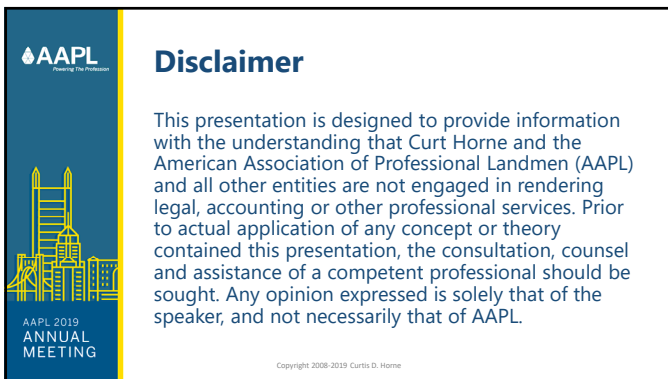




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What is negotiation?

- It is a process of conferring with another party to reach a mutual agreement.
- It is a process of resolving conflicts and of eliminating future conflicts.
- It is not an event, but a process by which responses are induced and information exchanged between the parties to find a workable solution or course of action.

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Definition of Negotiation

The deliberation, discussion or conference upon the terms of a proposed agreement; the act of settling or arranging the terms and conditions of a bargain, sale or other business transaction.

- Black's Law Dictionary

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Negotiation is a Skill

Good negotiators are not necessarily born – they are made from their multitude of experiences. Negotiation is an art and a skill that can be improved.

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Forms of Negotiation

- Individual with Individual
- Company with Company
- Individual with Company/Group



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Land Negotiations

- Negotiation is one of the primary functions of a landman.
- A landman previously did not qualify for AAPL certification (CPL/RPL/RL) unless his job included negotiation.
- Negotiation sets the landman apart from other land professionals.



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Types of Land Negotiations

- Oil and gas lease/option acquisition
- Farmins and farmouts
- Pooling and unitization agreements
- Gas sales contracts
- Prospect funding
- Acquisitions and divestitures
- Obtaining title curative
- Presentations to management



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Lease/Option Acquisition

Field work provides the opportunity to deal with all types of people and provides an excellent foundation upon which to build negotiation skills.



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Farmins and Farmouts

Well negotiated farmins and farmouts are excellent ways to maximize a company's exposure to exploration opportunities.



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Pooling and Unitization Agreements


The landman may be called upon to negotiate a pooling agreement or to convince royalty owners to agree to a field-wide unit.




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Gas Sales Contracts

Proper preparation and a thorough knowledge of the process are necessary to negotiate favorable gas sales contracts.

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Prospect Funding

Negotiating favorable funding arrangements, when necessary, can make or break a deal.

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Acquisitions and Divestitures

The negotiation skills of the landman can play a major role in the A&D process.

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Obtaining Title Curative

Many times a landman must negotiate in order to obtain required curative documents.

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Presentations to Management

Last, but not least, a landman must continually negotiate with his management. The approval of his recommendations depends upon his presentation, which is one form of negotiation.

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Types of Negotiations

There are two basic types of negotiations:

- Competitive
- Collaborative

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Competitive Negotiations


In competitive negotiations, one side wins and one side loses. Both sides are not necessarily happy, and the agreed upon deal may become difficult to manage. Quite often the losing side will try to “get even”. Competitive negotiations can be fatal to long-range relationships.

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Collaborative Negotiations


Collaborative negotiations bring about results from which both sides gain and therefore both sides are pleased. With collaborative negotiations, one can bargain to his best advantage and still be fair. Leaving the negotiating table on friendly terms helps build beneficial long-term relationships.

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Negotiating Style

Each negotiator has his or her own negotiating style and learns to adapt to each situation as it arises. What may be a successful style for one may not work at all for another.

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Styles of Negotiation

- Aggressive – used car salesman; won’t take “no” for an answer.
- Business – systematic approach based on knowledge and sound judgment.
- Passive – can be very effective when dealing with one who badly wants or needs to trade.

