West Coast Publishing

Water Resources Protection 2021-22 Negative

Edited by Jim Hanson

Researchers
Cameron Allen, Brett Bricker, Eugene Toth, Justice Wallenmeyer, Kinny Torre, Matt Stannard, Nickolas Remish, Tyler Durbin, William James Taylor

Thanks for using our Policy, LD, Public Forum, and Extemp Materials.

Please don't share this material with anyone outside of your school

including via print, email, dropbox, google drive, the web, etc.
We're a small non-profit; please help us continue to provide our products.

Contact us at jim@wcdebate.com

www.wcdebate.com

NEGATIVE EVIDENCE FILE INTRO

WATER RESOURCES 2021-2022
WEST COAST NEGATIVE

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

Finding Arguments in this File

Use the table of contents on the next pages to find the evidence you need or the navigation bar on the left. We have tried to make the table of contents as easy to use as possible. You'll find scenario/impacts, affirmatives, disadvantages, counterplans, and kritiks listed alphabetically in their categories.

Using the Arguments in this File

We encourage you to be familiar with the evidence you use. Highlight (underline) the key lines you will use in the evidence. Cut evidence from our files, incorporate your and others' research and make new files. File the evidence so that you can easily retrieve it when you need it in debate rounds. Practice reading the evidence out-loud; Practice applying the arguments to your opponents' positions; Practice defending your evidence in rebuttal speeches.

Use West Coast Evidence as a Beginning

We hope you enjoy our evidence files and find them useful. In saying this, we want to make a strong statement that we make when we coach and that we believe is vitally important to your success: DO NOT USE THIS EVIDENCE AS A SUBSTITUTE FOR YOUR OWN RESEARCH. Instead, let it serve as a beginning. Let it inform you of important arguments, of how to tag and organize your arguments, and to offer citations for further research. Don't stagnate in these files--build upon them by doing your own research for updates, new strategies, and arguments that specifically apply to your opponents. In doing so, you'll use our evidence to become a better debater.

Copying and Sharing West Coast Evidence?

Our policy gives you the freedom to use our evidence for educational purposes without violating our hard work.

- You may print and copy this evidence for those on your team.
- **You may not electronically share nor distribute this evidence with anyone other than those on your team unless you very substantially change each page of material that you share.**

For unusual situations, you can e-mail us at **jim@wcdebate.com** and seek our consent.

Ordering West Coast Materials

1. Visit the West Coast Web Page at www.wcdebate.com
2. E-mail us at jim@wcdebate.com
3. Fax us at 877-781-5058

Visit our web page!
www.wcdebate.com

TABLE OF CONTENTS

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

SAMPLE COUNTERPLAN FROM OUR NEGATIVE FILES

CP STATES COUNTERPLAN

Strategy

This counterplan presents an opportunity cost to the United States federal Government protecting water resources; the states protecting water resources instead. The thesis of the counterplan is that the fifty states can act and protect water just as well or even better than the federal government. This has a couple net-benefits. First, many of the solvency cards for the counterplan say the states can solve better because states are able to have flexible solutions to local problems and because local politicians are more likely to be held accountable, which stands in contrast to federal legislation that presents a one-size fits all policy for every state. The states counterplan also has the net-benefits of Federal action bad disads, such as the federalism DA, Politics DA, Agency Trade-off DA, etc. The best strategy is writing the counterplan text to have the states act as similar as the affirmative plan as possible to resolve the affirmative harms.

1NC States CP

Text: The fifty states and all relevant territories should substantially increase its protection of water resources in the United States, including [Insert].

