

In Search of Dry Land: Debating U.S. Ocean Policy

by
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This year's resolution asks the question of whether or not "the United States federal government should establish an ocean policy substantially increasing protection of marine natural resources." This is not a new question: environmental advocates and political interests have been debating this question, although not with great frequency, for thirty years. Since oceans make up over 70% of the land mass of the earth, and arguably provide the raw materials necessary for human survival, it is an important question.

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The case to answer the question in the affirmative is a strong one. There are a large number of reputable studies that indicate that our ocean ecosystems are facing many serious threats and that the survival of these ecosystems is critical to the survival of the human species. Affirmatives will be able to choose from hundreds of different, specific proposals to advance the protection of marine ocean natural resources and negatives will struggle to link broad generic disadvantages and kritiks to a plethora of different affirmative cases. The breadth of this topic and the relative weakness of generic negative positions will leave most negatives in search of dry land.

This article begins with my examining some of the key terms in the resolution. In order to provide some background to the core topic areas, the article includes a history of U.S. ocean policy and then introduces the harm areas, solvency mechanisms, likely generic disadvantages, and kritiks. It concludes with a discussion as to how to approach the topic from a strategic point of view. Given the breadth of the topic, only a strategic approach can prevent the negative from literally drowning in a sea of affirmative ground.

Definitional Issues

Leaving a larger topicality discussion of each word in the resolution for a later day, this discussion will focus on the words and phrases that make this topic unique and that are important for establishing negative ground.

One of the most important phrases in this year's resolution is "ocean policy." Although the phrase is used frequently in the literature, I have yet to see any definition of the term, vague or otherwise. Until then, it is useful to define each word separately.

Oceans

"Oceans" are defined by the *American Heritage Dictionary of the English Language* as "The entire body of salt water that covers more than 70 percent of the earth's surface. The "ocean" is dividing into a number of oceans, "including the Atlantic, Pacific, Indian, Arctic, and Antarctic oceans" (Ibid).

There is a popular misconception that ocean waters are not U.S. territory. This is not true. The U.S. has always claimed legal authority over ocean water within three miles of its territory. In 1983, ocean waters where the U.S. retains the exclusive right to develop resources were enlarged from the edge of the continental shelf, which is often less than 10 miles from the coast, to 370 km (about 200 miles) offshore and its territory was extended from 3 to 12 miles. This 200 mile EEZ was established under the Convention of the Law of the Sea. Although the U.S. has not ratified the Convention, it does accept the 200 mile EEZ.

There is no strong argument that the affirmative's policy has to cover the entire ocean or, more specifically, all oceans. First, there is nothing in the resolution that requires the policy to apply to all oceans. Second, in the resolution, "ocean" is singular, suggesting, at the very least, that the policy does not have to apply to all oceans. Third, it is really even illogical to argue that the affirmative has to cover all oceans since no "environmental policy" would deal with all aspects of the environment. It would be rather silly to require the affirmative to adopt a "one size fits all" approach since it is unlikely that any one ocean policy could serve to protect all fish, all coral reefs, stop over fishing, prevent oil spills, and eliminate any other harm that the negative may be able to identify. Fourth, since the United States doesn't have any authority to regulate oceans outside of the 200 mile EEZ it would be illogical to require the affirmative to establish a policy that would protect the entire ocean ecosystem.

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Under this interpretation, the only topical affirmatives would be ones that are not legally feasible.

It will also be difficult for the negative to force the affirmative to operate *only* on ocean waters. As Buck (1997c) explains, "Fish stocks migrate across jurisdictions and do not recognize international waters." Policies that apply to "oceans" also affect non-ocean, domestic waterways. Although the affirmative's policy may be an "ocean policy," it is likely to have benefits that extend beyond the ocean.

Policy

A policy is generally defined as "a course of action." So, an "ocean policy" is a course of action related to oceans. It is important to point out here that the resolution does not call for any "policy" that protects oceans, which would have allowed the affirmative to run cases which indirectly protect marine natural resources, but rather for an "ocean policy" which protects marine natural resources.

Marine Natural Resources

The ocean policy that the affirmative needs to establish is one that protects "marine natural resources." *Marriam Websters* defines marine as "of or relating to the sea" and the *Wordsmyth Dictionary* defines natural resources as "the sources of wealth and edification that occur in nature, such as fresh water, mineral deposits, timber, wildlife, and park land." Since marine is the adjective, the natural resources that the affirmative "protects" must be found in the sea.

Protect

The existence of the word "protect" in the resolution is important. "Protect," as defined by the *Marriam-Webster Dictionary*, means to "1 : to cover or shield from exposure, injury, or destruction : guard 2 : to maintain the status or integrity of especially through financial or legal guarantees: as a : to save from contingent financial loss b : to foster or shield from infringement or restriction <salesmen with *protected* territories>; *specifically* : to restrict competition for (as domestic industries) by means of tariffs or trade controls."

