



WATER RESOURCES TOPIC: NEGATIVE

National Federation of State
High School Associations



Resolved: The United States federal government should substantially increase its protection of water resources in the United States.

A look at negative responses to affirmative cases, provided by Rich Edwards, Baylor University

NEGATIVE TOOLBOX

- ❖ Topicality
- ❖ Disadvantages
- ❖ Case
- ❖ Counterplans
- ❖ Kritiks



A brief look at Disadvantages and Case Arguments will be provided here; see other NFHS slide series for Topicality and Counterplans. Kritiks are not acceptable in all parts of the country and will not be discussed here.



DISADVANTAGE: RECESSION/DEPRESSION

- A ban on fracking would cause an immediate spike in the price of natural gas, triggering a worldwide recession.
- The overnight price impact of this ban would make any increased funding irrelevant – the adjustment could never take place in time.

Mark Mills, (Sr. Fellow, Manhattan Institute), ISSUES 2020: A FRACKING BAN WOULD TRIGGER GLOBAL RECESSION, December 17, 2019. Retrieved Apr. 20, 2021 from <https://www.manhattan-institute.org/issues-2020-economic-consequences-fracking-ban-recession>

U.S. imposed a fracking ban, the supply disruption would trigger the biggest oil and natural gas price spikes in history—almost certainly by more than 200%—which would, in turn, tip the world into recession. Even the expectation that a ban could be enacted would destabilize markets. U.S. imports and the trade imbalance would soar, as would consumers' spending on energy. To keep the lights on, America would have to nearly double the quantity of coal burned, as well as import up to 1 million barrels of oil per day for dual-fueled power plants that would lose access to natural gas.





DISADVANTAGE: INFLATION/OVERHEATING

- The U.S. economy is now at a precarious state; inflation is under control, but barely.
- Major increases in federal spending, such as for water infrastructure, will cause the economy to overheat, leading to hyperinflation.
- Hyperinflation in the U.S. will cause a flight from the dollar as the international currency standard, leading to international financial chaos.

Ryan Barnes, (staff writer), THE IMPORTANCE OF INFLATION AND GDP. Nov. 2, 2020. Retrieved May 10, 2021 from <https://www.investopedia.com/articles/06/gdpinflation.asp>

If the overall economic output is declining, or merely holding steady, most companies will not be able to increase their profits (which is the primary driver of stock performance); however, too much GDP growth is also dangerous. Over time, the growth in GDP causes inflation – inflation, if left unchecked, runs the risk of morphing into hyperinflation.





DISADVANTAGE: EPA OVERSTRETCH

- The Biden administration has tasked the EPA with a priority mission to limit greenhouse emissions.
- EPA resources are finite.
- Clean water initiatives trade off with other missions of the EPA, risking the end-of-civilization impacts of climate change.

Brian Pascus, (staff writer), CBS NEWS, June 4, 2019. HUMAN CIVILIZATION FACES "EXISTENTIAL RISK" BY 2050 ACCORDING TO NEW AUSTRALIAN CLIMATE CHANGE REPORT. Retrieved May 12, 2021 from <https://www.cbsnews.com/news/new-climate-change-report-human-civilization-at-risk-extinction-by-2050-new-australian-climate/>

A new report by Australian climate experts warns that "climate change now represents a near- to mid-term existential threat" to human civilization. In this grim forecast – which was endorsed by the former chief of the Australian Defense Force – human civilization could end by 2050 due to the destabilizing societal and environmental factors caused by a rapidly warming planet.





DISADVANTAGE: ENVIRONMENTAL JUSTICE

- The environmental justice movement is gaining steam at present.
- The regulatory model is incapable of addressing environmental justice.
- Passing new regulations trades off with true reform.

Alice Kaswan, (University of San Francisco School of Law), FORDHAM ENVIRONMENTAL LAW REVIEW, 2017. Retrieved May 13, 2021 from <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1683&context=elr>

More fundamentally, the environmental justice movement has had limited substantive influence because the environmental justice paradigm is in tension with the structure of the dominant paradigms for environmental regulation, both traditional and market-based. The dominant forms of environmental regulation, like Clean Air Act and Clean Water Act standards, as well as market-based mechanisms like cap-and-trade programs, seek to provide general environmental improvement and achieve overarching goals. This utilitarian perspective (greatest good for the greatest number) contrasts with the environmental justice paradigm's emphasis on the rights of minorities rather than the interests of majorities," its focus on holistic and place-based conditions rather than ambient concentrations of single pollutants, and its prioritization, of citizen participation in the decisions that affect their communities.