States are better suited to protect water resources

James Harrison **Ormesher**, Under Public Policy and Leadership, The University of Mississippi, **2017** " Examining Federalism in American Water Policy: Taking Stock of a Modern Issue ", https://www.semanticscholar.org/paper/Examining-Federalism-in-American-Water-Policy%3A-of-a-Ormesher/a68dd4c1a9e13755a435612e6807f2d8e7bbca4a, accessed 4-21-2021

At the state and local levels, water policy mostly concerns itself with issues of supply and the allocation of water resources. This is particularly effective, as compared to the federal level, states have higher visibility to the needs of their constituency, and therefore, an ability to adapt more quickly to solve crisis in their jurisdiction. Additionally, more direct ties to their constituencies create a higher level of accountability, and visibility for developing policy to efficiently manage the resource. The evidence for state and local government's ability to quickly adapt to meet the needs of their constituents can be seen in various places. A prime example of this is as water scarcity has begun to impact communities, City governments have worked to develop innovative solutions to these problems. In areas such as Texas and Colorado, cities have turned to waste water reclamation to meet the needs of their citizens (Atkins, 2014). Additionally, as surface water has become Ormesher, 55 polluted, cities have turned to aquifers for clean water (Schlager, 2006). Physical proximity and a limited scope of responsibility allow for a deeper understanding of the problems a population faces. This results in nuanced solutions to these problems. Similarly, a direct line of accountability to the constituency drives policy makers to seek these solutions in order to gain reelection. This strength has been highlighted as states have taken on increased roles in water policy during devolvement, and the federal government equips states with blocked grants (Botsch, 2008). However, state governments also seem to suffer as a result of direct visibility to a particular constituency.

Solvency

States are best for water policy---flexibility, accountability, and financing

Julia **Anastasio** et al, Executive Director & General Counsel, Association of Clean Water Administrators, US Water Alliance, **2019** " One Water for America State Policymakers' Toolkit", http://uswateralliance.org/sites/uswateralliance.org/files/State%20Policymakers%20Toolkit%20Digital.pdf, accessed 4-21-2021

As the Seven Big Ideas continue to spark action around the country, it's clear that state governments are essential to realizing the promise of One Water. State agencies have a primary role in implementing and enforcing clean water, surface water, and drinking water laws. State policymakers are uniquely positioned to address water management issues through legislation and executive office initiatives. These policymakers can work directly with their municipalities to hear the concerns of ratepayers and give local governments the flexibility and support they need. Drawing public attention to water challenges and solutions can be an effective way to develop the public and political will for innovative policy. The state agencies that are part of a governor's administration can also set reasonable regulatory policy that ensures compliance but also preserves local government flexibility and innovation. State legislatures can also advance sustainable water management by prioritizing funding and financing for water infrastructure and management programs. In many states, governor's offices also propose and advocate for their own legislative ideas. Governors and legislatures also have a role in cooperating with the federal government, which assists in funding and sets regulatory standards through agencies such as the Environmental Protection Agency (EPA).

States are key---national policy gets circumvented and hinder state flexibility

Craig **Holt**, Assistant Chief Counsel of the California Air Resources Board, a Visiting Assistant Scholar at UCLA Law, Lecturer at the University of Edinburgh Law School, March 12, **2021**, "Networked Federalism: Subnational Governments in the Biden Era," https://www.ecologylawquarterly.org/currents/networkedfederalism/, accessed 4-21-2021

Subnational advantages extend more deeply into the structure of our politics as subnational action offers a more varied and robust set of frameworks to sustain action, even in the face of federal reversals. Programs rooted in a single totalizing vision tend to be unstable.[45] There are simply too many distinct policy and political interests to make national consensus easy to attain.[46] Even after national consensus is attained, national programs can be subject to swift reversals in the courts—as the Supreme Court stay of the Obama-era Clean Power Plan underlined.[47] More fundamentally, as Harvard political scientist Theda Skocpol has observed,[48] any one climate policy is subject to retrenchment in the absence of sustained political organizing across multiple levels. The subnational network offers this sort of thick and resistant legal/political infrastructure. Subnational policies are not immune to reversal—as Professor Leah Stokes has demonstrated, state-level retrenchment has occurred as incumbent fossil interests resist zero-carbon challengers[49]—but they still have real advantages. Initially, there are simply more actors, meaning that progress can be sustained even if retrenchment occurs in some jurisdictions. But states are also often better able to secure lasting policy settlements: it is less expensive to organize in state politics, meaning that lasting political coalitions are somewhat easier to sustain, and may reach more deeply into the community.[50] The comparative flexibility and speed of state legislation and regulatory processes in some jurisdictions may make it easier to put programs in place and adapt them in the face of attack.[51] And the nimbleness of state and local governments often makes it easier to pair technological policies with social ones—for instance, combining decarbonization rules for an industrial sector with support for transitioning workers.[52]