How narrowly or broadly this word is interpreted will have a big impact on negative ground. For example, a strict interpretation may require the affirmative to physically protect the resources, such as with the military. This interpretation obviously establishes a substantial amount of negative ground. A broader interpretation may permit the affirmative to simply sanction or fine non-violators – to legally enforce the protection. An even broader interpretation may enable the affirmative to simply provide companies with incentives not to destroy habitats. Since most of the best negative disadvantages stem from affirmatives placing legal restrictions on resource exploitation, and strong negative counterplan ground stems from providing incentives to companies not to exploit marine natural resources, it will be important for the negative to win that at the very least the affirmative can not provide incentives.

Harm Areas

Species Extinction

This year, the primary affirmative harm is species extinction. The extinction of ocean species, including fish, plant life, and other

species supported by those species, are driven by a number of causes.

Over-fishing. Over-fishing refers to the idea that fish are being caught at a faster rate than they are replenishing themselves. Almost every species of fish is arguably at risk of extinction due to over-fishing. Fish species drawing the most attention include Dolphin, Tuna, swordfish, shrimp, sea bass, and Atlantic Halibut.

Fishing. Over-fishing is not the only direct threat to species populations. Even "sustainable" fishing threatens other mammal species that are often caught in fishing nets and have habitats destroyed, such as the Gulf of Maine harbor porpoise, by fishing (Buck, 1997a).

Whaling. Countries such as Norway, Russia, and Iceland are engaged in commercial whaling. Japan has threatened to resume whaling. Many biologists argue that whales are a "keystone" species that the rest of the ocean ecosystem depends on.

Noise Pollution. One of the most commonly cited causes of noise pollution in the ocean is the military's use of sonar (Common Dreams, 2002).

Oil Spills. Sinking ships often spill millions of gallons of oil into aquatic ecosystems. Relatively recent oil spills that have caused extensive environmental damage include the Exxon Valdez oil spill off the coast of Alaska and one last summer off the coast of Spain.

Pollution. General ocean pollution can stem from a number of causes: the dumping of hazardous waste into the ocean, discharge of waste material from cruise ships, discharge of waste materials from coastal properties. The discharge of waste materials from coastal properties includes "sewage, chemical, and garbage disposal; and runoff from agricultural and forested lands"(Greenwood, 1997).

Resource development. The development of deep sea oil wells and mineral resources also threatens the oceans (Greenwood, 1997). Minerals being developed include "gold, platinum, chromites, and titanium. Many of these minerals are in the EEZ, which has not yet been substantially developed. Mielke, 1997).

Coral Reef Depletion. Coral reefs are "are massive structures made of limestone that is deposited by living things. Although thousands of species inhabit coral reefs, only a fraction produce the limestone that builds the reef. The most important reef building organisms are corals. Coral reefs support over twenty-five percent of all known marine species. As one of the most complex ecosystems on the planet, coral reefs are home to over 4,000 different species of fish, 700 species of coral and thousands of other plants and animals." (International Coral Reef Information Network, 2002). Many of these reefs are threatened by fishing, tourism, and boating.

Starvation

Depletion of fish stocks threatens that survival of a number of people throughout the world that rely on fish for their dietary intake. Even if substantial declines in fish populations do not cause life-threatening species extinction, the lower supply of fish raises prices, putting the lives of many at-risk.

Climatic Change

Our oceans drive our climatic cycles (Justus, 1997). Substantial disruptions in ocean ecosystems threaten climate patterns, increasing the risks of deadly storms and climate disruptions.

History of Ocean Policy

Ocean policy in the United States was developed in 1969 when the Stratton Commission delivered a review of the state of the oceans and made recommendations for U.S. policy. The recommendations in the *Stratton Commission Report* are responsible for what we now know as NOAA — the National Oceanic and Atmospheric Administration. Founded in 1970, NOAA has a \$3 billion budget and is responsible for everything from the weather to marine fisheries (*Nature*, 2002). Shortly after NOAA was formed, Congress passed the Coastal Zone and Management Act in 1972 and developed the Magnuson-Stevens Fisheries Conservation and Management Act (FCMA) in 1976. This Act governs federal management of fisheries *outside of coastal state waters to 200 miles offshore* (Buck, 1997b)

In 1972, Congress also passed The Marine Protection, Research, and the Sanctuaries Act, which authorize enforcement of the Ocean Dumping Act. The Act prohibits the dumping of almost all materials other than dredge sediment into U.S. ocean waters. In 1992, Congress amended the Act to permit states to adopt ocean dumping standards that are more stringent than federal standards as long as those standards are consistent with federal law (Copeland, 1999).