DISADVANTAGE: CLIMATE DOOMISM

- At present, there is broad public support for taking action on climate change issues; the transition to renewables is now as rapid as resource constraints and manufacturing capabilities will allow.
- Extremist claims and solutions cause despair, destroying public support for change.
- Climate doomism freezes meaningful action, making the perfect the enemy of the good.

Michael Mann, (Prof., Atmospheric Science, Penn State U.). THE NEW CLIMATE WAR: THE FIGHT TO TAKE BACK THE PLANET, 2021, 179.

An objective assessment of the scientific evidence is adequate to motivate immediate and concerted action on climate. There is no need to overstate it. Exaggeration of the climate threat by purveyors of doom – we'll call them "doomists" – is unhelpful at best. Indeed, doomism today arguably poses a greater threat to climate action than outright denial. For if catastrophic warming of the planet were truly inevitable and there were no agency on our part in averting it, why should we do anything?





DISADVANTAGE: COAL SHIFT

- At present, fracking is killing the coal industry.
- Banning fracking will revive the coal industry.
- The resurrection of the coal industry will doom climate change action.

Bjørn Lomborg, (Fellow, Hoover Institution of Stanford University), FALSE ALARM: HOW CLIMATE CHANGE PANIC COSTS US TRILLIONS, HURTS THE POOR, AND FAILS TO FIX THE PLANET, 2020, 170-171.

The fracking innovation was not intended as climate policy, but simply as a way to make the United States more energy independent and richer. But it also turned out to have a huge climate change benefit, because gas became cheaper than coal. Crucially, gas emits about half the carbon dioxide of coal. Making gas cheaper than coal has shifted a large part of US electricity production from coal to gas. This is the main reason why the United States has seen the largest reduction in carbon dioxide emissions of any nation over the past decade.





DISADVANTAGE: POLITICS

- If things remain as they are, Democrats will retain control of both houses of Congress in the 2022 midterms, but it will be a close call.
- Passing additional regulation of water resources will be politically divisive, tipping political control of Congress to the Republicans.
- Loss of control of Congress will destroy current progress on climate change.

Alan I. Abramowitz, (Rasmussen Reports), FORECASTING THE 2022 MIDTERM ELECTION WITH THE GENERIC BALLOT, June 10, 2021. Retrieved June 18, 2021 from https://www.rasmussenreports.com/public_content/political_commentary/commentary_by_alan_i_abramowitz/forecasting_the_2022_midterm_election_with_the_generic_ballot

Despite their extremely narrow majorities, the forecasts in Table 3 show that Democrats have a reasonable chance of keeping control of both chambers in the midterm elections if they maintain at least a narrow lead on the generic ballot. A recent Quinnipiac poll gave Democrats a nine-point lead on the generic ballot. A lead of that magnitude would predict a Republican gain of one seat in the House and a Democratic gain of two seats in the Senate giving Democrats a 221-214 seat majority in the House and a 52-48 seat majority in the Senate.





CASE RESPONSE: AGRICULTURAL POLLUTION

- Factory farming makes greater use of technology, cutting costs by limiting chemical inputs, saving the environment in the process.
- Confined animal feeding operations (CAFOs) are actually more humane and protective of the environment.
- High-tech trends such as the use of precision agriculture and low-till farming are reducing the impact on water resources.

Jayson Lusk, (Prof., Agricultural Economics, Oklahoma State U.), WHY INDUSTRIAL FARMS ARE GOOD FOR THE ENVIRONMENT, Sept. 23, 2016. Retrieved Apr. 6, 2021 from <https://www.nytimes.com/2016/09/25/opinion/sunday/why-industrial-farms-are-good-for-the-environment.html>

Improvements in agricultural technologies and production practices have significantly lowered the use of energy and water, and greenhouse-gas emissions of food production per unit of output over time. United States crop production now is twice what it was in 1970. That would not be a good change if more land, water, pesticides and labor were being used. But that is not what happened: Agriculture is using nearly half the labor and 16 percent less land than it did in 1970.





