

# FERC

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## ADR NEWS

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Federal Energy Regulatory Commission

## What to Expect in Mediation

Mediation is an alternative dispute resolution (ADR) process traditionally characterized by the intervention into a dispute of an acceptable and neutral third-party who has no decision-making authority. The intent of third-party intervention is to assist parties in voluntarily reaching a mutually acceptable resolution of the issues in dispute. The mediation process is voluntary and confidential and does not eliminate other dispute resolution options.

The mediation process is designed to establish trust, explore issues and interests, and jointly create solutions. Often, before parties consider mediation, they have been involved in positional negotiation, arguing over who is right and who is wrong. When unassisted negotiation fails, a third-party, such as a mediator, can intervene.

The mediator, as third-party intervener, helps the parties to move beyond their positions to a point where they are able to explore their interests and jointly develop options. As a process expert, the mediator acts as a catalyst for the parties' own involvement by getting the process started and facilitating the negotiations between the parties. Mediation, therefore, creates an outlet for clearer understanding of the issues in dispute and how the parties in conflict relate to one another.

### Key Elements of Mediation

There are three elements that comprise the core of mediation and set it apart from other dispute resolution processes. The first core element is the *neutrality* of the mediator. Neutrality means that the mediator does not have a stake in the outcome and implies impartiality.

The second core element is that participation in mediation is *voluntary*. Parties may be encouraged to try mediation but it is up to them to determine whether they want to commit to the process.

The third core element of mediation is *confidentiality*. Maintaining confidentiality is essential to the effectiveness of the mediation process since it frees parties to be open to addressing interests rather than positions.

The role of the mediator is to assist parties in reaching agreement. Unlike arbitrators and judges, mediators do not impose decisions on the parties. The intervention of a third-party neutral or mediator provides structure for the parties to discuss their perspectives and issues, move toward understanding, generate options, and finally come to a mutually satisfactory solution. The parties are in the position to create their own solution. Because of this, agreements that come out of mediation are often implemented more easily. A sense of ownership contributes to the success of the agreement.

## The Mediation Process

The mediation process described here is a step-by-step progression. In practice, the process may move forward in a less linear, simple path. The key is to understand the steps of the process and the goals of each step.

In the *convening* stage, the goal for the parties is to develop trust in the mediator and the mediation process. Initial convening conversations may take place in person or over the phone. It is necessary to gather background information about the parties and the dispute, to describe the mediation process and the role of the mediator, and to identify all interested parties and make sure that they are participating. Since participation is voluntary, it is also important to acknowledge that the parties chose to participate in mediation.

Agreeing on general ground rules sets the stage for discussions. Common ground rules include: speaking civilly, agreeing on commitment, and maintaining confidentiality. The confidential discussion assures parties that information they share will not be disclosed. Parties may sign a written agreement to mediate at this point.

In the *understanding* stage, the goal is for the mediator and the parties to listen to each party in order to understand the issues. This stage can vary depending on how the parties present information-- general storytelling or venting.

The opportunity for the parties to tell their stories may be the first instance in which they have been given the opportunity to present their story uninterrupted. If emotions become too high or a party wants an individual discussion, mediators may call a break or hold caucuses with the different parties. Caucuses are private, separate meetings with the mediator where a party can discuss issues and options.

Once the parties have presented their stories and issues are identified, it is time to identify interests. Interests include the parties' needs, concerns and hopes. To elicit interests, the mediator often asks questions to uncover/understand why a party has a particular position. One challenge in this step is to have each party acknowledge the other's interests

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with respect to each issue. Developing interests is a critical step because parties often get stuck on their positions and/or fail to recognize that parties may have additional interests that could contribute to a better understanding and resolution.

The *options* stage has two steps. The first step is to develop options or brainstorm. During brainstorming, all options are placed on the table without judgment or evaluation. This is a potentially challenging task because the parties may not agree with the options generated. However, providing the brainstorming opportunity allows the parties to express themselves as thoroughly as possible. It is important, then, for the mediator to maintain the ground rules and respect.