Following a similar pattern, in 1972 Congress passed the Coastal Zone Management Act (CZMA). The purpose of the Act was to regulate, and limit, sources of pollution along coastal waters. In, 1990, however, Congress amended the Act in response to its failures to require that each state with coastal territory to implement a non-point source pollution plan. If a state does not submit an approvable plan, the state will lose its federal coastal management funds under section 219 of the Clean Water Act (CWA) (Solomon, 2001).

Status Quo Ocean Policy

Significant recent developments in U.S. ocean policy began under the Clinton administration. In May of 2000, Clinton issue a Marine Protect Area executive order which required the Environmental Protection Agency (EPA), acting under authority established in the Clean Water Act (CWA), to develop new, more stringent ocean discharge criteria (Craig, 2001).

In August of that year, the Congress passed the Oceans Act of 2000. This act established a 16 member commission on ocean policy (oceancommission.gov) that started meeting in 2001 to make recommendations to the President regarding what U.S. ocean policy should be. The recommendations are due in 2003 and are expected in June.

One thing that is notable about current U.S. ocean policy is that it is not directed by, or coordinated by any particular agency or actor in the federal government. Instead, “US oceans are controlled by a morass of nine government agencies, the budgets of which are overseen by 44 congressional committees and subcommittees” (*Nature* (2002).

Potential Affirmative Plans

There are a number of advocates for specific affirmative policies that will protect the ocean’s marine natural resources. The list that follows is just a sampling of the many different proposals that the affirmative will be able to choose to advocate.

Fish quotas. The National Research Council (1999, Sharing) argues that a legislative prohibition on fish quotas should be removed and that they should either be established based on nu-

merical fish catches or among different communities or groups. When the quotas are designed it may be desirable to consider the impact of declines in certain fish population on the food supply of other marine animals.

Sea Turtle Protection. Prior to current sea turtle preservation efforts, over 10,000 sea turtles a year were going extinct due to shrimp harvesting with driftnets. Turtle mortality has been reduced because the U.S. requires shrimp trawlers to use Turtle Excluder Devices (TEDs). In 1990, Congress debated sea turtle conservation, but did not require shrimp farmers to take more aggressive measures to limit damage to sea turtles (Buck, 1997c).

Whaling Sanctions. Since the United States does not engage in any commercial whaling (U.S. citizens are prohibited from whaling by the 1972 Marine Mammal Protection Act), it is no surprise that the United States is a member of the International Whaling Commission (IWC) and is a strong advocate of measures to crackdown on commercial whaling, primarily through the threat of unilateral sanctions (Buck, 1997a).

In 1971, Congress passed the Pelly Amendment to the 1954 Fishermen’s Protective Act, which enables fishery product imports to be prohibited from countries that undermine international fisheries agreements, such as whaling agreements. Although the United States has never sanctioned any country under the Pelly Amendment, it has used the threat of sanctions to obtain concessions from offending nations.

The IWC does contain a provision that allows for commercial whaling for research purposes, which both Japan and Norway have taken advantage of. Moreover, Norway and Iceland have withdrawn from the IWC and have resumed commercial whaling (Buck, 1997b). Clearly, U.S. whaling policy has been a failure. One approach the U.S. could take is to stop its push for an exemption to the IWC by Washington State’s Makah tribe. Another approach is to reduce the threat of sanctions and claim that a cooperative approach is more likely to lead to sustainable whale harvesting.

Marine Protected Areas. The National Research Council (2000, Marine) argues that marine protected areas should be established in certain areas to limit human activities such as recreation and fishing.

Oil Spill Reduction. In 1990, Congress passed the Oil Spill Reduction Act of 1990 to reduce the risk of oil spills as well as to support restoration measures in the event of a spill. Provisions of the Act include requiring all tankers in U.S. waters to be double-hulled by 2025, establishing liability for costs and cleanup (although the liability is limited to about \$350 million), and establishing a trust fund for responding to a spill. Although the number of oil spills has decreased, the affirmative can make a case to change liability standards, require *barges* to be double-hulled, and increase resources for restoration (Lee, 1997).

Pollution discharge regulation. Discharge regulation is primarily a state and local matter, but affirmatives could make a case for stronger federal enforcement, federal coordination of enforcement efforts, or the development of federal standards (Solomon, 2001). Specific pollutants, such as chemical or sewage wastes, could be addressed.

Antarctic Ocean protection. The U.S. Commission on Ocean Policy noted in 2002 that “The Arctic is a key component of global climate change, a known sink for contaminants, the habitat for one of the Nation’s largest and most valuable fisheries, and the basis of subsistence for northern peoples” (p. 2). Substantial efforts have been devoted to the protection of these resources.