CASE RESPONSE: HYDRAULIC FRACTURING (FRACKING)

- Fracking does not harm water resources; fracking takes place thousands of feet below groundwater; numerous studies have found no impact of fracking on drinking water.
- Fracking is primarily responsible for the displacement of coal use in favor of natural gas, resulting in dramatic reductions in U.S. greenhouse emissions.
- Fracking has reduced the international influence of Russia and Saudi Arabia because it has made the U.S. the world leader in the energy marketplace.

Victor Davis Hanson, (Historian, Hoover Institution of Stanford University), THE FRACKING INDUSTRY DESERVES OUR GRATITUDE, July 6, 2017. Retrieved May 5, 2021 from <https://www.nationalreview.com/2017/07/fracking-industry-united-states-energy-independence-oil-middle-east-venezuela/>

Due to the fracking of natural gas, the United States has reduced its carbon emissions by about 12 percent over the last decade (according to the Energy Information Administration) — at a far greater rate than the environmentally conscious European Union.





CASE RESPONSE: CLIMATE CHANGE

- U.S. greenhouse emissions are already dropping faster than for any other country in the world.
- Restrictions on fossil fuels in the U.S. will be washed out by the dramatic increases in fossil fuel use in China and India.
- Since climate change is inevitable, adaptation should be a more important focus than such drastic measures as the Green New Deal.

Nicolas Loris, (Deputy Dir., Institute for Economic Policy Studies, Heritage Foundation), IT'S NOT JUST ABOUT COST. THE GREEN NEW DEAL IS BAD ENVIRONMENTAL POLICY, TOO, Nov. 15, 2019. Retrieved May 3, 2021 from <https://www.heritage.org/environment/commentary/its-not-just-about-cost-the-green-new-deal-bad-environmental-policy-too>

Secondly, the Green New Deal would result in a number of unintended consequences. For instance, policies that limit coal, oil and natural gas production in the United States will not stop the global consumption of these natural resources. Production will merely shift to places where the environmental standards are not as rigorous, making the planet worse off.





CASE RESPONSE: LEAD POLLUTION

- Follow-up studies show that children in Flint, Michigan were never subjected to dangerous levels of lead in their tap water.
- Lead levels in drinking water throughout the U.S. have been significantly reduced.
- Plastic replacement lines are likely to create their own contamination problems.

Tasha Stolber, (Ph.D. & Senior Scientist, EWG News and Analysis), AMID PIPING WARS, RESEARCHERS WARY OF PLASTIC PIPES LEACHING CHEMICALS, Nov. 14, 2017. Retrieved Mar. 30, 2021 from <https://www.ewg.org/enviroblog/2017/11/amid-pipe-wars-researchers-wary-plastic-pipes-leaching-chemicals>

Plastic is cheaper, which is why Bluefield Research says up to 80 percent of municipal investment in water infrastructure could go to plastic pipes. But not enough is known about their possible health hazards, and a growing number of studies suggest that some plastic pipes leach harmful chemicals and accumulate heavy metals like lead.





CASE RESPONSE: PROTECTION OF WETLANDS

- State regulation of wetlands is active and appropriate.
- Wetlands restoration programs are actively supported by numerous environmental groups as well as most state governments.
- The Obama-era “Clean Water Rule” was vague and arbitrary – an ineffective solution.

Patrick Parenteau, (Prof., Law, Vermont Law School), ENVIRONMENTAL LAW, Spr. 2016, 382.

There is no scientific basis or explanation for where EPA chose to draw the line. What is the hydrological, geological, or ecological significance of 4,000 feet? Why not 3,000, or 5,000, or 10,000? Why pick a number at all? Indeed, that was the view of EPA's Science Advisory Board (SAB), which cautioned EPA that "adjacent waters and wetlands should not be defined solely on the basis of geographical proximity or distance to jurisdictional waters."





CASE RESPONSE: PFAS POLLUTION

- Banning the entire family of PFAS chemicals would be a mistake; the problematic chemicals have already been voluntarily withdrawn.
- Remaining PFAS chemicals do not meet the EPA standard for being defined as “toxic.”
- Case-by-case evaluation is superior to a broad ban, especially given the highly-useful properties of so many of the thousands of PFAS chemicals.

