

Topic area E: Domestic Water Regulation

Water lubricates the American economy just as oil does. A prosperous future depends on a secure and reliable water supply. And we don't have it.

-Robert Glennon

A statement of the significance of the topic in current events:

Our proposal of a domestic water regulation topic is motivated partially by the popular press's response to fracking, such as Josh Fox's documentary, *Gasland*, as well as a change in regulation in our state to allow the leasing of public land for drilling. With the potential for our city water supply to be completely subsumed by hydraulic fracturing operations we began to dig deeper into the rules and regulations that govern water law in the entire United States. Not only did we uncover a series of incomplete, loophole ridden, and sometimes unenforceable regulation on the part of the federal government but also that fracking was only one of the smallest concerns facing the current US water supply. In his 2009 book on the impending United States water crisis, Dr. Robert Glennon writes:

Water is a valuable, exhaustible resource, but ... we treat it as valueless and inexhaustible. Just as the energy crisis brought to the nation's consciousness an acute awareness of energy consumption, global warming, and carbon footprints, so too the impending national water crisis will inspire us to rethink how and why we use water.

Glennon concludes that we have constructed a society that is ill prepared to address the urgent water issues of the future. As a debate community we owe it to ourselves to address the policy surrounding what is likely to be the one of the most important issues of the next twenty years: The United States domestic water regulation.

A statement of why the topic is challenging, interesting, and/or provocative:

A domestic water regulation topic helps with the continual balance of topic areas within the LD community. On face, it represents a significant counterpoint to this year's international econ topic. Not only is a domestic water regulation topic different in its general topic area: pollution/environment as opposed to economic, and its location: domestic as opposed to international in conjunction with China, but a successful water regulation resolution is also likely to be different in the implementation of its policies. Most water regulation in the United States is handled by a series of laws such as the Clean Water Act, Safe Drinking Water Act, and CERCLA. Changing US water regulation will force debaters into an investigation of the function of these laws on the regulatory level. Especially in contrast with many of the broad cases designed to access enormous impact scenarios commonly found under the China topic, this is a significantly different type of education.

A statement of the perceived educational value of the topic for debaters:

A water regulation topic provides a wide variety of potential affirmative cases for debaters to learn about. Depending on the wording of the resolution, a federal law increasing access to fracking or a case removing the Halliburton loophole and limiting the amount of possible hydraulic fracturing would likely be topical. A resolution including the clean water act would likely also include affirmatives that regulate point sources of pollution or redefine what is a point source of pollution; currently these regulations allow for certain types of large farms to be excluded from regulatory processes.

In addition to cases that regulate a specific industry and cases that directly amend regulatory processes in order to claim a series of effects, a water topic offers a good balance of negative positions. There is much literature, both scholarly and in the popular press, on the generic danger and cost of

regulation. A unidirectional resolution requiring regulation would ensure stable negative ground to arguments against increasing the amount of regulation. Additionally, water regulation is contingent on a unique version of cooperative federalism where the federal government sets regulations but entrusts the states with designing certain implementation and enforcement mechanisms. While federalism has been considered an underwhelming negative position in the past, the type of cooperation required for implementing these types of regulation ought to prove to be more desirable ground. In addition, we believe that a correctly constructed resolution on water regulation would afford the negative competitive non-topical counterplan ground based on economic solutions. For example, one oft-touted solution to water contamination is a “polluter pays” strategy that forces the polluter to compensate individuals for the damage done. However, most of the US water industry is government owned or subsidized in some way; this, plus the difficulty in measuring the impact of water contamination, means that current US water policy does not rely heavily on a “polluter pays” model. If the affirmative is forced to increase regulation, the negative has access to counterplans that implement a more appropriate polluter pays system as an economically motivated solution to the harms. Many of the recent topics the LD community has selected have forced the negative into nonexistent or extremely difficult to justify counterplan ground. A topic on domestic water regulation has the potential to allow for this element of policy debate, underused in the current LD climate, to play a more prominent role in negative strategies.

A brief bibliography of selected readings that capture the nature of the controversy surrounding the area:

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- Colborn, T., Kwiatkowski, C., Schultz, K., & Bachran, M.. (2011). Natural Gas Operations from a Public Health Perspective. *Human and Ecological Risk Assessment: An International Journal*, 17(5), 1039-1056.
- Dwoskin, E. & Drajem, M. (2012, February 9). Regulations create jobs, too. *Businessweek*. Retrieved from <http://www.businessweek.com/magazine/regulations-create-jobs-too-02092012.html>
- Gleick, P. H. (2011) *The world's water volume 7: Biennial report on freshwater resources*. Washington, DC: Island Press. *Note: in particular we like chapter 7*
- Glennon, R. J. (2009). *Unquenchable: America's water crisis and what to do about it*. Washington, DC: Island Press.
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- Solomin, L. D. (2011). *America's water and wastewater crisis: The role of private enterprise*. New Brunswick, N.J. : Transaction Publishers.

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