The Antarctic Treaty, which entered into force in 1961 is the foundation of a group of organizations that are often referred to as the Antarctic Treaty System. Forty-three countries are contracting parties to the original treaty. In response to concerns that the consultative body was too exclusive, the UN General Assembly, between 1983 and 1994 took up the "Question of Antarctica." As a result of its efforts, a "Protocol on Environmental Protection" to the treaty was negotiated, which essentially bans the development of arctic resources. The United States ratified the treaty in 1996 and deposited the instruments of ratification in 1997 (Browne, 1997). Despite these efforts, some argue that the Protocol is not strong enough and that additional action is needed.

Law of the Sea. One of the more popular cases on this topic is likely to be to have the U.S. ratify the Law of the Sea Convention. The case is relatively easy to research, has large advantages, and is very topical.

Although the treaty entered into force in 1994, The United States did not ratify the to the 1982 United Nations Convention on the Law of the Sea (UNLOS) because it opposed its limits on seabed mining and did not think that it had enough influence in the governing council's decision-making. In particular, the U.S. objected to the requirement that seabed mining applicants would have to turn over one half of their mine site to the Seabed Authority to be developed by the Authority and to transfer technology to developing countries.

In an effort to gain U.S. ratification, the Secretary of the U.N. entered into consultations with the U.S., and other countries who engaged in deep seabed mining, to address any outstanding issues and the Clinton administration negotiated an agreement relating to implementation which basically exempted the U.S. from parts of the treat. On October 7, 1994, Clinton submitted the treaty to the Senate for its advice and consent for ratification, but no action has occurred (Browne, 1997).

Affirmatives could make a pretty strong case for ratification of the treaty. Since most U.S. demands have been acceded to, it will be difficult for the negative to win any case-specific disadvantages, such as the negative impact the treaty may have on the seabed mining industry. At the same time, however, it will be hard to win that the treaty does much to protect oceans since it includes many exemptions/concessions to the U.S., including the U.S. ability to protect its coastal waters within the 200 mile EEZ.

Although the affirmative may have trouble winning an advantage that stems specifically from the enforcement of the UNLOS Treaty, the affirmative can likely claim an advantage from boosting U.S. environmental leadership as a result of ratification.

Ballast Water Regulation. As ships move from port to port across international waters they inevitably take on and discharge large volumes of water. The water that is discharged is referred to as ballast water. One problem with ballast water is that many non-native species are discharged that when introduced in new environments, threaten native species. McGee (2001) suggests technological and port-based solutions to the problem.

Macro-level change. In addition to these specific policies, the affirmative could make the cases for more systemic change, such as the creation of a cabinet-level Oceans Department or of a coordinating policy to integrate different ocean preservation efforts across the federal government (*Nature*, 2002).

Military sonar. There are proposals for changing the military's sonar technology and policies to reduce noise pollution (Common Dreams, 2002). Other military affirmatives may include such things

on bans on underwater mines or deployment restrictions.

Disadvantages to Protecting Marine Natural Resources

There are a number of generic disadvantages to protecting ocean marine resources. Most of these disadvantages will not link to every affirmative, but many will link to most.

Economy. There are a number of ways that policies to protect marine natural resources could negatively impact the economy. First, a general argument can be made that policies to protect ocean resources will inevitably end up restricting access to marine resources that private groups and individuals want to develop. These private groups and individuals range from large-scale mineral developers to more traditional fisher people. Restricting access may mean more economic problems, poverty, and depression amongst groups worldwide that depend on these resources. Second, negatives can also make a more general business confidence argument, contending that environmental regulations on businesses are likely to undermine business investment in the economy.

Culture. Many traditional fisher people and cultures rely on accessing ocean fishing and marine natural resource for their livelihoods. Restrictions on ocean development may threaten these peoples.

Energy Dependence. Restricting access to ocean resources, particularly along the coastline of the United States, is likely to make it more difficult for U.S. companies to develop oil there. This may raise oil prices and generally increase U.S. oil dependence. Michael French, Director of Technology Assessment Division, Louisiana Department of Natural Resources, explained in 2002 that "(I)f the full potential of the OCS (Outer Continental Shelf) is to ever realized....all areas of the OCS must be opened up to exploration and production."

Trade Wars. To protect ocean resources outside the 200 mile EEZ the affirmative may have to threaten countries with trade sanctions to get them to change their practices. Owen (2000) argues that such sanctions risk trade conflicts.

Politics. Ocean policy is not exactly a hot political issue, but that does not mean that the negative will be unable to win a politics disadvantage. Policies that protect oceans by restricting industries are likely to alienate business groups and require an investment of political capital to pass. Since pro-environment policies are often opposed by conservatives, the plan could threaten Bush's conservative base or undermine GOP (Republican) unity.

Federalism. As discussed in the definitional section on oceans, states are generally responsible for the regulation of waters within three miles of their coasts. Federal regulations generally cover the body of water beyond three miles to the end of the 200 mile EEZ.

