

**Talking Points for a Presentation at the 9th Asia Pacific Mediation Forum,
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“Lessons from a Successful Collaboration between the San Diego Gas and Electric Company and its Stakeholders”

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Intro: Good Afternoon! I’m Jan Sunoo, a mediator/trainer and former FMCS Commissioner and this is JC Thomas, who is the Director of External affairs for Sempra which provides the gas and electric for San Diego county in California.

The story is about a year-long negotiation we worked on together in 2009 in San Diego. It involved 53 participants and 28 organizations working together to build a fire safety plan for the county of San Diego, California.

Why is this important?

Globally, we’re finding ourselves in a time of polarization where people refuse to listen to any views that are different from their own. We are losing a vital element of democracy in our societies: we are losing the ability to dialogue with each other constructively. We only have to look at Brexit, US politics, Columbia, Brazil to see how closed off people are becoming to talking to each other. But nowhere is this ability to dialogue with each other more important than when developing policy which directly affect citizen’s lives.

This story demonstrates one way to reclaim that very essential human dialogue.

What Happened? Backstory: San Diego County is one of the world’s most dangerous fire zones. High winds and dry brush make it perfect for wild fires. When the winds blow it causes electrical wires to sway and produce sparks that set fire to the dry brush on the ground. The strong winds fan the flames out of control and fires sweep across the mountains like a hurricane. We are witnessing that right now in Northern and Southern California. 2007 was one of the worst fire seasons in San Diego County’s history.

500,000 people, almost the population of Jeju island, were evacuated from their homes and forced to sleep at the county fairgrounds and in a football stadium in San Diego.

1,650 homes and buildings were destroyed by fires. The cause of the biggest fire was established as winds causing the utility company’s high voltage electric wires to emit sparks that ignited the dry brush. The fire victims sued the utility company for not managing the fire risk properly and in the end more than \$2 billion in claims were paid for damage caused by the 2007 fires.

These events put the utility company under tremendous pressure to improve their fire management and to lower their risk for being sued. So San Diego Gas and Electric Company submitted their fire safety plan to the California Public Utilities Commission who oversees utility companies in California. This plan proposed to cut off power to the county whenever the winds were blowing strongly. So if winds were blowing steadily at 35 mph (miles per hour) or if there were strong gusts of wind to 50 mph, electric power would be cut off.

But customers objected loudly to the shut-off plan because they needed electricity for safety and economic reasons. So the Public Utilities Commission denied approval of the plan and instead ordered the utility company to come up with another plan but to do so **JOINTLY in collaboration with its stakeholders** and to reach **consensus** on the design of the a **joint fire-prevention program** that also included a cost-benefit analysis.

Summary of the conflict:

- Stakeholders wanted and needed power- even during dangerous fire conditions.
- The utility company wanted to keep their customers supplied with power, but not at the risk of causing fires. And they had to lower their liability of being sued.
- The PUC (Public Utility Commission) wanted a viable solution that pleased everyone and still provided safety from fire during high winds.

Who were the stakeholders/customers of the San Diego Gas and Electric Company?

Following the orders of the PUC, the SDGE invited key customers/stakeholders to form a committee to **jointly** create a fire safety plan. They called the group the **Fire Safety**

Stakeholder Collaboration

These 53 stakeholders represented 8 water districts, 5 fire departments, 5 mobile phone providers (ATT, Cox, T-Mobile, Time-Warner, CCT) , 2 community organizations, 1 disability rights organization, the San Diego Public Schools, a tribal gaming resort, 1 county supervisor, 2 county representatives from the County Office of Emergency Services and 18 SDG&E policy makers and technical resource experts.

Who could facilitate this complex negotiation?

To accomplish this task SDGE (San Diego Gas and Electric Company) needed expert facilitators who everyone would accept as fair and neutral and who had the knowledge and skill of how to build consensus among so many diverse stakeholders. After interviewing several candidates, the committee chose the Federal Mediation and Conciliation Service for the job and that's how we became involved.