American Chemistry Council, STEWARDSHIP & REGULATION, Jan. 21, 2021. Retrieved Apr. 15, 2021 from <https://www.americanchemistry.com/PFAS/Stewardship-Regulation.html>

Most of the attention to date on PFAS has focused on a handful of substances which are no longer produced in the U.S., Europe, or Japan. Working closely with EPA and other regulators, starting in the early 2000s, industry voluntarily phased out long-chain PFAS chemistries. As a result of these actions, blood levels of legacy PFAS (e.g., PFOA, PFOS) have declined dramatically according to data collected by the Centers of Disease Control and Prevention (CDC). Moreover, recent comprehensive monitoring of PFAS in drinking water conducted in Michigan and elsewhere suggests a low frequency of detection and low levels observed when detected.





CASE RESPONSE: E-WASTE POLLUTION

- The volume of e-waste is decreasing.
- The recycling of e-waste is on the increase.
- States and private companies are actively managing the recycling of e-wastes, mainly in recognition of the benefits of extracting rare earth elements.

Callie Babbit, (Prof., Sustainability, Rochester Institute of Technology), E-WASTE MANAGEMENT LAGS BEHIND MODERN CONSUMER ELECTRONICS, Jan. 16, 2021. Retrieved May 3, 2021 from <https://www.givingcompass.org/article/e-waste-management-lags-behind-modern-consumer-electronics/>

Thirty years of data show why the volume of e-waste in the U.S. is decreasing. New products are lighter and more compact than past offerings. Smartphones and laptops have edged out desktop computers. Televisions with thin, flat screens have displaced bulkier cathode-ray tubes, and streaming services are doing the job that once required standalone MP3, DVD and Blu-ray players. U.S. households now produce about 10% less electronic waste by weight than they did at their peak in 2015.





CASE RESPONSE: COAL POLLUTION

- Coal is dying a natural death, accelerated by fracking and the rapid development of renewable energy technologies.
- Forcing coal companies to cease production immediately only worsens the environmental impacts, and forcing companies into bankruptcy allows them to evade financial responsibility for cleanup.

ClimateNexus, WHAT'S DRIVING THE DECLINE OF COAL IN THE UNITED STATES, Mar. 21, 2019. Retrieved Apr. 10, 2021 from <https://climatenexus.org/climate-issues/energy/whats-driving-the-decline-of-coal-in-the-united-states/>

The U.S. coal industry is declining in the face of lower-cost natural gas, renewable energy and regulations designed to reduce greenhouse gas emissions and protect public health. Decades of mechanization have also reduced employment. This has spurred a wave of coal companies to declare bankruptcy, including four industry giants between 2015 and 2018. Utilities are accelerating their retirement of coal plants because they are increasingly uneconomical.





CASE RESPONSE: NATIVE AMERICANS

- The United States Supreme Court has already affirmed the water rights of Native Americans in its *Winters v. U.S.* decision.
- While uranium mining did result in water pollution in Indian Country, federal legislation has funded cleanup operations.
- The Biden administration has permanently abandoned the Keystone XL Pipeline.

Andrew Dzurik, et al., (Prof., Emeritus, Environmental Engineering, Florida State U.), *WATER RESOURCES PLANNING: FUNDAMENTALS FOR AN INTEGRATED FRAMEWORK*, 2019, 140-141.

Any discussion of tribal water rights must begin with the *Winters* doctrine, which states that an Indian reservation has implied water rights reserved to it at the time of its creation. These rights are not based on beneficial use and cannot be forfeited by nonuse. The priority date is no later than the date the reservation was established. Thus, an unused *Winters* doctrine right will be senior to many of the water uses already in existence for many years. This doctrine was established in 1908 by the US Supreme Court in *Winters v. US*.





CASE RESPONSE: RIGHT TO WATER

- Making water a human right ignores the needs of non-human creatures for a sufficient quantity of water to remain in rivers, lakes, and streams – it is an anthropocentric notion.
- The State of California made water a “human right,” but this did nothing to change the problems of water scarcity and quality.
- Making water a “human right” is an instance of “rights talk,” deflecting real change by creating an illusion that problem has somehow been solved.