Affirmative cases that regulate water pollution within that three mile area arguably link to federalism. Craig (2001), in explanation of Clinton's 200 Marine Protection Act Executive Order, states that "EPA effectively limited the new requirements' applicability to a coastal zone three to 200 miles offshore. EPA's self-imposed limitation reflects basic jurisdictional divisions between the state and federal governments regarding the ocean....The ocean is not a unified body for regulatory purposes. The history of divided regulatory authority over the ocean between state and federal governments is a complex progression originating from the concept of "navigable waters"....States have also brought claims for jurisdiction further out to sea, such that Florida and Texas have conse-

quently acquired jurisdiction extending three marine leagues into the Gulf of Mexico.”

Kritiks of Protecting Marine Natural Resources

There are many “kritiks” of protecting marine natural resources. In this section, two of the more useful and generic ones are discussed.

Deep Ecology. In 1973 Norwegian philosopher Arne Naess published a summary of a lecture that he gave in which he drew seven distinctions between deep and shallow ecology. Naess (1995, reprint) characterizes deep ecology in the following ways:

- Rejection of the “human-in-environment” image in favor of the “relations, total-field image”
- Biospherical egalitarianism — human are equal, not superior creatures
- Principles of diversity and symbiosis
- Anti-class posture
- Fight against pollution and resource depletion
- Acknowledgment that ecosystems are complex
- Support for local autonomy and decentralization

The most intriguing, unique, and frequently debated characteristics of deep ecology are the first two: Humans are just another part of nature, not something that is, or should be, set apart from it and that we should not be afforded any normative priority in the ecological order. In fact, some of the most radical deep ecologists are Earth Firsters – a group that wants to put saving the global environment ahead of saving humans.

The deep ecology kritik argues that as long as we continue to prioritize human aspirations, such as maintaining economic growth, environmental problems will not be solved. Naes thinks that we need to reconceptualize our role in the world beyond an anthropocentric one to include larger entities such as forests, bioregions, and the planet as a whole on our “care ego.”

Counterplans

There are a number of generic counterplans that the affirmative can advocate as alternatives to the affirmative plan.

States. As mentioned earlier, Discharge regulation is primarily a state and local matter, and so is coastal water management. The 1972 Coastal Zone Management Act (CZMA) “created federal incentives for coastal states and territories to plan and manage their coastal resources under several broad guidelines...Water quality is controlled primarily through state-run regulatory programs administered by the EPA under the Clean Water Act” (Zinn, 1997). Also, remember that under the MPSRA, the states have the authority to implement more stringent ocean dumping standards.

Courts. The courts are actively involved in interpreting existing environmental legislation to determine if it requires action by federal agencies to enforce against particular environmental harms. The negative could have the Supreme Court, or other federal courts, rule that one of the existing pieces of ocean policy legislation requires federal government action in the area specified by the plan. The most common net-benefit to this counterplan is the Politics Disadvantage.

Executive Action. If the affirmative specifies that Congress or the courts are their agent of action, the negative could counterplan to have the President issue an executive order or sign an executive agreement to initiate the plan. Rodgers (2001) discusses the role of executive agreements in environmental policy. Net-benefits include disadvantages to court and/or Congressional

action. As explained earlier, in May of 2000 President Clinton issued an executive order to strengthen ocean discharge standards.

Study. In the original topic paper, Darren Eckstein (2002) suggests that a study counterplan may be a good negative strategy. Given that the final recommendations of the Ocean Commission have not yet been made, that study is going on in the status quo, and that “the oceans desperately need a more coordinated approach” (*Nature*, 2002), a strong case can probably be made that we should wait a little while longer to determine how we should act. Lautenbacher (2002) argues that additional research is needed on the role of the oceans in the ecosystem.

This strategy, however, is limited by a couple of arguments. First, the Ocean Commission’s report is due to be released in June of 2003, well before the start of the season. We will know their recommendations then. Second, the affirmative is likely to advocate the adoption of a very specific policy, for which they will argue that additional study is not needed.

World Government. Thanks to the State University of West Georgia, this counterplan has made its way back into debate. Alexander (1974) argues for establishing World Government to protect oceans.

Incentives counterplan. If the negative can win that the term “protection” requires the affirmative to physically and/or legally restrict access to marine natural resources the negative has a strong “voluntary” counterplan as its disposal, which instead of restricting businesses, provides financial incentives, such as tax breaks, for them not to exploit the resources. Net-benefits to this counterplan include the Business Confidence Disadvantage, the Trade Wars Disadvantage, and the Politics Disadvantage.

Strategic Thoughts

It will be very difficult, if not impossible, to be able to debate each and every case on its individual merits. Smart negative teams will not risk drowning in a sea of affirmative ground by approaching the topic on a case-by-case basis and instead will develop some strong generic negative strategies that they can use against most, if not all, affirmatives. To have a strong attack, negatives will need to have some basic tools at their disposal.

