## \*\*\*1NC

### 1nc

#### ---Interpretation --- The affirmative should win they present a topical policy option that is superior to the status quo or a competitive policy option.

#### ---The USFG is three branches

Black’s Law ‘90 (Dictionary, p. 695)

“[Government] In the United States, government consists of the executive, legislative, and judicial branches in addition to administrative agencies. In a broader sense, includes the federal government and all its agencies and bureaus, state and county governments, and city and township governments.”

#### ---That means the aff should defend material policy change

Ericson 2003

Jon M., Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4

The Proposition of Policy: Urging Future Action In policy propositions, each topic contains certain key elements, although they have slightly different functions from comparable elements of value-oriented propositions. 1. An agent doing the acting ---“The United States” in “The United States should adopt a policy of free trade.” Like the object of evaluation in a proposition of value, the agent is the subject of the sentence. 2. The verb should—the first part of a verb phrase that urges action. 3. An action verb to follow should in the should-verb combination. For example, should adopt here means to put a program or policy into action though governmental means. 4. A specification of directions or a limitation of the action desired. The phrase free trade, for example, gives direction and limits to the topic, which would, for example, eliminate consideration of increasing tariffs, discussing diplomatic recognition, or discussing interstate commerce. Propositions of policy deal with future action. Nothing has yet occurred. The entire debate is about whether something ought to occur. What you agree to do, then, when you accept the affirmative side in such a debate is to offer sufficient and compelling reasons for an audience to perform the future action that you propose.

#### B. Violation

#### Restrictions must legally mandate less production, not just regulate it

Anell 89

Chairman, WTO panel

"To examine, in the light of the relevant GATT provisions, the matter referred to the

CONTRACTING PARTIES by the United States in document L/6445 and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2." 3. On 3 April 1989, the Council was informed that agreement had been reached on the following composition of the Panel (C/164): Composition Chairman: Mr. Lars E.R. Anell Members: Mr. Hugh W. Bartlett Mrs. Carmen Luz Guarda CANADA - IMPORT RESTRICTIONS ON ICE CREAM AND YOGHURT Report of the Panel adopted at the Forty-fifth Session of the CONTRACTING PARTIES on 5 December 1989 (L/6568 - 36S/68)

<http://www.wto.org/english/tratop_e/dispu_e/88icecrm.pdf>

The United States argued that Canada had failed to demonstrate that it effectively restricted domestic production of milk. The differentiation between "fluid" and "industrial" milk was an artificial one for administrative purposes; with regard to GATT obligations, the product at issue was raw milk from the cow, regardless of what further use was made of it. The use of the word "permitted" in Article XI:2(c)(i) required that there be a limitation on the total quantity of milk that domestic producers were authorized or allowed to produce or sell. The provincial controls on fluid milk did not restrict the quantities permitted to be produced; rather dairy farmers could produce and market as much milk as could be sold as beverage milk or table cream. There were no penalties for delivering more than a farmer's fluid milk quota, it was only if deliveries exceeded actual fluid milk usage or sales that it counted against his industrial milk quota. At least one province did not participate in this voluntary system, and another province had considered leaving it. Furthermore, Canada did not even prohibit the production or sale of milk that exceeded the Market Share Quota. The method used to calculate direct support payments on within-quota deliveries assured that most dairy farmers would completely recover all of their fixed and variable costs on their within-quota deliveries. The farmer was permitted to produce and market milk in excess of the quota, and perhaps had an economic incentive to do so. 27. The United States noted that in the past six years total industrial milk production had consistently exceeded the established Market Sharing Quota, and concluded that the Canadian system was a regulation of production but not a restriction of production. Proposals to amend Article XI:2(c)(i) to replace the word "restrict" with "regulate" had been defeated; what was required was the reduction of production. The results of the econometric analyses cited by Canada provided no indication of what would happen to milk production in the absence not only of the production quotas, but also of the accompanying high price guarantees which operated as incentives to produce. According to the official publication of the Canadian Dairy Commission, a key element of Canada's national dairy policy was to promote self-sufficiency in milk production. The effectiveness of the government supply controls had to be compared to what the situation would be in the absence of all government measures.

