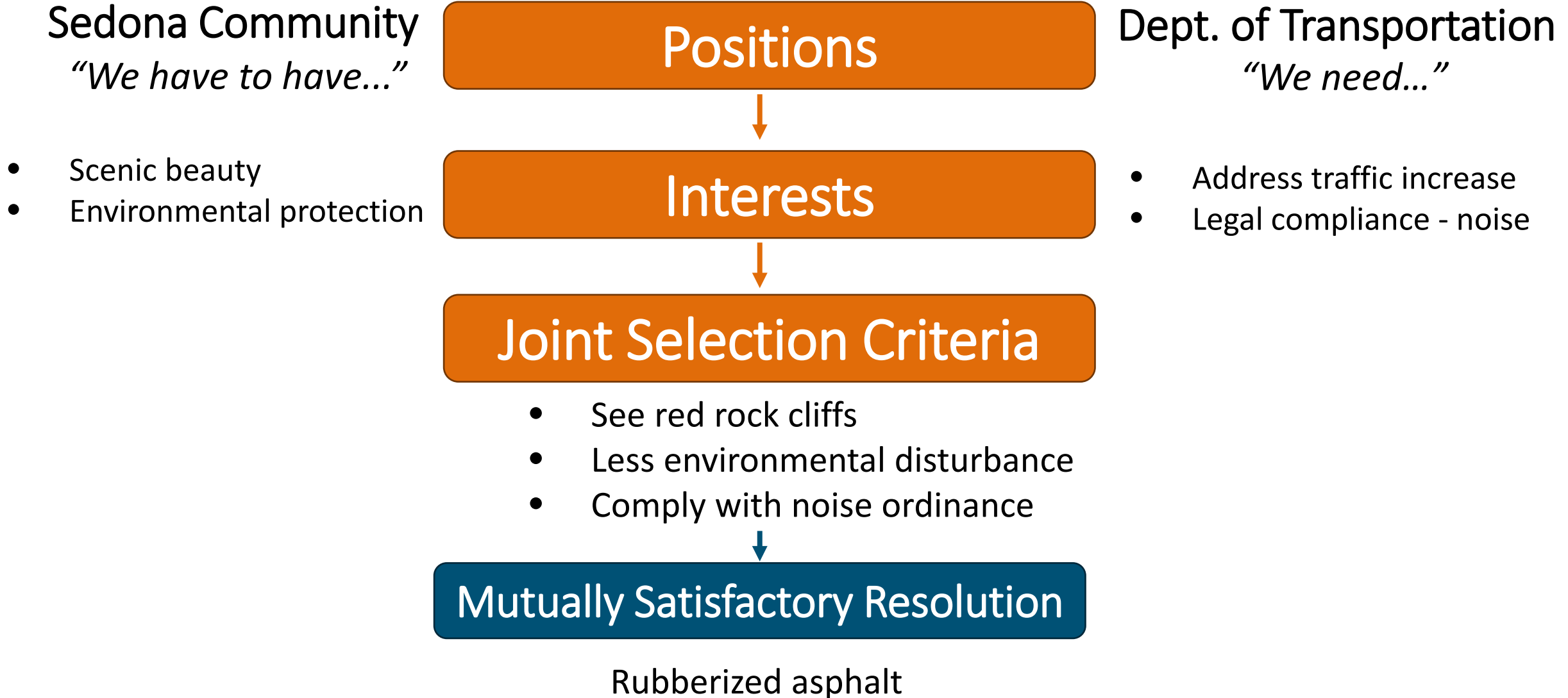- Basis for argument
- Require justification
- End discussion

Interests:

- Needs, desires, concerns
- Why a solution is preferred
- Require explanations
- Start discussion

INTEREST-BASED NEGOTIATION EXAMPLE

Sedona Community
"We have to have…"

- Scenic beauty
- Environmental protection

Positions

Interests

Joint Selection Criteria

Dept. of Transportation
"We need…"

- Address traffic increase
- Legal compliance - noise

- See red rock cliffs
- Less environmental disturbance
- Comply with noise ordinance