Solvency Attacks. The weakest point of most of these affirmative cases is solvency. Although it will be desirable to have as many case-specific solvency takeouts as possible, a number of general solvency arguments will also be applicable to most affirmatives. One, the United States can only regulate the oceans within 200 miles of its shore. This leaves an awful lot of ocean left to destroy. Since the ultimate impact to the affirmative harms will likely assume the total loss of all ocean ecosystems, this will be a significant solvency problem for the affirmative. Affirmatives that attempt to regulate beyond the 200 mile border are likely to link to trade disadvantages because trade sanctions are a popular means to enforce U.S. law extraterritorially. Two, negatives can argue, either in the form of a kritik or a solvency argument, that a more integrated (Davis, 1993; Scheibelber, 2001), non-technological, nonlegal, and comprehensive solution to the problems of marine natural resource protection is needed because legal solutions are inevitably circumvented (Ardia, 1994) and technological solutions are inevitably regressive (Limpitlaw, 2001). Piecemeal approaches also tend to undermine overall, comprehensive policies. If the negative is able to deal a substantial blow to affirmative solvency claims they may be able to outweigh the affirmative case with one of the generic disadvantages discussed above, even if the link is tenuous.

Topicality. As discussed in the topicality section of this article, the interpretation of the word “protect” is more likely to determine negative ground than any other word in the resolution. Given the magnitude of the affirmative harms, and the tenuous links to many of the disadvantages, it will be hard for the negative to simply “outweigh the case.” A strong generic counterplan, such as the incentives counterplan, will probably get the negative far since it will likely be able to solve most of the affirmative harms.

Harm Attacks. Although it is always useful to have an arsenal of harm takeouts, it will be difficult for the negative to win that the oceans are not facing serious threats. As the U.S. Commission on Ocean Policy noted in 2002, “The oceans are in trouble. Our coasts are in trouble. Our marine resources are in trouble...all perhaps, in serious trouble. These are observations on which the 16 Commissioners of the U.S. Commission on Ocean Policy, after completing a portion of its extensive information gathering process, readily agree” (p. 1). Nonetheless, the negative will be able to argue that environmental impacts are often exaggerated. The combination of these two arguments will undercut the ultimate impact to the case in order that the negative can win that their disadvantage outweighs it.

A Biocentrism or Deep Ecology Kritik. Biocentrism argues that human manipulation of the environment cannot solve environmental problems and Deep Ecology argues that environmental problems cannot be solved until problems in capitalism are confronted. Since most affirmatives will rely on the assumption that humans can address environmental problems and few, if any, will address the consumptive problems of capitalism, both of these kritiks will likely be very applicable no matter how otherwise “unprepared” the negative is.

Conclusion

There is a strong case to be made that the United States federal government should “establish an ocean policy substantially increasing protection of marine natural resources.” These resources are arguably threatened by existing activities and most scientists agree that health oceans are important to the survival of life on the planet. Affirmatives will be able to advance a variety of proposals for protecting these resources.

Although the affirmative will enter next year’s debates with a substantive advantage that is driven by the support in the literature for protecting oceans, and a strategic advantage driven by the simple fact that there will be many affirmatives to choose from, smart negatives not leave themselves out at sea to drown in a sea of different affirmatives. Smart negatives will develop generic negative strategies that turn on solvency arguments, appropriate generic disadvantages, and, most importantly, the word “protect” in the resolution. Negatives that are able to hold affirmatives to more limiting interpretations of this word will be able to force them to adopt more radical legal restrictions and counterplan with incentive based-approaches. These incentive-based counterplans and generic disadvantages that function as net-benefits will serve as the dry land that the negative will need to survive in the sea of affirmative cases that they are likely to confront during the 2003-4 season.

Bibliography

The citations listed here are from sources referenced in this article or from sources not freely available on the internet. Freely-

available internet resources are indexed on Planet Debate under the “Research.” Ocean policy resources indexed as general are available without subscription.

General

Alexander, Lewis. (1974). New Approaches to Control of Ocean Resources. In INTERNATIONAL RELATIONS AND THE FUTURE OF OCEAN SPACE. Editor Robert G. Wirsing.

Ardia, David. (1998). Does the Emperor Have No Clothes? Enforcement of International Laws Protecting the Marine Environment. MICHIGAN JOURNAL OF ENVIRONMENTAL LAW. V. 19, pp. 534-ff.