#### the plan decreases regulations, not restrictions.

Sinha 6

<http://www.indiankanoon.org/doc/437310/>

Supreme Court of India Union Of India & Ors vs M/S. Asian Food Industries on 7 November, 2006 Author: S.B. Sinha Bench: S Sinha, Mark, E Katju CASE NO.: Writ Petition (civil) 4695 of 2006 PETITIONER: Union of India & Ors. RESPONDENT: M/s. Asian Food Industries DATE OF JUDGMENT: 07/11/2006 BENCH: S.B. Sinha & Markandey Katju JUDGMENT: J U D G M E N T [Arising out of S.L.P. (Civil) No. 17008 of 2006] WITH CIVIL APPEAL NO. 4696 OF 2006 [Arising out of S.L.P. (Civil) No. 17558 of 2006] S.B. SINHA, J :

We may, however, notice that this Court in State of U.P. and Others v. M/s. Hindustan Aluminium Corpn. and others [AIR 1979 SC 1459] stated the law thus:

"It appears that a distinction between regulation and restriction or prohibition has always been drawn, ever since Municipal Corporation of the City of Toronto v. Virgo. Regulation promotes the freedom or the facility which is required to be regulated in the interest of all concerned, whereas prohibition obstructs or shuts off, or denies it to those to whom it is applied. The Oxford English Dictionary does not define regulate to include prohibition so that if it had been the intention to prohibit the supply, distribution, consumption or use of energy, the legislature would not have contented itself with the use of the word regulating without using the word prohibiting or some such word, to bring out that effect."

#### C. Voting Issue

#### 1-Limits

#### Opening the topic to all regulations is a limits disaster-Federal Energy regs are FIVE MILLION RESEARCH HOURS

Tugwell 88

The Energy Crisis and the American Political Economy:

Politics and Markets in the Management of Natural Resources

Previously, Dr. Tugwell was the executive director of the Heinz Endowments of Pittsburgh, the founder and president of the Environment Enterprises Assistance Fund, and as a senior consultant for International Projects and Programs at PG&E Enterprises. He served as a deputy assistant administrator at USAID (1980-1981) and as a senior analyst for the energy program at the U.S. Office of Technology Assessment (1979-1980). Dr. Tugwell was also a professor at Pomona College and an adjunct distinguished professor at the Heinz School of Carnegie Mellon University. Additionally, he serves on the Advisory Board and International Committee of the American Council on Renewable Energy and on the Joint Board of Councilors of the China-U.S. Center for Sustainable Development. He also serves on the Board of Eucord (European Cooperative for International Development). Dr. Tugwell received a PhD in political science from Columbia University.

Finally, administering energy regulations proved a costly and cumbersome endeavor, exacting a price all citizens had to pay. As the energy specialist Paul MacAvoy has noted: "More than 300,000 firms were required to respond to controls, ranging from the three dozen major refining companies to a quarter of a million retailers of petroleum products. The respondents had to file more than half a million reports each year, which probably took more than five mil- lion man-hours to prepare, at an estimated cost alone of $80 mil- lion."64 To these expenditures must be added the additional costs to the government of collecting and processing these reports, monitor- ing compliance, and managing the complex process associated with setting forth new regulations and adjudicating disputes. All to- gether, it seems likely that the administrative costs, private and public, directly attributable to the regulatory process also exceeded $1 billion a year from 1974 to 1980.^

#### And, restrictions must be a distinct term for debate to occur

Eric Heinze (Senior Lecturer in Law, University of London, Queen Mary. He has held fellowships from the Fulbright Foundation and the French and German governments. He teaches Legal Theory, Constitutional Law, Human Rights and Public International Law. JD Harvard) 2003 “The Logic of Liberal Rights A study in the formal analysis of legal discourse” http://mey.homelinux.org/companions/Eric%20Heinze/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20%28839%29/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20-%20Eric%20Heinze.pdf

Variety of ‘restrictions’