Stephen Marks, (Prof., Health and Human Rights, Harvard U.), *GEORGE WASHINGTON INTERNATIONAL LAW REVIEW*, 2016, 98.

The seven right-to-health issues discussed above - water and sanitation, sexual and reproductive health, safe motherhood, tobacco control, access to medicines, essential and emergency surgery, and cystic fibrosis screening - exemplify the variety of framings of public health concerns in human rights language. Dubbing them "new human rights" might enhance the emotional appeal in the context of advocacy, but is inaccurate from a legal perspective and would lend support to those who warn against proliferation, inflation, or dilution of human rights. As human rights professor Hurst Hannum said, "Attempting to expand the scope of human rights too quickly plays into the hands of those who exalt stability above all else, and consolidating rights within societies remains a formidable task."





CASE RESPONSE: BOTTLED WATER

- Bottled water is more heavily regulated than tap water.
- Bottled water is safer than tap water.
- Bottled water bans are counterproductive, causing consumers to purchase more sugared drinks while changing not at all the volume of plastic containers.

Elizabeth Berman & Rachel Johnson, (Prof., Nutrition and Food Sciences, U. Vermont), AMERICAN JOURNAL OF PUBLIC HEALTH, July 2015, p. 1406.

The number of bottles per capita shipped to the university campus did not change significantly between spring 2012 (baseline) and fall 2012, when the minimum healthy beverage requirement was put in place. However, between fall 2012 and spring 2013, when bottled water was banned, the per capita number of bottles shipped to campus increased significantly. Thus, the bottled water ban did not reduce the number of bottles entering the waste stream from the university campus, which was the ultimate goal of the ban. Furthermore, with the removal of bottled water, people in the university community increased their consumption of other, less healthy bottled beverages.





CASE RESPONSE: DESALINATION

- Desalination harms ocean creatures in two primary ways: (1) creatures are drawn into and crushed against the intake screens, and (2) brine discharge makes the surrounding ocean environment a killing zone as salinity levels skyrocket.
- Desalination is dramatically more expensive than available conservation measures.
- Private companies are perfectly capable of funding desalination without federal funding.

Karim Barouni, (Prof., Engineering, ALHOSN U., Abu Dhabi), A MULTIDISCIPLINARY APPROACH TO DESALINATION, 2018, 496.

Suffocation, starvation, or exhaustion due to being pinned up against the intake screens or from the physical force of jets of water used to clear debris off screens are the main causes of mortality in impingement. Impingement may also be a significant cause of mortality for protected marine species, such as sea turtles or sea snakes.





RIVERS: INLAND WATERWAYS

- There is no significant harm; all locks and dams are currently in operation.
- Inland waterways facilitate the movement of agricultural produce, but also the movement of coal, thus facilitating the use of one of the most environmentally-unfriendly energy sources.
- Why shouldn't maintenance funding be provided from the fuel taxes charged to the barge operators?

U.S. Grains Council, GRAINS GO WITH THE FLOW: U.S. INLAND WATERWAY SYSTEM OPERATING NORMALLY DURING COVID-19, May 17, 2020. Retrieved May 2, 2021 from <https://grains.org/grains-go-with-the-flow-u-s-inland-waterway-system-operating-normally-during-covid-19/>

“Currently, all locks and dams are operating normally,” [Deb] Calhoun [President of the Waterways Council] said. “Companies, grain elevators and terminals and the U.S. Army Corps of Engineers are continuing to conduct business while closely monitoring their operations and workforce to keep employees safe and healthy.”





CASE RESPONSE: DAM REMOVAL

- The federal government owns or regulates only 6% of the 77,000 dams in the United States.
- Many dams continue to serve important functions for flood control or environmentally-friendly electrical power generation.
- Dam removal can often create more environmental damage for river ecology than leaving the dam in place.
- Dam removal decisions must always be made on a case-by-case basis.

Grady Burns, (JD Candidate), MAINE LAW REVIEW, June 2019, 365.

As much of the scholarship around dam removal points out, dam removal is neither appropriate, nor desirable, in many or even most instances because of the economic, environmental, or public safety benefits that such dams provide; removal must be weighed in a cost-benefit analysis to determine whether any social gains from removal outweigh costs.