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Styles of Negotiation


- Personality – “silver-tongued devil”; rarely effective long-term.
- Power – perhaps the most effective style, but dangerous if improperly used.
- Combination – a skilled negotiator will use a combination of styles, based on the situation.

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Sources of Power

- Obligation – opposition obligated to you
- Reward – what you can give
- Personal influence – what you can do
- Coercion – compel by intimidation or force
- Expertise – superior knowledge in area
- Position – office of authority
- Collaboration – work cooperatively

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Characteristics of a Good Negotiator

- Well prepared
- Skilled communicator
- Innovative
- Intuitive
- Credible

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Well Prepared


A successful negotiator must always be extremely well prepared. Poor planning can be disastrous - one cannot rely on luck or the ability to "play it by ear".

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Skilled Communicator

Negotiating consists of talking, observing and listening. The goal is to persuade the other side to understand, then consider, and finally accept your perspective. While it is important to be able to articulate your position, it is arguably **more important to listen**. Don't be afraid of silence.

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Listening

It is critical to listen well; not just to the words, but to the meaning. The other side may often tell you what you need to do to close the deal, so do not hesitate to ask, and then listen.

When making an offer, state your terms and stop talking.

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Innovative

Just because the industry practice is to do something a certain way does not mean it is necessarily the best way, particularly in a difficult situation. Do not be afraid to suggest a new idea. There may be something to the cliché “Think outside the box”.

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Intuitive

Intuition comes from a combination of knowledge and experience, and is the mark of a good negotiator. Learn to get the “feel” of the other side’s true position, regardless of his statements and actions.

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Credible

Solid credibility is absolutely essential for a good negotiator. If the other side cannot believe or trust your statements, then it is almost impossible to come to an agreement. It is equally important to follow through on commitments to insure long-term success.

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How to Prepare for Negotiation

- Define your objectives
- Know your limits
- Establish a timetable
- Secure authority from management
- Appoint a spokesman
- Gather all available information

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Define Your Objectives

Determine your reason for the negotiation, and your desired results. It is impossible to meet your goals if they have not been clearly defined.

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Know Your Limits

Set the limits, both high and low, that are acceptable. Be prepared to walk away from a bad deal.

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Establish a Timetable

Know the desired timing for the conclusion of the negotiating process and the implementation of the agreement.

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Secure Authority from Management


Obtain approval from management for the objectives, limits and timetable. The broader the authority obtained, the more flexibility you will have in your negotiations.

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Appoint a Spokesman


It is critical to appoint a spokesman, and to let that individual do all of the talking. The presentation of conflicting positions results in the loss of credibility, and can create confusion.

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Gather Information


Whether buying or selling, gather all available information regarding the deal. The more knowledge you have about the situation, the greater your chances of success. Try to know the answer before you ask the question.

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Develop Information on the Spokesman for the Other Side

- Does he have the authority to make the deal?
- Does he have credibility?
- Does he have personal motives?
- Is he an experienced negotiator?
- Is he a competitive or collaborative negotiator?

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Arranging the Meeting

- Meet on your home ground if possible; if not, choose a neutral site.
- Compile a list of attendees, and match your list to that of the other side.
- If possible, establish an agenda in order to stay focused.

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The Negotiation Session


- Make an opening statement as to the purpose of the meeting.
- Each side should state their position.
- Move from areas of agreement to areas of disagreement and possible solutions.
- After discussion and concessions, broadly describe the tentative agreement.
- Reduce the agreement to writing.

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Ethics and Negotiation

As stated earlier, solid credibility is essential in order to be a successful negotiator. The use of material non-truths in order to gain an advantage in negotiations is not only unethical, but may constitute fraud, which can result in the voiding of a contract.

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Ethics and Negotiation


Word as to the reputation and ethical conduct of an individual spreads rapidly in this industry. A tough but fair negotiator with high ethical standards gains the respect of those with whom he deals. Honesty, integrity and those high ethical standards are the mark of a good negotiator, and the mark of a good landman.

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Questions or comments?

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