Copeland, Claudia. (1999). OCEAN DUMPING ACT: SUMMARY OF THE LAW. <http://www.ncseonline.org/nle/crsreports/marine/mar-25.cfm?&CFID=6382526&CFTOKEN=80409015>

Craig, Jundis. (2001). Ocean Discharge and Marine Protected Areas: Ocean Water Quality Protection Under the Clean Water Act. BOSTON COLLEGE ENVIRONMENTAL AFFAIRS LAW REVIEW. V. 29, pp. 1-ff.

Davis, Jackson. (1993). The Need for a New Global Ocean Governance System. In FREEDOM FOR THE SEAS IN THE 21ST CENTURY. Ed. Jon M. Van Dyke.

Eckstein, Darren. (2002). A PROPOSAL FOR THE 2003-4 NATIONAL HIGH SCHOOL DEBATE TOPIC. http://www.nfhs.org/PDF/Ocean_Policy.pdf

Galdorsi, George. (1997). BEYOND THE LAW OF THE SEA: NEW DIRECTIONS FOR U.S. OCEANS.

Greenwood, Alfred. (1997). OCEAN AND COASTAL RESOURCES: A BRIEFING BOOK. <http://www.ncseonline.org/nle/crsreports/briefingbooks/oceans/index.cfm?&CFID=6382534&CFTOKEN=79889388>

Kullenberg, G. (1999). OCEANS.

Lee, Martin. (1997). MARINE POLLUTION. <http://www.ncseonline.org/nle/crsreports/briefingbooks/oceans/r.cfm>

McGee, Sarah. (2001). Proposals for Ballast Water Regulation: Biosecurity in an Insecure World. COLORADO JOURNAL OF INTERNATIONAL LAW AND POLICY. V. 2001, pp. 141-ff.

NATURE. (2002). Ocean Policy: Troubled Waters. http://www.nature.com/cgi-taf/DynaPage.taf?file=/nature/journal/v418/n6899/full/418718a_r.html

Prideaux, Margi. (2002). Discussion of A Regional Agreement for Small Cetacean Conservation in the Indian Ocean. CALIFORNIA WESTERN INTERNATIONAL LAW JOURNAL. Spring, pp. 211-ff.

Scheibelber, Harry. (2001). Ocean Governance and the Marine Fisheries Crisis: Two Decades of Innovation and Frustration. VIRGINIAN ENVIRONMENTAL LAW JOURNAL. V. 20, pp. 119-ff.

Solomon, Andrew. (2001). Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990: Is There Any Point? ENVIRONMENTAL LAW. Winter, pp. 151-ff.

SEATTLE POST INTELLIGENCER. (2002). U.S. Ocean Policy Not Working. June 14. <http://www.ncseonline.org/nle/crsreports/briefingbooks/oceans/f.cfm>

Thorne-Miller, Bruce. (1999). THE LIVING OCEAN: UNDERSTANDING AND PROTECTING MARINE BIODIVERSITY.

U.S. Commission on Ocean Policy. (2002). DEVELOPING A NATIONAL OCEAN POLICY. http://www.oceancommission.gov/documents/midterm_report/midterm_report.html

Van Dyke, Jon. (2000). Sharing Ocean resources — In a Time of Scarcity and Selfishness. In LAW OF THE SEA: THE COMMON HERITAGE AND EMERGING CHALLENGES.

Vidas, Davor. (2000). ORDER FOR THE OCEANS AT THE TURN OF THE CENTURY.

Coral Reefs

International Coral Reef Information Network. (2002). WHAT IS A CORAL REEF? <http://www.coralreef.org/coralreefinfo/about.html>

Wirth, Timonhy. (1997). TESTIMONY. <http://www.state.gov/www/global/oes/971009tw.html>

Fisheries

Browne, Anne. (1997). THE ANTARCTIC TREATY SYSTEM AND THE IMPACT OF THE UNITED NATIONS DEBATES. <http://www.ncseonline.org/nle/crsreports/briefingbooks/oceans/x.cfm>

Buck, Eugene. (1997b). INTERNATIONAL MARINE FISHERIES. <http://www.ncseonline.org/nle/crsreports/briefingbooks/oceans/e.cfm>

(Bauschard continued to page 103)

(Bauschard continued from page 28)

National Research Council. (2000). MARINE PROTECTED AREAS: TOOLS FOR SUSTAINING OCEAN ECOSYSTEMS. National Research Council: National Academy Press

National Research Council. (1999). SHARING THE FISH: TOWARD A NATIONAL POLICY ON INDIVIDUAL FISHING QUOTAS. National Research Council: National Academy Press.

Scheiber, Harry. (2001). Ocean Governance and the Marine Fisheries Crisis: Two Decades of Innovation. VIRGINIA ENVIRONMENTAL LAW JOURNAL. V. 20, pp. 119-ff.

Wilens, James. (1999). Alaska Fisheries Management: A Case Study of Power and Politics. In EMERGING ISSUES IN NATIONAL OCEAN AND COASTAL POLICY. Ed Harry Scheiber.

