**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.

**Environmental Negotiation:** the application of competitive and cooperative negotiation strategies to multi-party, multi-issue technically complex site specific and landscape level policy challenges typically involving governmental agencies and cross-sector stakeholders.

**Context**

This course starts from the observation that the world of managers, lawyers, public officials, analysts, and other professionals, particularly those in environmental management and policy making roles, is marked by interdependencies, fragmented sources of power, complexity and an uncertain future. In this chaotic 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 workforce 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 get long lasting results, oftentimes in complex and unstable environments. They create a need for skilled and effective negotiators.

Parallel to these dynamics, neuroscience, psychology and behavioral economics influence how people make decisions and with what kinds of biases and mindsets. How intuition and deliberate action-taking shape the choices people make can have profound influence over outcomes and their sustainability.

**Course Goals**

To help class participants to develop the understanding and skills necessary to respond to these challenges and opportunities, 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:

- **Competence:** What are the basic competencies of the negotiator and/or the neutral third party specializing in environmental challenges and disputes?
- **Uniqueness:** What is unique to the field of Environmental Dispute Resolution, the skills and the professionals who advocate and work the “in between”?
- **Guiding Principles:** What are the guiding principles in negotiating and resolving complex policy and natural resource disputes and how do they produce outcomes that are fair, wise, efficient and durable?
- **Power:** What is the nature and evolution of power and influence in environmental disputes?
Dynamics and Cross Currents: What dynamics influence environmental agreements? What are the stabilizing and destabilizing influences in the negotiation process? How does the formation and dissolution of coalitions impact agreement-seeking?

Complexity and Uncertainty: What are the challenges created by uncertainty, risk and complexity and what tools and perspectives are needed to address those challenges?

Framing and Biases: How are proposals contextualized for maximum receptivity and how do we overcome preconceived solutions to poorly characterized problems?

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.

Learning Objectives

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. It is intended to help you 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.

Course Organization and Structure

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., more lasting) Outcomes”, and Section 4 focuses on framing, bias and implications of neuroscience on negotiation dynamics.

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.

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 to four 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.

**Negotiation Exercises**

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. **Students are expected to attend all ten sessions unless an exceptional and compelling situation arises.** 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.

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 upon.

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 may 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.

**Required and Recommended Reading:**

The following texts are suggested for the course:

- **The Art and Science of Negotiation**, Howard Raifa (required)
- **Defining Moments: When Managers Must Choose between Right and Right**, Joseph L. Badaracco, Jr. (required)
- **Thinking, Fast and Slow**, Daniel Kahneman

All three texts are available in the library and through such outlets as Amazon.Com.
The course reader consists of a wide variety of journal articles, discussion papers and case materials oriented toward skill-building. These will be posted approximately a week or two before class 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.

**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, 40% 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 (40%):* Students are expected to not only engage in the negotiation exercises in good faith and in role, but also to contribute to the debriefings and record their personal observations on a class journal.

When you hand in your Final Paper/Exam on the Monday following the last day of class, June 8th, you will also be asked to identify the three classmates who contributed most to your evolution as a negotiation and briefly summarize the reasons why.


*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 4522; times to be announced during the first day of class. Day Phone: (805) 452-9807; e-mail address: jostes@bren.ucsb.edu or jjostes@cox.net.

**Exam Dates:** Midterm—Tentative Due Date for Take-Home Mid-term: February 3, 2012

Final Paper --- March 19, 2012

The midterm date is early in the quarter to accommodate the needs of 2nd-year students working on group projects.
Preliminary Class Schedule and Lecture Topics

Assignments to be completed BEFORE THE FIRST CLASS:

Raifa - pp. 1 – 43
GauchoSpace: Bring Completed Individual Survey Form to class
Review Commonly Used Terms and Definitions

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

Class #1:
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 – Appleton v. Baker
- Debrief
- Assignment for Next Class:
  - Raifa: pp. 44-147
  - GauchoSpace Reading Materials