The second step is evaluating the options. Using objective criteria to evaluate proposals on the table can be beneficial in assessing options. This is an opportunity to explore each party's best alternative to a negotiated agreement (BATNA). A party's BATNA is an action that the party can take if no agreement is reached.

In the creating *proposals* stage, parties pick and choose viable options and build on these to reach consensus.

In the *closing* stage, the parties prepare, review and sign a written agreement. In addition, the parties discuss a timeline and set bench marks to implement the agreement.

### Conclusions

Mediation creates an environment in which the parties are able to discuss their interests, not just positions. Entering mediation, the parties may not know what they really want or may be too emotional to express what they want. Mediation may be the first opportunity for parties to consider what they really need.

As a process expert, a mediator changes the momentum of the dispute by creating an avenue for the parties to come to their own decisions. It is important to note that mediators may adopt different styles depending on their personal preference or the nature of the dispute.

A key measurement of the success of mediation is whether the parties were satisfied with the process, believing that

their interests were heard and acknowledged, even if agreement is not fully achieved. Through the mediation process, the parties learn to communicate better and thus minimize conflict in the future. 🌱

--Rebecca Ratner

## Western Energy Crisis: Morgan Stanley US Supreme Court Remand

In February of 2011, the Dispute Resolution Service (DRS) concluded the final mediation in a series of five disputes remanded to the Commission by the United States Supreme Court. The disputes were subsequently referred to the DRS and included: Snohomish v. Morgan Stanley; Golden State Water Co. v. Mirant American Energy Marketers; NV Energy v. Allegheny Energy Supply Company; NV Energy v. AEP; and NV Energy v. BP Energy. The disputes arose out of the 2000-2001 Western electric energy crisis and concerned a series of wholesale energy contracts entered into during the period of market dysfunction. Over the span of seven years, these disputes proceeded through lengthy and expensive litigation before being referred to the Commission's DRS.

With mediator assistance, parties resolved their disputes over appropriate refund amounts through consensual agreement, finally allowing the parties to put this litigation and the potential for endless appeals behind them. The settlements provide financial certainty, which has allowed these companies to focus on the future, permitted the Commission to avoid expending valuable resources, and supplied significant refunds directly to the ratepayers, in excess of \$20 million in aggregate.

## Parties Settle Complex Transmission Case

The DRS mediated and resolved a complex case involving, the Midwest Independent Transmission System Operator (MISO), the Midwest Municipal Transmission Group (MMTG), the Municipal Energy Agency of Nebraska (MEAN), and MidAmerican Energy Company (MA). The DRS mediator continued to ask the parties questions until they

understood and appreciated each others' real concerns: adequate transmission rights for MMTG and MEAN members, a low cost solution for MA, and adherence to existing tariff provisions for MISO. MMTG and MEAN are groups of municipal electric utilities that sell electricity at wholesale and retail.

In September 2009, when MA integrated into MISO, the MISO transmission arrangements applied to MA, changing the way MA's transmission was utilized. Since MMTG and MEAN are connected to or utilize MA's transmission, the amount of transmission available to them was reduced as a result of the changed transmission arrangements. MMTG and MEAN thought they would have to buy additional transmission rights costing millions of dollars and wanted MA to share in that cost. With the mediator's assistance, the parties developed a settlement agreement where all MMTG and MEAN members receive an acceptable level of transmission rights in a way that minimizes MA's costs and allows MISO to implement the changes under its existing tariff terms.

## Settlement Promotes Public Power Investment in Transmission

The Commission's Strategic Plan encourages building of new electric transmission facilities that advance efficient transmission operation. Further, to encourage greater investment in the Nation's transmission infrastructure, the Commission allows entities willing to invest in certain types of transmission to collect higher rates than they would otherwise (called incentive rates). A number of entities, large and small, were willing to invest in the CapX2020 Brookings Project, a proposed 240 mile, 345 kV transmission line. The Commission had approved incentive rates for those entities willing to invest in the line, except for the

Central Minnesota Municipal Power Agency (CMMPA), who filed with the Commission for incentive rates for investing in the Brookings Project. Xcel Energy Services, who was investing in the Brookings Project and had Commission-approved incentive rates, the Midwest Independent System Operator Transmission Owners, and the Midwest Independent System Operator objected to some aspects of CMMPA's proposed incentive rates and to CMMPA's proposed timeframe to begin collecting the rates.