Marine Mammals

Buck, Eugene. (1997a). MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994. CRS Report for Congress.

Buck, Eugene. (1997c). MARINE MAMMAL-FISHERIES INTERACTIONS. <http://www.ncseonline.org/nle/crsreports/briefingbooks/oceans/f.cfm>

Griffin, Rodman. (1992). Marine Mammals v. Fish. CQ RESEARCHER. August 28, pp. 739-58.

Ludicello, Suzanne. (1993). Incidental Take of Marine Mammals in Commercial Fishing Operations. MARINE CONSERVATION NEWS. Autumn, pp. 11-14.

Mielke, James. (1997). MARINE MINING WITH THE U.S. EEZ. <http://www.ncseonline.org/nle/crsreports/briefingbooks/oceans/u.cfm>

U.S. Marine Mammal Commission. (1997). ANNUAL REPORT TO CONGRESS.

Law of the Sea

Mielke, James. (1995). DEEP SEABED MINING: U.S. INTERESTS AND THE U.N. CONVENTION ON THE LAW OF THE SEA. <http://www.ncseonline.org/nle/crsreports/marine/mar-33.cfm?&CFID=6382606&CFTOKEN=1462925>

Military

Common Dreams. (2002). NAVY CLEARED TO USE SONAR. <http://www.commondreams.org/headlines02/0716-06.htm>

Energy Disadvantage

American Petroleum Institute. (2002). TESTIMONY. http://www.ipaa.org/govtrelations/testimony/Oceans_Commission_Testimony.asp

French, Michael. (2002). PRESENTATION TO U.S. COMMISSION ON OCEAN POLICY GULF OF MEXICO REGIONAL MEETING. March 22, <http://www.dnr.state.la.us/SEC/EXECDIV/TECHASMT/communications/correspondence/oceanpolicycommission030802.html>

Trade

Owen, Scott. (2000). Might a Future tuna Embargo Withstand a WTO Challenge in Light of the Recent Shrimp-Turtle Ruling? HOUSTON JOURNAL OF INTERNATIONAL LAW. V. 23, p. 123-ff.

Deep Ecology Kritik

Bookchin, Murray. Foreman, Dave. (1991). DEFENDING THE EARTH: A DIALOGUE BETWEEN MURRAY BOOKCHIN AND DAVE FOREMAN.

Drengson, Alan. (1995). THE DEEP ECOLOGY MOVEMENT: AN INTRODUCTORY ANTHOLOGY.

Technology Kritik

Karlin, F. (1995). TECHNOLOGY AND GLOBAL ENVIRONMENTAL ISSUES. This source takes a critical look at technology's ability to solve problems facing our oceans.

Kraft, Michael. (1996). ENVIRONMENTAL POLICY AND POLITICS: TOWARD THE TWENTY-FIRST CENTURY. This book defends the use of technology as a solution to environmental problems.

Limplilaw, Erik. (2001). Is International Environmental Law Waterproof? The Impact of Technology on the Oceans as A Commons. SYRACUSE JOURNAL OF INTERNATIONAL LAW AND COMMERCE. Fall, pp. 185-ff.

R&D Counterplan

National Association of State Universities and Land-Grant Colleges. (2002). STATEMENT FOR THE COMMISSION.

Journals

I have indexed journals that are available online in full text for free at Planet Debate. Journals that are not available on the internet for free, but are particularly useful, include:

Law Journals

OCEAN AND COASTAL LAW JOURNAL
OCEAN DEVELOPMENT AND INTERNATIONAL LAW

Policy Journals

COASTAL MANAGEMENT: AN INTERNATIONAL JOURNAL OF MARINE ENVIRONMENT, RESOURCES, LAW, & SOCIETY
OCEAN & COASTAL MANAGEMENT
OCEAN DEVELOPMENT AND INTERNATIONAL LAW
OCEANOGRAPHY
MARINE POLICY

Science Journals

BULLETIN OF MARINE SCIENCE
CONSERVATION BIOLOGY
JOURNAL OF CECTACEAN RESOURCES & MENAGEMENT
CANADIAN JOURNAL OF FISHERIES AND AQUATIC SCIENCES
CORAL REEFS
FISHERIES
MARINE POLLUTION BULLETIN

Acronyms

Agencies

DOI Department of the Interior
EPA Environmental Protection Agency
NOAA National Oceanic and Atmospheric Administration

Laws

CWA Clean Water Act
CZMA Coastal Zone Management Act
FCMA Fisheries Conservation and Management Act
MPSRA Marine Protection, Research, and Sanctuaries Act

Treaties

UNLOS UN Convention on the Law of the Sea.

Other

EEZ Exclusive Economic Zone
IWC International Whaling Commission
TEDs Turtle Excluder Devices
OCS Outer Continental Shelf

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