ESM 283
ENVIRONMENTAL NEGOTIATION
APPLYING THE TOOLS AND TECHNIQUES

COURSE SYLLABUS – WINTER 2011

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Negotiation: a process of opportunistic interaction by two or more parties with an apparent conflict to do better jointly than they could do by acting alone.

**Course Goals and Objectives**

This course starts from the observation that the world of managers, lawyers, public officials, analysts, and other professionals, particularly those in environmental management, is marked by interdependencies, fragmented sources of power, complexity and an uncertain future. In this unruly world, the sources of understanding and stability are often provisional and the ability to learn and to manage change is at a premium. The diversity of our society and work force contributes to conflicts over goals, interests, and frames of reference. These characteristics create an ongoing need for the ability to craft stable agreements that advance interests, build trust, and construct understanding in complex and unstable environments. They create a need for skilled and effective negotiators.

To help class participants to develop the understanding and skills necessary to respond to this challenge, we will explore three insights that currently shape negotiation research, theory, and practice. The insights each describe negotiation as an interactive and sometimes iterative process. The first insight is that even simple interdependencies create a dynamic environment in which multiple outcomes are possible. The bare fact that a bargain requires the consent of both parties is sufficient to open a complex space for interaction between negotiators. In multi-party, multi-issue situations, agreement-building creates an even more complex space. The second insight is that negotiation is rarely a zero-sum process. Negotiators affect not only how value is distributed, but also how much value there is to distribute. The third insight is that negotiation is a social process. Through their interactions, negotiators shape the terms in which they understand problems, their sense of what kind of behavior is fair, appropriate, and desirable, and their ability to trust.

On a substantive level, this course explores the theory and practice of environmental negotiation, conflict management and other collaborative problem solving tools in the context of environmental (i.e., natural resource) and public policy challenges. Core topics and questions to be addressed include:

- The Nature of Environmental Dispute Resolution - What is unique to the field, the skills and the professionals who advocate and work the “in between”?
- What are the basic competencies of the negotiator and/or the neutral third party specializing in environmental challenges and disputes?
- What are the guiding principles in negotiating and resolving complex policy and natural resource disputes?
- What is the nature and evolution of power and influence in environmental disputes?
- What dynamics influence the fairness, wisdom, efficiency and durability of environmental agreements?
- What are the stabilizing and destabilizing influences in the negotiation process?
- What are the challenges created by uncertainty, risk and complexity and what tools and perspectives are needed to address those challenges?
Our exploration of these topics and the insights they reveal is presented not only from the perspective of a negotiator advocating for him- or herself, but also from the perspective of an individual acting as a representative of an organization which must ratify the ultimate deal or outcome. Finally, we approach these topics from the perspective of a neutral third party, acting to facilitate negotiations among many parties and organizations, public and private. The course approaches these opportunities and challenges not only from the personal level, but also from an organizational level as well as from the external stakeholder context.

In the process we will examine how negotiators as advocates and mediators as neutrals manage their interactions in strategic bargaining and ask, "Why do we get one deal rather than another?" We will explore situations where negotiations offer (or demand) an exploration of additional degrees of freedom and ask, "Can we shape the game we play?" Finally, we will consider how negotiators and mediators create opportunities for mutual gains, how they construct relationships in which trust is possible, and to how they build understanding in their interactions.

By exploring these questions, we hope to accomplish three goals.

- First, we hope that you will develop skills that will make you a better negotiator on all three levels of interaction.
- In more substantive terms, this course should help you to diagnose both negotiating situations and conflict itself, prepare to negotiate, negotiate purposefully and thoughtfully, and critically evaluate outcomes and experiences.
- Finally, we hope to build a capacity for greater leadership in addressing environmental challenges, opportunities and resource management issues – leadership that is not only the capacity to have and maintain influence beyond your authority, but the ability to get people to face the gap between the values they stand for and the conditions they live in.

You will have the opportunity to experiment and to try out alternative approaches in negotiation exercises and case analyses. These exercises form the core of the course. We will use them on a weekly basis to examine concepts, analytic approaches and debrief outcomes. This approach is intended to challenge us individually, and as a group, to provide as clear an account as we can of our experience, to listen carefully, and to reflect critically on our experience.

**Negotiation Exercises**

Throughout the course students will participate in role-playing negotiation exercises on a weekly basis. You will be assigned a role, partnered with one or more other students, given a case with sometimes vague instructions and confidential information, and asked to prepare and negotiate. When cases are handed out ahead of time, you should come to class prepared to negotiate and “play to win”. In general, we will have a greater range of experience to draw on and a richer discussion if you prepare individually, rather than with a partner or in a study group. Think of it as contributing to a bigger sample for our collective research project and controlling cross-case influences. As a group, you are dependent on each other to suspend disbelief and animate the exercises vividly and plausibly and provide a rich base of experience for us to draw on.