The DRS mediator assisted the parties to reach agreement on CMMPA's proposed incentive rates. The parties concluded that deciding when CMMPA would start collecting the rates was a policy issue that the Commission should address. The parties filed a settlement agreement, which the Commission accepted, and made a separate filing for the policy issue, which the Commission addressed. The settlement agreement allowed CMMPA to move a step closer to investing in the Brookings Project and building a new transmission line. 🌍

## 2011 DRS Helpline Overview, Trends and Themes

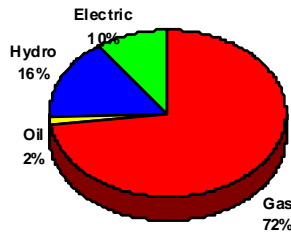
Through the DRS Helpline, the DRS provides parties with a process and skills to productively manage conflict and, possibly, prevent it from arising in the future.

The complexity of issues and the number and sophistication of parties vary with each Helpline call. Some parties call to garner information about Commission guidelines or the most appropriate office to assist them with their concerns. Others call because unassisted negotiations have failed and they need a third party intervener to restore communication and move parties forward. Whether a straightforward or complex issue, whether a two-party or multi-party dispute, however, the availability and accessibility of the DRS are the same. The DRS is a neutral and impartial service for all parties on Commission jurisdictional issues. The DRS provides a resource for parties, and this resource is a fair process for addressing and, hopefully, resolving concerns.

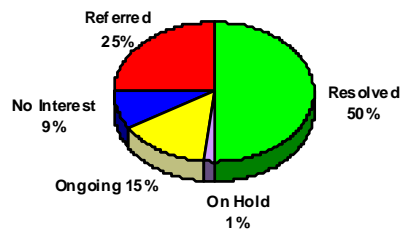
Approaching the end of its second year administering the Helpline, the DRS has observed the trends and themes of callers availing

### DRS Helpline Period Trends

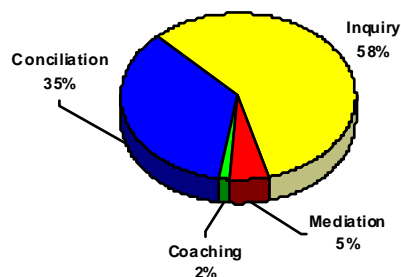
Helpline Actions by Sector (FY 2011)



Helpline Actions by Status (FY 2011)



Helpline Actions by Process (FY 2011)



themselves of the resource offered by the DRS.

#### Trends:

Of the matters that came to the DRS during this period, 50 percent were resolved, which means that the parties came to a mutually acceptable resolution to the issues in dispute. Of the matters that were not resolved, 25 percent were referred to other offices within the Commission or entities outside the Commission. An additional 15 percent of cases remain open and ongoing as the DRS specialists continue to work with the parties to come to an acceptable resolution. Nine percent of callers to the Helpline did not have an interest in pursuing an ADR process. One percent of cases remained on hold.

Overwhelmingly, the landowners who contacted the Helpline during this period expressed concerns about property restoration. For example, a landowner contacted the DRS Helpline to express concern about restoration of his property in the wake of a pipeline expansion project. The DRS staff contacted a company representative to apprise him of the landowner's concerns regarding sod, irrigation, fencing, and

location of his property line. The company worked with the landowner to resolve these issues – and the landowner expressed his satisfaction with the outcome. Of the Helpline calls by sector, 72 percent pertained to natural gas pipeline issues, though hydropower concerns were raised as well (16 percent). Also, the DRS received calls pertaining to electric issues (10 percent) and oil issues (2 percent).

Of the ADR processes begun, the majority of calls were inquiries (58 percent), in which a DRS specialist provided assistance to landowners on how to access information – or directed the caller to an appropriate resource (in or outside of the Commission, depending on whether the matter is jurisdictional). In 35 percent of the Helpline calls, the DRS neutral employed conciliation, early neutral evaluation, or facilitation to reach resolution between the parties. In conciliation, the DRS specialist opens lines of communication between parties to clarify misunderstandings and pave the way for the parties to resolve their dispute.