Interstate agreements solve water protection---overcomes political boundaries and infuses local values and innovation

ICWP, Interstate Council on Water Policy, December, **2020**, "Interstate Water Resource Management Agreements and Organizations", https://icwp.org/wp-content/uploads/2020/12/Primer_ICWP-Interstate-Water-Agreements_FINAL_12_18_2020.pdf, accessed 4-25-2021

Interstate, watershed-based management organizations have flourished over the past seventy years, and the role of these organizations has evolved considerably. These organizations address problems that transcend state, federal, tribal and local political boundaries and functional responsibilities. Similar organizations have been formed to address U.S. transboundary issues with Canada and Mexico. Water supply crises and disagreements, complex point- and non-point source pollution problems, ecological restoration, public health threats, protection of commercially significant resources, and climate change are among the growing number of crossboundary challenges that suggest a growing role for interstate organizations. Authority for the creation of interstate compacts and resulting commissions is provided in Article 1, Section 10, Clause 3 of the United States Constitution. At their most basic level, these institutions provide an opportunity to overcome the parochialism and jurisdictional boundaries that can inhibit traditional agencies whose responsibilities are more narrowly defined and limited by geo-political boundaries and a "stovepipe" approach to the assignment of resource management issues. Whether national policies or priorities are clear or ill-defined for a given issue, watershed and interstate organizations typically follow a collaborative, basin-wide approach that infuses local values and innovative methods, along with additional sources of funding. A variety of widely divergent forms, functions and authorities have evolved to meet specific needs, including interstate compacts, interstate associations, federalstate partnerships, and federal-interstate compacts. The interstate and watershed organizations in existence today range from low budget, ad hoc arrangements without regulatory authority, to treaty- or legislative-based commissions with large staffs, significant funding, and a range of planning, regulatory and financing authorities. They represent an adaptive, cost-effective means for facilitating and ensuring cooperative action among the states.

State innovation serves as a laboratory for finding the best solutions

Andrea K. **Gerlak**, Udall Center for Studies in Public Policy, The University of Arizona November 18, **2014** "Groundwater Governance in the United States: Common Priorities and Challenges", https://ngwa.onlinelibrary.wiley.com/doi/10.1111/gwat.12294, accessed 5-9-2021

This preliminary survey demonstrates that groundwater governance across the United States is decentralized, complex, and far from uniform. States are in different and evolving stages of developing groundwater governance, but they face common challenges to address common priorities. The survey reveals considerable variation in how states divide authority over groundwater and how state laws define water, water quality, and water quantity. States also differ in how complete their groundwater laws are, how they integrate with surface water laws, and whether such laws account for the needs of the environment and groundwater-dependent ecosystems. States have common and basic governance priorities: groundwater allocation, both to whom and how much, and groundwater quality. These priorities are influenced by diffuse and often fragmented authority and by the artificial distinction between surface water and groundwater. At best, the experiences of different states can serve as laboratory experiments. Where innovation is occurring, prospective lessons may be exported to other states. Survey responses signaled a growing recognition of the need to integrate water management across sectors and across resources, and to account for the often-ignored environmental sector. But political and financial barriers remain, even though groundwater regulations are relatively new and do not carry the unwieldy legal history of surface water laws. Interest in regulating groundwater thus presents an opportunity to incorporate both lessons learned from surface water laws and accurate hydrologic information. Below we highlight several of our major findings, based on an analysis of the survey results.