Who is the Federal Mediation and Conciliation Service

Most people never hear about this boutique federal agency until a major labor strike is in progress and it appears on TV that "a federal mediator has been called in to assist the auto workers and General Motors resolve their 3 week strike".

But this 70-year-old U.S. Government agency is the oldest government mediation service in the world and was the first to successfully pioneer Interest Based Negotiation in labor contract negotiations decades ago. The Agency then found that interest-based negotiations was also a highly effective method for building consensus in many other multi-stakeholder negotiations like Native American/Government negotiations, or land use conflicts involving government, resort developers, ecology activists, and native peoples.

How did the negotiation process take place?

The process began with the Federal Mediators doing a short training workshop for the San Diego Fire Safety Collaboration on the steps of **Interest-based Negotiation**. This was so everyone would have the same expectations about the process.

The mediators explained that the **decision-making process** would be 100% consensus. This would give every member of the group veto power and use consensus rather than voting to reach group agreement. In San Diego, people were willing to try it, although many were skeptical whether such a diverse group of 53 people would actually reach consensus on anything!

The facilitators explained the main difference between traditional adversarial negotiations and the Interest-based Negotiation style that federal mediators were using all around the country.

Comparing Steps of . . .

Traditional Negotiations	Interest-Based Negotiations
<ul style="list-style-type: none"> ■ Define the Issues ■ State Positions ■ Argue for <u>your</u> Position ■ Power/Compromise ■ Settle/Win-Lose 	<ul style="list-style-type: none"> ■ Define the Issues ■ Share Interests ■ Brainstorm many Options ■ Develop Jointly agreed-to Standards ■ Find solutions through consensus

These are the 5 steps of IBN

The 5 steps of Interest Based Negotiations eliminate the 2nd step of Traditional Negotiations where each side stating their Demands/Positions immediately sets up an adversarial and win-lose competition.

In contrast to Adversarial Bargaining, Interest Based Negotiation creates an atmosphere of collaboration by starting the meeting by having everyone share with the group why they are at the meeting, what their key concerns and interests are. This lengthy listening exercise immediately creates a more open and respectful environment among the participants as everyone gets their chance to tell their own story and be listened to by the whole group.

The group collectively fashioned and agreed on an Issue Statement that included the reasons that everyone had for joining the **Fire Safety Stakeholder Collaborative**.

“With public safety as a primary concern, how can we prevent fires ignited by SDG&E’s equipment while minimizing service disruptions in SDG&E’s service territory? And a secondary point: How can we develop and submit a joint fire-prevention program?”

Step 2: Identifying Interests and Mutual Interests.

Once the **ISSUE** was defined in a way that everyone could identify with, the facilitator asked each stakeholder group to share what their key **INTERESTS** or concerns about this **ISSUE** were.

One by one, each stakeholder group expressed their main **INTERESTS** and **Concerns** about the impact of a fire safety policy and these Interests were simultaneously recorded on big sheets of paper and hung on the wall for all to see. A recorder also recorded them on a computer so everyone could later have a record of what was said.

With 28 groups in the room, this process took several hours, but was very useful as each stakeholder learned what was on the minds of everyone in the room.

Then the facilitators asked the group to identify any **MUTUAL INTERESTS** they noted. This process was helpful in getting all the participants to focus on each other’s Interests and Concerns and avoided the divisive effects of everyone insisting on their own demands.

Moreover, it drew people together as they could identify others in the room with whom they could unite on particular interests. Even groups that expected to be at odds with the utilities company found that they had common interests such as keeping costs for a fire safety down so as not to increase rates to customers.

Step 3: Brainstorming Options.

After a comprehensive list of **INTERESTS** and **MUTUAL INTERESTS** were identified and listed on flip charts, the group was invited to come up with specific suggestions or **OPTIONS** to address all the **INTERESTS** related to fire safety in San Diego County. The rule was that **every** idea would be written down and then evaluated later. **NO JUDGEMENT** or **CRITICISM**, just generate as many creative ideas as we can. Hundreds of Options, Ideas, partial Solutions were expressed.