In an effort to prevent potential conflicts, the DRS neutrals employed early neutral evaluation, in which the parties and their counsel present the factual and legal bases of their case to a neutral evaluator—often someone with relevant legal, substantive, or technical expertise or experience—who then offers a non-binding oral or written evaluation of the strengths and weaknesses of the parties’ cases. In 5 percent of the Helpline calls, the DRS neutral employed mediation to reach resolution between the parties.

Themes:

Research shows that conflicts are typically handled in one of three ways. Conflicts are resolved based on rights: Who is right? Conflicts are resolved based on power: Who is most powerful? And conflicts are resolved based on interests: What do we really need? The key to effectively handling conflict is determining the approach that is most appropriate for the dispute at hand. While matters that come to the DRS Helpline encompass rights and power dimensions, overwhelmingly, the calls center on interests. Interests include the parties’ needs, concerns and hopes. The DRS specialists work with all parties in an appropriate process to uncover these interests and, through this effort, to identify mutually acceptable terms for resolution.

The value of the interest-based approach seems to be catching on. Commission regulated entities continue to be proactive in calling upon the DRS to

resolve disputes, many before conflicts have persisted to the point where positions are hardened and resolutions more difficult to achieve. To build their own capacity in conflict resolution, some Commission regulated entities have also reached out to the DRS for training in effective communication and interest-based negotiation.

The DRS encourages calls and questions to the DRS Helpline in matters within the Commission’s jurisdiction. Whether early or late in the conflict cycle, whether before or after a matter has been filed with the Commission, the DRS is available as a resource for all. So give us a call! 📞

## Stay Tuned!

The DRS is in the process of developing online training and other tools for land agents and property owners to assist them in preventing and managing conflict.

## DRS and Dominion Transmission Share Ideas Concerning Landowner Disputes

In an effort to promote conflict prevention, the Commission's Dispute Resolution Specialists and Dominion land agents participated in a workshop last fall on the use of alternative dispute resolution (ADR) and the role of the DRS. A discussion on conventional versus interest-based negotiation led to lively conversations about looking at the common interests of companies and landowners as they relate to easement agreements, the construction of pipeline projects, and the restoration of landowners' properties.

The DRS emphasized communication as a critical element in achieving interest-based solutions to disagreements between pipeline companies and landowners. The discussion focused on two techniques: listening to understand and questioning to obtain desired information. These techniques can help open up the lines of communication between companies and landowners; helping both parties appreciate what is important to the other side and work together to generate their options for achieving agreement.

The DRS also discussed the use of legitimate criteria for establishing what is fair for the company and landowner, and remembering the importance of future relationships for all parties. Companies will continue to be involved with landowners as they maintain right-of-ways and possibly consider future pipeline construction on these landowners' properties. The DRS spoke of the role that they can play in bringing parties together to work through their disagreements and to save time and avoid costly litigation. They gave examples of how the DRS has resolved many Helpline cases.


Dominion land agents also shared their creative approaches to working with landowners such as providing information to landowners as to what to expect during construction and restoration, and a timeframe for achieving both these. Participants called the DRS presentation "thought-provoking, effective, and interesting," and suggested that

training in the operational environment (not just pipelines but storage fields as well) would be beneficial. This information exchange will help DRS in designing future training.

Promoting the use of ADR within and outside the Commission and encouraging conflict prevention are important elements of the Commission's strategic plan. The DRS will continue pursuing its efforts in these areas.

## 53rd Annual Regulatory Studies Program

In August, the DRS held two workshops at the Institute of Public Utilities Annual Regulatory Studies Program (Program) sponsored by Michigan State University's Institute of Public Utilities (IPU-MSU). The workshops, which encompassed an overview of ADR and detailed information about mediation, were attended by regulators from many different countries. The DRS staff has served on the faculty for the Program for five straight years.

IPU-MSU is a not-for-profit, non-partisan research and training center designed to promote education and research in the public utility fields. It supports informed, effective, and efficient regulation of the electricity, natural gas, water, and Telecommunications industries. 