Solves Agriculture Runoff

States solve land management and agriculture runoff best---local partnerships and innovation

Julia **Anastasio** et al, Executive Director & General Counsel, Association of Clean Water Administrators, US Water Alliance, **2019** " One Water for America State Policymakers' Toolkit", http://uswateralliance.org/sites/uswateralliance.org/files/State%20Policymakers%20Toolkit%20Digital.pdf, accessed 4-21-2021

Land management represents one of the greatest opportunities for protecting water quality, preserving ecosystems, and safeguarding our drinking water supplies. American agriculture is highly productive, of the utmost quality, and is very efficient in delivering goods that benefit consumers. Agriculture is one of the largest users of water in the US, and runoff from agricultural lands is believed to be the largest contributor to nonpoint source pollution in our nation's waterways. State governments can play a critical role in incentivizing collaboration for water quality improvement through agriculture-utility partnerships. These partnerships encourage cooperation among all who contribute nutrients, sediment, or other pollutants to a watershed—cities, utilities, farms, and landowners—to find solutions that make the best use of limited resources. These partnerships have developed to preserve or restore high-quality drinking water, reduce nutrients and algal blooms, and keep streams flowing all year for fish and recreation. States can make space for these partnerships by taking an adaptive approach, allowing for a flexible strategy of deploying solutions, then learning from experience and adapting compliance strategies accordingly. Some states and regions are adopting area-wide nutrient management models to drive collaborative solutions for stronger results.

Solves Fracking

States can ban fracking and drilling---empirics

Michael **Rubinkam**, Northeast Pennsylvania Reporter February 25, **2021**, "Agency permanently bans fracking near Delaware River", https://abcnews.go.com/US/wireStory/agency-vote-fracking-ban-delaware-river-76107299, accessed 4-21-2021

A regulatory agency that's responsible for the water supply of more than 13 million people in four Northeastern states voted Thursday to permanently ban natural gas drilling and fracking near a crucial waterway, asserting that gas development poses an unacceptable risk. The Delaware River Basin Commission cited "significant immediate and long-term risks" from gas extraction, saying in a resolution that drillers have "adversely impacted surface-water and groundwater resources, including sources of drinking water, and have harmed aquatic life in some regions." The Delaware River Basin Commission cited "significant immediate and long-term risks" from gas extraction, saying in a resolution that drillers have "adversely impacted surface-water and groundwater resources, including sources of drinking water, and have harmed aquatic life in some regions."

The Public Trust doctrine ensures local initiative effectiveness

William C. **Mumby**, Associate Attorney at Kaplan Kirsch & Rockwell, Berkeley School of Law, August 15, **2017** "Trust in Local Government: How States' Legal Obligations to Protect Water Resources Can Support Local Efforts to Restrict Fracking", https://www.jstor.org/stable/pdf/26568761.pdf?refreqid=excelsior%3Acd402b1bc68b82b3513e44da17df94af, accessed 5-9-2021

3. Public Trust Could Help Defend Local Government Bans on Fracking With such a robust and versatile incarnation of the public trust doctrine, California local governments could likely apply it as another protection for carefully drafted fracking bans.261 California's public trust doctrine demonstrates potential for limiting water rights of the fracking industry if it appears they are damaging public trust waters. Advocates could invoke the trust in response to excessive water extraction that impacts navigable waters or other fracking activities that risk polluting surface water or groundwater. With new evidence from the Environmental Protection Agency that contamination can occur at any stage of the fracking process, the likelihood of an accident that threatens public trust resources remains all the greater.262 Local governments should gather information about geology and hydrology with their jurisdictions in order to assess risks fracking could pose in order to craft restrictions that best preserve these resources and minimize legal exposure. Armed with sturdy home-rule authority and a constitutional and common law basis for conserving and guarding water supplies, municipalities can take action on solid legal footing. The flexibility and empowering capabilities of California's legal schemes offer great hope for local governments wanting to ban fracking in their jurisdictions or eager to protect bans they already have in place.