As Options were shared the facilitators were able to group them into **6 main categories**.

- * Communications Concerns
- * Regulatory Concerns
- * Financial Concerns
- * Public Health and Safety
- * Ability to Respond to Emergencies;
- * Reliability and Access to Electrical Power.

6 Work Groups were formed from these categories and they worked to develop solutions using the **Options** the group had generated.

Any agreements which were reached in **Work Groups** were then presented to the **Plenary Session** for approval and only those solutions receiving 100% consensus were adopted by the Fire Safety Stakeholder Collaboration group.

Little by little over the months, each **Work Group** was able to piece together partial solutions that everyone could agree on.

The Results: It took 17 one- and two-day meetings over the next 12 months in San Diego to finish the fire safety plan. In addition, many technical and other sub-committees met between the full meetings to do research for the group or to educate each other.

In the end, the group managed to reach consensus on a vast number of recommended actions and submitted them to the California Public Utilities Commission (CPUC) for approval. Areas where agreement was not reached were addressed openly and alternate avenues for their resolution were clearly mapped out.

On December 2, 2010, a 173-page Final Report from the Fire Safety Stakeholder Collaboration was issued. The report's appendix includes a list of all the **Interests** and **Final Options List** to insure that everyone's contributions and ideas are memorialized.

Interest Based Negotiations is structured to bring out the best in people, as they listen to each other's real **Interests** and **Concerns**, and respectfully consider each other's **Options** or proposals for finding **Solutions**.

Benefits:

- Greater trust and mutual respect built between San Diego Gas and Electric Co. and stakeholders due to transparent process and information sharing
- The joint recommendations to the California Public Utilities Commission carried legitimacy.
- Stakeholders were educated about existing and future plans of service and safety by SDGE.
- Everyone learned about the relative costs of different options for lowering fire risk in San Diego County through a transparent cost/benefit analysis requested by the SDSSC..

“The Secret Sauce” What key ingredients made Interest-Based Negotiations effective for this group?

- 100% Consensus decision-making vs voting or power
- Interest sharing at the beginning instead of everyone taking positions and fighting for them
- Allowing everyone's Options to be shared without judging or criticizing

- Creating a “Joint Problem Solving Feeling” by putting people in mixed Work Groups of their choice.
- Each Work Group becomes responsible for coming up with a solution they thought everyone would agree to.
- Only allowing Work Groups to propose solutions to the main group that they reached consensus on
- Skilled facilitators keeping the process on track and being the cheerleaders for the group.

JC Thomas, was the key representative of San Diego Gas and Electric company and the leader of the team for the utility company. He was the biggest supporter from the company’s side in this long process. With his technical and logistical support team he patiently and respectfully got answers to every question that the stakeholders had and through his always principled and transparent responses to their concerns won the trust and respect of the group. The whole group of 53 participants slowly transformed from a wary and cautious mix of individual negotiators to a cooperative problem-solving group of colleagues showing each other mutual respect and actually liking each other.

Now I’d like to interview JC Thomas and ask him some questions. Then we’ll use our remaining time to open up the discussion to the audience.

Questions for JC Thomas, Director of External Affairs for the utilities company:

- Why did the California Public Utilities Commission insist on a joint process between the utility company and its stakeholders?
- What were the company’s expectations going into this multi-stakeholder collaboration? How long did you expect the negotiations to last? How did you budget it?
- Had the San Diego utility company ever attempted such a large and complicated negotiations?
- How far were you willing to go to allow the stakeholders to influence your decisions on what to put into a county-wide fire safety plan?
- From the perspective of 10 years later, what important learnings or insights have you been able to gain from this long collaboration?
- What things would you repeat? What would you do differently?
- Were there any areas where you or your team felt the process fell short?
- How did this collaborative process influence your relationship with your stakeholders?
- How did this affect any future policies?