As a general rule, you should try to do as well for yourself as you can in these exercises. As you will see, what this means can be problematic. In the exercises you will receive general and confidential information. You may reveal as much or as little of this information (or any other information) as you wish in the negotiation. Under no circumstances should you show another party your confidential information during a negotiation. Other negotiators must believe you, not a piece of paper. You are expected to be in your role for the duration of the exercise. This rule reflects that character of actual negotiation, since there is seldom an external authority that can exert the influence that your instructions
do. It would be a rare case where you could convince someone about a preference or a constraint simply by showing them a piece of paper.

These games are designed to be self-explanatory. Please follow the instructions carefully. If the instructions for a multi-round game say that you and your partner must reveal offers simultaneously, without discussion, one round at a time, do not leave after abruptly presenting your counterpart with a signed list of offers for 8 rounds. Please observe schedules or time limits when they are provided. Beyond this, within the letter and the spirit of the exercises, it's up to you how you negotiate.

We will use “flip videos” of portions of actual in class exercises as a teaching tool to enhance understanding and assessment of productive and unproductive tactics, strategies, and negotiating behaviors. It's not hard to defeat the purpose of these exercises. You can consult others who have played an exercise, deviate from the rules, or collude with your counterpart against the game. You might be able to locate published accounts of some games. As a tactic, however, such practices are self-defeating. They undercut the richness of experience, deaden discussion, and distort outcomes. We trust that you will avoid them to the extent that you can.

**Course Organization:**

The course is organized in four segments, each with a series of teaching modules nested within. Section 1 focuses on “Getting Started – Laying the Groundwork for Productive Negotiations”. Section 2 focuses on “Sitting Down to Talk”. Section 3 concentrates on “Negotiating for Better (i.e., lasting) Outcomes”, and Section 4 focuses on Special Topics. A fifth section on special situations may be added at the end of the course, time permitting.

**Recommended Reading:**

The following texts are suggested for the course:

- The Art and Science of Negotiation, Howard Raiffa (required)
- Defining Moments: When Managers Must Choose between Right and Right, Joseph L. Badaracco, Jr.
- Supplemental Readings & Materials (Required)

The reader will be supplemented with additional materials as they become available and posted on GauchoSpace. In addition to readings, instructional videos and CDs will also supplement the course as learning tools. Finally, a bibliography of other books and resources relevant to environmental negotiation will be made available to students with an interest in further reading.

**Requirements:**

As noted above, the overall format of the course will make use of lectures, regular negotiation exercises, class discussion and case studies that require a hands-on/minds-on approach which involves considerably more preparation and interaction than the standard listening-to-lecturing experience. Grades will be based upon student performance on the mid-term and final, as well as class participation and the instructor’s assessment of your improved negotiation skills.

**Class Structure**

Because this class takes place once a week, we will break up the 3-hour class format by typically starting off with a combination of interactive class discussion and lecture time focused on negotiation theory, practice and application. The remainder of the class will be spent in negotiation exercises and debriefings. Occasionally, a focus question will be provided to students in advance of a given class. This focus question will provide an opportunity for two students to respond with their perspectives in an
attempt to stimulate class discussion and critical thinking as well as to contribute to the overall quality of the learning experience (see class participation below).

**Class Assignments and Grading:**

Critical to the learning experience in this course is your participation in a variety of simulations and role-play exercises. In these settings you will not only learn practical skills but also have an opportunity to observe the perspectives, approaches and practices of your classmates. The amount and quality of participation in these settings, therefore, will not only affect your learning experience but that of the others in the course. In recognition of this fact, 50% of your grade for the course depends upon your participation, a portion of which will be evaluated by your peers in class. The grade will be calculated as follows:

*Course participation:* 50%

When you hand in your Final Paper/Exam on Thursday, December 9th, you may assign 25 points to other class members based on your assessment of their contributions to your learning experience throughout the quarter. A form will be provided for this purpose but we advise you to keep some notes during the quarter to jog your memory. You may not award points to yourself. You may not award more than five points to any individual.

*Mid-term paper:* 15%

Prepare a Situation Assessment of an assigned environmental/public policy negotiation/conflict (Blue Mountain Mining or similar case - more information provided during the third week of October).

*Final paper:* 35%

Describe your evolution as an effective negotiator providing observations on your strengths and weaknesses, negotiation style, and tools and tactics based upon the exercises completed in class. This paper should use as its basis, class discussion topics, exercises, entries into your student journal and personal reflections as to how you assess, frame, negotiate and monitor for results.

**Instructor:** John C. Jostes, MPA, AICP, -- professional mediator, facilitator and environmental planner. Office hours: Bren 4520; times to be announced during the first day of class. Day Phone: (805) 687-4043; e-mail address: jostes@bren.ucsb.edu .