Solves Technology

Local water policy allows effective technology adoption and innovation, but stringent federal standards hampers development

Julia **Anastasio** et al, Executive Director & General Counsel, Association of Clean Water Administrators, US Water Alliance, **2019** " One Water for America State Policymakers' Toolkit", http://uswateralliance.org/sites/uswateralliance.org/files/State%20Policymakers%20Toolkit%20Digital.pdf, accessed 4-21-2021

States and localities can conduct an audit of their existing regulations and look to eliminate or modify those that are hampering opportunities for the development and deployment of technological innovation. The nation's fragmented regulatory structure prevents new innovations from being developed and can prevent proven innovations from spreading and scaling. In addition, states can help streamline technology adoption by setting standards for piloting and implementing new water management technologies. States can also jointly develop shared permitting and certification platforms. If states agree on a set of common standards, a technology that has been approved in one state would be able to enter an expedited approval process in a reciprocal state. Key Issues to Consider Pace of Implementing New Technologies and Processes The water sector has the potential to be a driver for innovation and economic growth in communities, but adoption across the utility sector remains slow compared to other industries. Given the critical mission of protecting public health, water utilities and state agencies tend to be risk-averse. Utilities provide constant, continuous water service, meaning there is little time for validating new technologies in the face of day-to-day demands. The regulatory approval process for new water technologies tends to be long, and it varies from state to state, which can discourage private investment in solutions and dampen innovation. Finally, testing and scaling new technologies is resource-intensive, which inhibits the adoption of existing solutions and innovations. Private industry, meanwhile, is advancing water innovation more rapidly. Responding to water-related risks to business, industries are aggressively exploring and implementing the technologies necessary to keep workers employed, facilities open, and businesses profitable.

Solves Water Location

Interstate agreements are best for water allocation

Brian **Singleterry**, Lawyer, Texas A&M University School of Law, **2015** "Marketing Interstate Harmony: Interstate Water Markets as an Alternative to Resolving Water Conflicts ", https://scholarship.law.tamu.edu/cgi/viewcontent.cgi?article=1058&context=lawreview, accessed 4-25-2021

However, interstate compacts are very attractive to states for other reasons. First, interstate compacts give the states an opportunity to allocate resources themselves. Under the other mechanisms, states are told how much water they are to receive. This process is more in the spirit of federalism, allowing the states to manage their resources. Second, interstate compacts may prevent some harms from occurring by resolving some issues before they arise. And last, interpreting compacts is more predictable than forecasting outcomes in equitable apportionment cases. 116 These benefits have made compacts the preferred method for interstate water allocation. The Supreme Court has recognized the superiority of compacts over equitable apportionment or congressional allocation.117 The Court has said that water conflicts are "more likely to be wisely solved by co-operative study and by conference and mutual concession on the part of representatives of the states so vitally interested in it than by proceedings in any court however constituted."118 For the most part, western states have followed the Court's advice. Only North Dakota and Washington are not parties to a compact.119

Solves California Crisis

California can implement local solutions to solve water crisis

Heather **Cooley**, Director of the Pacific Institute's Water Program, November 12, **2020**, "California Can Solve Its Water Shortage With the Water We Have. Here's How.", https://pacinst.org/publication/california-can-solve-its-water-shortage-with-the-water-we-have-heres-how/, accessed 4-28-2021