Class #2:
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 – St. Joseph’s Shopping Mall Part I (6 Party Negotiation)
- Debrief
- Assignment for Next Class:
  - Raifa: pp. 148 – 217
  - Channel Islands NMS – MRWG Facilitator’s Report
  - GauchoSpace Reading Materials

Part 2 – Sitting Down to Talk

Class #3:
Coalitions and Negotiation Dynamics
- Case Example #2 Channel Islands MRWG Process
- Lecture Topics
  - Preparations (Situation Assessment and Convening, Agenda Development)
• Care and Feeding of Constituent Groups
• Outreach and Coalition Dynamics
• Delivering Bad News/Dealing with External Factors

• Simulation #3: Rushing River Clean-up (3 Party Negotiation)
• Debrief
• Assignment for Next Class:
  Raifa: pp. 257–274
  GauchoSpace Reading Materials

Class #4:
Tools and Techniques, Part 1
• Case Example #3 Lower Colorado River MSCP - Part 1
• Lecture Topics
  o Role of Joint Fact Finding
  o Sources of Power and Influence
  o Structural Issues in Negotiations – The use of subcommittees, task forces and working groups
  o Use of a Single-Text Approach to Negotiating Agreements
• Simulation #4: St Joseph’s Shopping Mall Part II (6 Party Negotiation)
• Debrief
• Assignment:
  Charlene Barshevsky (A)
  GauchoSpace Reading Materials

Mid-Term Paper Due: February 3, 2011

Class #5:
Tools and Techniques, Part 2
• Discussion Topic: Crafting Charlene’s Negotiating Strategy – What to do, when and why?
• Lecture Topics
  o Creating and Claiming Value
  o Specific Negotiation Strategies
  o Active Listening
• Simulation #5: Governor Jerry Brown’s New Environmental Agenda for California (5 Party Negotiation)
  Press Conference and Debrief
• Assignment:
  Harborco Generals and Confidentials
  Defining Moments: pp. 1 – 53
  Charlene Barshevsky (B)
  GauchoSpace Reading Materials

Part 3 – Negotiating for Results
Class #6:
Strategic Planning, Part 1
• Discussion Topic: What Charlene did and why?
• Lecture Topics - Advanced Structural Issues
  o Structuring Organizing Questions for Strategic Results
  o Analytics – Currently Perceived Choice Tool & other tools
Elements of a Compelling Argument
- Gaining Closure – Do’s and Don’ts

Class #6: Harborco (6 Party Negotiation)
Assignment:
- GauchoSpace Reader Materials
- CAP Negotiations CD

Class #7:
Dealing with Risk and Uncertainty
- Harborco Debrief
- Negotiating Public Policy at the National Level (USCAP) and the Local Level – Santa Barbara’s General Plan Update
- Lecture Topics
  - Art of Framing and Reframing
  - Prospect Theory
  - Adaptive Management and Contingency Planning in Negotiations
  - When Talks Break Down – dealing with impasse
- Simulation #7: CanTech v.RPM (6 Party Negotiation - two teams of 3 each) – Part 1
- Assignment:
  - Defining Moments: pp. 54-131
  - GauchoSpace Reader Materials

Part 4 – Special Topics

Class #8:
Strategic Planning, Part 2 - TBD
- Discussion Topics: To be selected from the following
  - Dealing with Anger in Negotiations
  - Escalation
  - Dealing with an Angry Public
  - Negotiating in the Political Arena
  - Ethical and Moral Issues – Defining Moments
  - Implementing Agreements and Monitoring Results
- Simulation #8: CanTech v.RPM (6 Party Negotiation - two teams of 3 each) – Part 2
- Assignment:
  - GauchoSpace Reader Materials

Class #9:
Special Topics – Students’ Choice + “Idea Bin” from Previous Class Discussions
- Simulation #9: HackerStar. (1 Hours)
- Assignment:
  - GauchoSpace Reader Materials
  - Preparations for final Class Discussion

Class #10: – Review and Wrap-up
Final Paper: Due on Monday following the last class