**Exam Dates:** Midterm—Tentative Due Date for Take-Home Mid-term: October 28, 2010  
Final --- December 9, 2010
Preliminary Class Schedule and Lecture Topics
(Revised Schedule to be Provided Prior to First Class)

Reading Assignment in Preparation for 1st Class:
- Raifa - pp. 1 – 43
- GauchoSpace: Complete Individual Survey Form prior to class
  Review Commonly Used Terms and Definitions

Part 1: Getting Started – Laying the Groundwork for Productive Negotiations

Class #1: January 5, 2011 8:30 am – 11:30 am
Essentials of Negotiation Analysis
- Course Introduction and Overview including Q&A on the Course Syllabus
- Participant Expectations and Instructor Expectations
- Essentials of Negotiation Analysis – Process Overview
  - types and approaches
  - basic building-blocks
- Types of Environmental Disputes and Negotiations
- Simulation/Exercise #1 – Two-Party single or multiple issue negotiation
- Debrief
- Assignment for Next Class:
  - Raifa: pp. 44-147
  - GauchoSpace Reader

Class #2: January 12, 2011
The Anatomy of an Environmental Negotiation
- Learning Points from Previous Class
- Case Example #1 Burbank Airport Dispute - convening, fact-finding, negotiating and impasse
- Layers of Negotiation
  - Inter- and Intra-Organizational
  - Environmental Negotiation
  - Public Policy Negotiations
- The Negotiation Process – Laying the Groundwork for Productive Outcomes
  - Ground Rules, Problem Statements and other Structural Tools
  - Unique Aspects of Environ. & Public Policy Negotiations
- Simulation #2 – Multi-Party, multi-issue negotiation – St. Joseph’s Part I
- Debrief
- Assignment for Next Class:
  - Raifa: pp. 148 – 217
  - Channel Islands NMS – MRWG Facilitator’s Report
  - GauchoSpace Reader Materials

Part 2 – Sitting Down to Talk

Class #3: January 19, 2011
Coalitions and Negotiation Dynamics
- Case Example #2 Channel Islands MRWG Process
- Lecture Topics
  - Preparations (Situation Assessment and Convening, Agenda Development)
  - Role of Joint Fact Finding
o Care and Feeding of Constituent Groups
o Outreach and Coalition Dynamics
o Sources of Power and Influence
o Delivering Bad News/Dealing with External Factors

- Simulation #3: Allied, Benevolent & Caring
- Debrief
- Assignment for Next Class:
  Raifa: pp. 257–274
  GauchoSpace Reader Materials

Class #4: January 26, 2011
Tools and Techniques, Part 1
- Case Example #3 Lower Colorado River MSCP - Part 1
- Lecture Topics
  o Analytics – Currently Perceived Choice Tool & other tools
  o Specific Negotiation Strategies
  o Creating and Claiming Value
  o Use of Problem Statements and Ground Rules
  o Importance of the single-text approach to negotiation
  o Meeting planning and structural issues
- Simulation #4: St Joseph’s Part II
- Debrief
- Assignment:
  Harborco Generals and Confidentials
  GauchoSpace Reader Materials

Class #5: February 2, 2011
Tools and Techniques, Part 2
- Simulation #5: Harborco (2+ hrs)
- Debrief
- Case Example #3 Lower Colorado River MSCP – Part 2 (time permitting)
- Lecture Topics
  o Science-Intensive and Technically Complex Negotiations
  o Advanced Structural Issues
  o Active Listening
  o Elements of a Compelling Argument
  o Art of Framing and Reframing
- Assignment:
  Defining Moments: pp. 1 – 53
  Charlene Barshevsky (A)
  GauchoSpace Reader Materials
Part 3 – Negotiating for Results
Class #6: February 9, 2011
Strategic Planning, Part 1
• Discussion Topic: Crafting Charlene’s Negotiating Strategy – What to do, when and why?
• Lecture Topics - Advanced Structural Issues
  o Structuring Organizing Questions for Strategic Results
  o Active Listening
  o Elements of a Compelling Argument
  o Art of Framing and Reframing
  o When Talks Break Down – dealing with impasse
• Negotiating Public Policy at the Local Level – Shaping the Santa Barbara General Plan
• Debrief
• Assignment: Charlene Barshevsky (B)

Class #7: February 16, 2011
Dealing with Risk and Uncertainty
• Discussion Topic: What Charlene did and why.
• Simulation #6: Climate Change Negotiation
• Assignment:
  Defining Moments: pp. 54-131
  CAP Negotiations CD
  GauchoSpace Reader Materials

Part 4 – Special Topics
Class #8: February 23, 2011
Strategic Planning, Part 2 - TBD
• Discussion Topics: To be selected from the following
  o Dealing with Anger in Negotiations
  o Dealing with an Angry Public
  o Negotiating in the Political Arena
  o Ethical and Moral Issues
  o Implementing Agreements and Monitoring Results
• Simulation #7: TBD
• Assignment:
  GauchoSpace Reader Materials

Class #9: March 2, 2011
• Special Topics – Students’ Choice + “Idea Bin” from Previous Class Discussions
• Simulation #8:
• Assignment:
  o Preparations for final Class Discussion

Class #10: March 9, 2011 – Review and Wrap-up (Optional Class)

Final Paper: Tentatively scheduled to be due on March 9, 2011