CASE RESPONSE: OFFSHORE OIL EXPLORATION AND DRILLING

- Many safety improvements have been made as a result of the Deepwater Horizon oil spill – no energy company wants to follow the BP example of paying billions of dollars in compensation.
- Banning offshore oil would mean increased reliance on fracking.
- Forcing an overall reduction in U.S. oil production will serve Russia's foreign policy interests.

Randall Luthi, (President, National Ocean Industries Association), OFFSHORE DRILLING IS SAFER THAN EVER, Apr. 12, 2018. Retrieved Apr. 30, 2021 from <https://thehill.com/opinion/energy-environment/382884-offshore-drilling-is-safer-than-ever>

Offshore energy production is safer than it has ever been thanks to industry efforts focused in three key areas. First, the industry has worked to prevent accidents from ever happening. This has been accomplished through extensive work to strengthen standards and through the creation of the Center for Offshore Safety (COS). Second, the industry has transformed its well containment and intervention capability. And finally, the industry has established one of the world's most sophisticated and well-coordinated spill response networks.





CASE RESPONSE: MARINE PROTECTED AREAS

- Overfishing is no longer a major problem; fishing stocks are being rebuilt.
- 41% of U.S. waters are already included in marine protected areas.
- State governments have their own marine protected areas – California, for example, maintains 80 MPAs in its coastal waters.

Jonathan Agosta, (JD Candidate), FORDHAM ENVIRONMENTAL LAW REVIEW, Winter 2020, 132.

The amendments to the MSA, now formally known as Magnuson-Stevens Fishery Conservation and Management Act, have been greatly successful at reducing overfishing. In 2017, the number of overfished stocks in the U.S. reached its lowest point ever, with 15 percent of stocks being overfished. With that, 44 fish stocks have now been rebuilt since 2000. What this demonstrates is that more active regulation that emphasizes harvesting a sustainable yield and enforces accountability has been effective in combatting overfishing.





CASE RESPONSE: AQUACULTURE

- U.S. consumers rely heavily on aquaculture for seafood, almost all of which comes from Asia. Only 3% of U.S. seafood comes from aquaculture, almost all of which is based on-shore.
- Reliance on Asian aquaculture is disadvantageous; these operations are much more destructive of the ocean environment than heavily-regulated U.S. operations.

Elan Lowenstein, (JD), UNIVERSITY OF MIAMI INTERNATIONAL AND COMPARATIVE LAW REVIEW, Spring 2019, 478.

With only about three-percent of its domestic seafood produced through aquaculture, the United States relies on foreign producers that have capitalized on the efficiencies of aquacultural advances of the past half century, consisting of half of its 14 billion dollar seafood trade deficit.

Colby Stewart, (Attorney, U.S. Environmental Protection Agency), VERMONT JOURNAL OF ENVIRONMENTAL LAW, Spr. 2019, 76.

In Vietnam, Thailand, and China, the wastewater discharged by fish farming has destroyed entire mangrove forests, heavily polluted many waterways, and radically altered the ecological balance of coastal areas.





CASE RESPONSE: PLASTIC POLLUTION OF THE OCEANS

- Private groups are gearing up to remove plastic pollution in the oceans.
- States and localities are increasingly active in finding ways to reduce single-use plastics.
- A broad ban on plastics violates the needs of Americans with disabilities.

Taylor Keselica, (JD Candidate), *PACE INTERNATIONAL LAW REVIEW*, Winter 2020, 125.

The Ocean Cleanup is an organization that is known for being "the largest [ocean] cleanup in history," developing advanced technologies to achieve its goal to clean up 90% of all ocean plastics. The Global Water Girls organization is also focused on using technology to clean up ocean plastics. Specifically, Global Water Girls uses technology validation by diverting plastics away from the ocean and converting these plastics into sources of energy for use by wastewater treatment plants.

Marcela Romero Mosquera, (JD Candidate, Barry U. School of Law), *ENVIRONMENTAL AND EARTH LAW JOURNAL*, 2019, 23.

For many people with disabilities, the use of straws represents "a matter of life or death" and the alternatives are not as efficient as plastic straws. Some people have physical or medical conditions which make it impossible for them to lift a cup to their mouths, so straws are an essential tool for their survival.





WATER RESOURCES TOPIC: NEGATIVE