## DRS Engages the Oil Pipeline Sector on ADR

In addition to bringing cases to resolution through ADR methods, the DRS continued to fulfill its responsibilities in the Commission's 5 Year Strategic Plan to educate external stakeholders in collaborative problem-solving tools in order to develop and ensure a reliable energy infrastructure. To that end, the DRS presented at the September 2011 Annual Business Conference of the Association of Oil Pipe Lines (AOPL) in Denver, Colorado.

The DRS discussed the Commission's perspective on the panel session entitled; "Dispute Resolution at FERC and PHMSA" which addressed processes and pathways to resolve a broad spectrum of oil disputes. The session encompassed a look at the Commission's Rule 604 on Alternative Means of Dispute Resolution, including settlement negotiations, conciliation, facilitation, mediation, early-neutral evaluation, and mini-trials. The DRS also addressed the Commission's Rule 603, Settlement of Negotiations before a Settlement Judge, comparing and contrasting the various processes aimed at fostering agreement among parties. Finally, the session examined the role and trends of the Commission's DRS through its 12 year history of resolving a range of disputes, including those affecting oil pipelines. According to AOPL, upon reviewing all participant evaluations post-conference, interest in and response to the Commission's ADR program was among the highest.

## Building Capacity for Broad Use of Environmental Conflict Resolution (ECR) to Resolve Cultural Resources Conflicts

To foster increased use of ECR processes and tools, the DRS and the U.S. Institute for Environmental Conflict Resolution partnered in co-leading a workshop on ECR skill sets at the 2011 American Cultural Resources Association (ACRA) Conference in St. Charles, Missouri. ECR is the use of third-party assisted conflict resolution and collaborative problem solving methods to address environmental, public lands, or natural resources issues or conflicts, including matters related to energy,

transportation, and land use. The workshop targeted cultural resource consultants who assist energy project sponsors, other entities and agencies in implementing Section 106 of the National Historic Preservation Act (NHPA). The Commission and other federal agencies are required to take into account the effects of their undertakings on historic properties. Historic properties are inclusive of archaeological sites, buildings and structures, historic landscapes and properties of religious or cultural significance to Indian tribes.



Since the Commission's DRS was established in 1999, part of its administrative function has been to equip energy and environmental stakeholders with ECR skill sets to better address environmental and cultural resources in the course of their project activities. Section 106 disputes on both large and small energy projects can be highly controversial. They can involve multiple stakeholders with different and competing business, environmental, and heritage interests. Energy company representatives, federal and state agencies, non-governmental organizations, private property owners and others all need to be heard and understood "at the table" in order for them to work out mutually satisfactory

solutions. ECR tools foster good communication through active listening and negotiation based on interests rather than positional bargaining and usually play a key role in bringing stakeholders to agreement. The highly participatory and interactive workshop introduced participants to a broad range of useful concepts and skills they can apply in the Section 106 process to achieve resolution from the earliest stages of a project.

Annually, the Commission and other federal agencies submit a report to the Office of Management and Budget and the Council on Environmental Quality on steps agencies are taking to increase ECR's use. This outreach is a welcome addition to the Commission's report on Fiscal Year 2011 activities. To review more about ECR across the federal government, visit this link:  
<http://www.ecr.gov/Basics/Basics.aspx>

**DRS Partners with the U.S. Institute to Plan, Facilitate and Participate in Biannual Native Skills Exchange Workshop**

Many federal agencies recognize the Commission's established ADR program and broad support for the increased use of ADR in the Commission's 5-Year Strategic Plan. For the second time, the U.S. Institute on Environmental Conflict Resolution contacted the DRS to partner with the Institute's Native American/Native Alaskan Heritage Program and Native Dispute Resolution Network to plan and participate in the 4th biannual Native Skills Exchange Workshop. The U.S. Institute on Environmental Conflict Resolution, a program of the Udall Foundation and an independent federal agency based in Tucson, Arizona was established in 1998 to resolve environmental disputes involving federal actions by providing mediation, training, and related services. The six-month planning effort culminated in three days of sessions on the ancestral lands of the Chumash people in the Santa Ynez Valley, California. The gatherings typically take place on Indian tribal reservations or the ancestral lands of Native Americans.