Mutually Satisfactory Resolution

Rubberized asphalt

FACILITATIVE LEADERSHIP

Characteristics of a facilitative leader

- Understands the whole system

- Embraces diversity and inclusivity

- Trusts group ability

- Supports multi-party processes

- Builds shared understanding

- Resolves misunderstandings and disputes

National Center for
Environmental Conflict Resolution
Udall Foundation

INTERAGENCY PROGRAMMATIC AGREEMENT FACILITATION

Indiana and Northern Long-Eared Bat

43

PROGRAMMATIC AGREEMENT FACILITATED PROCESS

Assessment Findings

- Issues/conflicts: Agency missions/cultures, ESA interpretation, interpersonal conflicts, scientific uncertainty
- Opportunities: Incentivized agencies, elements of good process

Collaborative Environment

- Established a common goal, ground rules, decision rules
- Two-level facilitated process (Technical & Advisory)

Facilitate a Solution

- Identified agency side-boards
- Focused conversation on interests
- Outcome: Signed PA

ECCR IN THE FEDERAL GOVERNMENT

ECCR IN FEDERAL LAW, POLICY, AND PROCESS

Many Federal environmental laws, policies, and processes include requirements for cooperating with partner agencies and stakeholder engagement which may benefit through the use of ECCR, including:

- National Environmental Policy Act (NEPA)

- Endangered Species Act - Section 7

- Clean Water Act – Section 404

- National Historical Preservation Act – Section 106

National Center for
Environmental Conflict Resolution
Udall Foundation

WORKING WITH NATIVE NATIONS

Best Practices & Collaboration Trends

- Incorporate Government-to-Government relationship in collaborative processes
    - Work to understand Tribal leadership priorities

- Assess and address Tribal capacity to participate
    - Staff availability, participation costs, etc.

- Foster intergovernmental partnerships with Tribes

- Co-create agreements on use of Traditional Ecological Knowledge

- Be open to history and resilience in dialogue

National Center for
Environmental Conflict Resolution
Udall Foundation

ECCR TRACK RECORD

REPORT: Environmental Collaboration and Conflict Resolution (ECCR): Enhancing Agency Efficiency and Making Government Accountable to the People

Available at NEPA.gov

BENEFITS OF ECCR

Efficiency	Cost savings, timely process, minimizes litigation
Outcomes	Better, more durable solutions
Relationships	Improves communication and understanding
Governance	Increased capacity to serve citizens

Since 2006, the Executive Branch has more than **4,200 documented ECCR cases**

TRENDS IMPACTING COLLABORATION

Drivers	Resulting Action or Strategy
Increase in technology availability/skill, Improved meeting software	• Increased virtual engagement
Increase in multi-jurisdictional challenges & condensed decision-making timelines	• Partnership development • Front-end Collaboration
Increased polarization and distrust of institutions	• Increased trust-building • Joint-fact finding/Independent Science
Recognition of the value of ECCR	• Increased collaborative capacity throughout Federal Gov't

ECCR RESOURCES
FOR FEDERAL AGENCIES

WHERE CAN I FIND HELP?

ECCR Resources available to Federal agencies

- Federal ECCR Centers
  - National Center (Independent) and Agency-based
- Other Federal personnel
  - Tribal Liaisons, Public Engagement Experts, Partnership Offices, etc.
- Private Practitioners
- University-based Public Policy Centers
- ECCR Training and Skill-building
  - National Center Training Program
  - Agency Training Programs
  - Private and University-based trainers

National Center for
Environmental Conflict Resolution
Udall Foundation

COLLABORATION TRAINING

National Center Collaborative Capacity Building

- National Center courses teach:
  - Essential negotiation and conflict management skills
  - Practical strategies for collaborative problem-solving
- "Learning by doing" approach
- Public and Group Trainings available
- Participants in 5 courses earn **Certificate in ECCR**

National Center for
Environmental Conflict Resolution
Udall Foundation

QUESTIONS & DISCUSSION

ECCR READING

Book Recommendations

Title	Author	Topic Area
Getting to Yes	Fisher and Ury	Interest-based Negotiation
Winning Together: The Natural Resource Negotiation Handbook	Bruno Verdini Trejo	Negotiation
The Magic of Dialogue	Daniel Yankelovich	Communication/Dialogue
Facilitating with Ease	Ingrid Bens	Facilitation
Common Ground on Hostile Turf	Lucy Moore	ECCR & Cross-cultural Communication
The Dynamics of Conflict Resolution	Bernie Mayer	Environmental Conflict Resolution
Promise and Performance of Environmental Conflict Resolution	O'Leary and Bingham	Environmental Conflict Resolution
Culture and Conflict Resolution	Kevin Avruch	Cross-cultural Conflict Resolution