Research from the Pacific Institute found that appliance and fixture upgrades, leak repair and landscape changes could reduce urban water use by up to 5 million acre-feet annually – enough water to supply more than 13 million families for a year. On farms, precision irrigation and other water-wise practices could reduce water use by 6 million to 7 million acre-feet annually while maintaining food production and farmer income. This untapped potential for water efficiency should always be our first step towards water security. There are also new, innovative sources of local supply. Less than 20% of urban wastewater is being reused. There are still more than a million acre-feet of treated water we could reclaim to meet local needs. Water reuse opportunities can be found across the state, but are especially important in coastal areas, where waste(d) water is discharged into and pollutes estuaries and the ocean. Urban runoff is another viable local option. Our cities were designed to remove rainwater to reduce flood risk, literally flushing freshwater down storm drains. Rain gardens, green streets, and parks can help us catch and store more rain. While gray infrastructure like pipes and pumps will continue to play an important role in our water system, green infrastructure can turn urban spaces into a sponge that allows water to sink into the ground to replenish underground aquifers for later use. Water efficiency, reuse and rainwater capture not only save money compared with costly sources like seawater desalination, they also save energy and reduce greenhouse gas emissions, which will be key for avoiding unmanageable climate impacts. Water conservation during California's last drought saved enough electricity to power the cities of Berkeley, Burbank and Santa Cruz for a year. Less energy use means less power plant pollution, helping California achieve our clean air and climate goals. There are other benefits to consider as well. Reuse reduces the need to divert water from streams already stressed by rising temperatures and shrinking snowpack and can curb ocean pollution associated with sewage outfalls. Plants used to soak up runoff also filter out oil, fertilizer and other chemicals before they reach our water supply. And, of course, green spaces help to cool and beautify communities while providing a place for people to enjoy the outdoors. California has a chance to model what a truly resilient water system looks like, combining nature and technology to make the most of every drop and dollar. Just as we are doing in the energy sector, we should be focusing on no-regrets water projects that make economic and environmental sense. As state leaders work to meet Gov. Gavin Newsom's call for 21st Century California water plan, I urge them to focus on sources that are both cost-effective and climate smart.

Solves Lead

Federal standards for lead fails---state action is necessary

Lauren **Rosenthal**, AMP Reporter, May 5, **2020**, "How the EPA has left Americans exposed to lead in drinking water", https://www.apmreports.org/story/2020/05/04/epa-lead-pipes-drinking-water, accessed 4-28-2021

The Environmental Protection Agency — charged with ensuring the nation has clean air and water — has allowed utilities to use a testing method that doesn't detect the highest concentrations of lead from these water pipes, a deficiency the agency has long known about. Scientists at the EPA have spent a decade urging the government to require more rigorous testing methods. But in its first major revision of lead-in-water regulations, made public in October, the EPA ignored years of research by its scientists. The agency instead sided with water utilities in choosing to preserve its misleading test standards, an APM Reports investigation has found. And now the Trump administration, amid a global pandemic, is pushing to finalize the revised regulations this summer. "This rule does absolutely nothing to address all the deficiencies we've known about for the last 10 years," said one EPA researcher, who requested anonymity. "It's an amazing house of cards that's not supported by the data. ... From a scientific perspective, we're writing a rule that is ass-backwards." It's indisputable that there's no safe amount of lead for humans. The toxin is especially dangerous for children; even small amounts can inhibit brain development and intellectual ability. Congress banned the use of lead pipes in 1986 but allowed those already in the ground to remain. Three decades later, an estimated 15 to 22 million Americans still cook with and drink tap water entering their homes through lead pipes, known as "service lines." Instead of replacing all the lead service lines, the government has attempted to monitor and limit lead contamination in water, principally through the EPA's Lead and Copper Rule. The nearly 30-year-old regulation lays out treatment standards that depend on regular testing. Lead is colorless and odorless when it's dissolved in water. The only way to detect it — and confirm that treatment works — is by testing water from the tap. APM Reports spent months investigating how the EPA monitors lead levels in drinking water and the process and people behind the rule's revision. Reporters interviewed 17 current and former EPA scientists and experts, obtained internal memos, and analyzed extensive lead testing data for the first time. The investigation found: The EPA's limit on lead in water — its "action level" — isn't based on what's best for human health. An internal analysis, obtained by APM Reports, estimated that the limit would likely need to be 70 percent lower to prevent lead poisoning among young children.