The Chumash People's indigenous homeland stretches from Morro Bay in the north to Malibu Point in the south, and encompasses the northern Channel Islands of Tuqan, Wi'ma, Limu, and Anyapakh (San Miguel, Santa Rosa, Santa Cruz and Anacapa).

The Skills Exchange Workshop brought together qualified Native and Non-Native mediators and peacemakers from Indian tribes and associations, government and the private sector to foster dialogue, creativity, and openness among participants and for participants to share their experiences with intercultural conflict resolution. In addition to co-planning the event, speakers and program agenda, the DRS and the Institute's Native American lead co-facilitated a highly interactive session on Federal-Tribal consultation.

Twenty-five participants, divided equally among Native and Non-Native Environmental Conflict Resolution (ECR) practitioners, all engaged in facilitated dialogue in group and breakout sessions on working in a new era of Indian Policy. Focus also centered on the process role ECR practitioners could play in government-to-government consultation. With Executive Order 13175 on consultation

and coordination with Indian Tribal Governments, and Presidential memorandum on Tribal Consultation issued on November 5, 2009, the outcome of the facilitated discussions resulted in this culturally diverse group of practitioners attesting to the importance of direct contact and interactive dialogue with Indian tribes in a government-to-government consultation process. Among the policies and federal consultation plans reviewed, the Commission's Policy Statement on Consultation with Indian Tribes in Commission Proceedings (issued July 23, 2003) received high marks from the practitioners. The Commission's policy statement provides the opportunity for federal authorities and Native American governments to engage directly in meaningful dialogue.

All sessions provided Native and Non-Native mediation practitioners, the DRS among them, opportunities to learn from each other's mediation experiences on what worked well and what could be improved regarding good process for conflict resolution. The practitioners also learned about new models being introduced in culturally rich settings that incorporate traditional ecological knowledge, indigenous values, and language and culture to successfully address environmental and heritage conflicts. Finally, the skills-building sessions provided the DRS with an opportunity to network with Native and other peacekeepers and to acquire knowledge on culturally appropriate ways to mediate intercultural disputes in Commission proceedings. 🌍

### Field Visit to Syuxtun Story Circle



Native skills exchange participants visit the Syuxtun Story Circle with Tiamara Link, Santa Barbara Chumash, shown inside the circle. Syuxtun is the principal Chumash village of ancient Santa Barbara. The twenty-foot mosaic was created with over 200,000 pieces of tile that were placed by over 200 volunteers from the Chumash community and their friends. The stories within the circle are kept alive and vibrant by the memories of Chumash ancestors and are dedicated to those to come.

## How We Decide: A book by Jonah Lehrer

Why write a book about the decision-making process? Jonah Lehrer wanted to understand why it took him so long in the cereal aisle of the grocery store to make up his mind about what type of cheerios he should buy – the Apple Cinnamon or the Honey-Nut varieties? The focus of his book is on how the human brain works, why we make the decisions we do, and how we can go about making decisions more skillfully, using brains and emotions.

The author uses the experiences of real people such as airline pilots, hedge fund investors, NFL football players, political pollsters, firefighters and poker players to illustrate what they do right and wrong when they make decisions. In the stories Lehrer tells, many of these individuals have had to make quick decisions, build strong decision-making skills, or face tough choices. Lehrer puts these decision-making skills under the microscope. He is excited that this is the first time in human history we are able “to look inside the mind and see how we actually think.”

After opening up the black box of the human brain, Lehrer says the assumption of human rationality by Plato and the ancient Greeks is flawed. He writes that: “It turns out that we weren’t designed to be rational or logical or even particularly deliberate. Instead, our mind holds a messy network of different areas, many of which are involved with the production of emotion. Whenever we make a decision, the brain is awash in feeling, driven by its inexplicable passions.” While we attempt to be reasonable and restrained, Lehrer writes “these emotional impulses secretly influence our judgment.” He believes that much of what we think is driven by our emotions.

What is the secret recipe for decision-making? Lehrer says that there is none, that there is no one strategy that is effective in every situation because of the complexity of our world. The thought process we use in the grocery store picking out Cheerios is not the same one we would use in the Oval Office. “Sometimes we need to reason through our options and carefully analyze the possibilities,” he writes. “And sometimes we need to listen to our emotions and gut instinct. The secret, of course, is knowing when to use

different styles of thought –when to trust feelings and when to exercise reason.” The way we decide is dependent upon what we are deciding.

Lehrer says, “The first step to making the right decision, then, is accurately diagnosing the problem and figuring out which brain system to rely on. Should we trust our intuition or calculate the probabilities. We always need to be thinking about how we think.” We need to become better listeners of our brain, to hear the argument inside our head. The more expertise we have acquired in an area, the more we should go with our gut. The less expertise we have in an area, the more we should use methods to structure and guide the process we use to make decisions.

Our emotions can be intelligent because they can turn mistakes into educational events. Although we may not realize it, we are constantly learning from our experience and developing expertise. Feelings often capture the wisdom of experience and it can be helpful to trust our emotions when making decisions in that domain.

Lehrer talks about the limitations of the human brain and says it can only handle around seven pieces of data at any one moment. When we are confronted with too much information, it can prevent us from understanding, and this can lead to bad decisions or even inaction. To remedy this situation, individuals should develop ways to build down information or view it in manageable chunks.

Rationality can sometimes lead us astray. Lehrer uses the example of a famous opera singer and pro golfer who thought too much about how they did things and how over thinking caused havoc with their performances. Over thinking at the wrong moment did not allow them to use the wisdom of their emotions. Lehrer points out that the worst decisions occur when we silence our emotions or allow them to overwhelm us. “In order to make the right decisions,” Lehrer writes, “the mind needs emotional input. The emotional input needs to exist in dialogue with the rational analysis.”

Lehrer discusses the sin of certainty. “People feel good when they are certain and confident and have a tendency to cherry pick information they want to follow.” However, this close-mindedness or neglect of viewing relevant or conflicting information may lead to bad decisions because we have cut short the mental debate. We can embrace uncertainty by making ourselves interpret the facts of a situation through a different perspective and by reminding ourselves about what we do not know about that situation. Lehrer tells us to reflect upon General Colin Powell’s advice: “Tell me what you know. Then tell me what you don’t know, and only then can you tell me what you think. Always keep these three separated.”

In conclusion, Lehrer is asking his readers to be aware of the kind of decisions they are making and the kind of thought processes they require. He says to use our brains in the best way possible by studying our brains at work, and thinking about how we are thinking so we can make better decisions. In regard to the Cheerios, Lehrer says stop wasting time on irrelevant decisions and buy your three favorite varieties of Cheerios and combine them in your cereal bowl. A perfect solution! 🍌 -- *Paula Felt*

### Other Notable Titles

***Winning Decisions: Getting It Right the First Time*** by J. Edward Russo and Paul J. H. Schoemaker:

The authors give readers a “...clear, straightforward explanation of how managers should perform one of their most basic tasks: making a decision.” They spell out a four-step process for making the right decision and making it right away: reframe issues to make sure the real problem is being addressed; gather and convert expert intelligence yet differing opinions into useful insights; draw conclusions by analyzing how your organization acts on the intelligence gathered; and learn from your past decisions and those of others.

***Improvisational Negotiation*** by Jeffrey Kravis:

Jeffrey Kravis is an instructor at Pepperdine University and explains to his students that he found the best way for him to learn to be a good mediator was to take an “Improvisation” class. While he believes the course was one of the most difficult he has taken in his career, it prepared him to be ready for the give and take of mediation. Through the use of entertaining but true stories, his book focuses on the skills and tools a good mediator needs to be able to direct a successful negotiation.

***The Mediation Process: Practical Strategies for Resolving Conflict*** by Christopher W. Moore (Third Edition):

This book is often the textbook of choice by those who teach mediation at the university level. One full-time mediator and trainer said “It’s the most thorough and thoughtful work on mediation, mediation history, and how mediation works. It’s the backbone of every training program I’ve attended as well as my own trainings.”