The term ‘restriction’, defined so broadly, embraces any number of familiar concepts: ‘deprivation’, ‘denial’, ‘encroachment’, ‘incursion’, ‘infringement’, ‘interference’, ‘limitation’, ‘regulation’. Those terms commonly comport differences in meaning or nuance, and are not all interchangeable in standard legal usage. For example, a ‘deprivation’ may be distinguished from a ‘limitation’ or ‘regulation’ in order to denote a full denial of a right (e.g. where private property is wholly appropriated by the state 16 Agents without compensation) as opposed to a partial constraint (e.g. where discrete restrictions are imposed on the use of property which nonetheless remains profitably usable). Similarly, distinctions between acts and omissions can leave the blanket term ‘restriction’ sounding inapposite when applied to an omission: if a state is accused of not doing enough to give effect to a right, we would not colloquially refer to such inaction as a ‘restriction’. Moreover, in a case of extreme abuse, such as extrajudicial killing or torture, it might sound banal to speak merely of a ‘restriction’ on the corresponding right. However, the term ‘restriction’ will be used to include all of those circumstances, in so far as they all comport a purpose or effect of extinguishing or diminishing the right-seeker’s enjoyment of an asserted right. (The only significant distinction which will be drawn will be between that concept of ‘restriction’ and the concept of ‘breach’ or ‘violation’. The terms ‘breach’ or ‘violation’ will be used to denote a judicial determination about the legality of the restriction.6) Such an axiom may seem unwelcome, in so far as it obliterates subtleties which one would have thought to be useful in law. It must be stressed that we are seeking to eliminate that variety of terms not for all purposes, but only for the very narrow purposes of a formal model, for which any distinctions among them are irrelevant.

#### Specific, limited resolutions ensure mutual ground which is key to sustainable controversy without sacrificing creativity or openness

**Steinberg & Freeley 8** \*Austin J. Freeley is a Boston based attorney who focuses on criminal, personal injury and civil rights law, AND \*\*David L. Steinberg , Lecturer of Communication Studies @ U Miami, Argumentation and Debate: Critical Thinking for Reasoned Decision Making pp45-

Debate is a means of settling differences, so there must be a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a tact or value or policy, there is no need for debate: the matter can be settled by unanimous consent. Thus, for example, it would be pointless to attempt to debate "Resolved: That two plus two equals four," because there is simply no controversy about this statement. (Controversy is an essential prerequisite of debate. Where there is no clash of ideas, proposals, interests, or expressed positions on issues, there is no debate. In addition, debate cannot produce effective decisions without clear identification of a question or questions to be answered. For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants are in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity- to gain citizenship? Docs illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? I low are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification can!, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this "debate" is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies must be stated clearly. Vague understanding results in unfocused deliberation and poor decisions, frustration, and emotional distress, as evidenced by the failure of the United States Congress to make progress on the immigration debate during the summer of 2007.

Someone disturbed by the problem of the growing underclass of poorly educated, socially disenfranchised youths might observe, "Public schools are doing a terrible job! They are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do something about this" or. worse. "It's too complicated a problem to deal with." Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as "What can be done to improve public education?"—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies. The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities" and "Resolved: That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference.

To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about "homelessness" or "abortion" or "crime'\* or "global warming" we are likely to have an interesting discussion but not to establish profitable basis for argument. For example, the statement "Resolved: That the pen is mightier than the sword" is debatable, yet fails to provide much basis for clear argumentation. If we take this statement to mean that the written word is more effective than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose.

Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote well-organized argument. What sort of writing are we concerned with—poems, novels, government documents, website development, advertising, or what? What does "effectiveness" mean in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be. "Would a mutual defense treaty or a visit by our fleet be more effective in assuring Liurania of our support in a certain crisis?" The basis for argument could be phrased in a debate proposition such as "Resolved: That the United States should enter into a mutual defense treatv with Laurania." Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. This is not to say that debates should completely avoid creative interpretation of the controversy by advocates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.

#### 2-Education --- Resolution based policy debate enables the ideological clash key to critical thinking, argument development & real world deliberation skills.

Mitchell 2010

Gordon R., Associate Professor and Director of Graduate Studies in the Department of Communication at the University of Pittsburgh, Switch-Side Debating Meets Demand-Driven Rhetoric of Science, Rhetoric & Public Affairs, http://www.pitt.edu/~gordonm/JPubs/Mitchell2010.pdf

Such findings are consistent with the views of policy analysts advocating the argumentative turn in policy planning. As Majone claims, “Dialectical confrontation between generalists and experts often succeeds in bringing out unstated assumptions, conflicting interpretations of the facts, and the risks posed by new projects.” 54 Frank Fischer goes even further in this context, explicitly appropriating rhetorical scholar Charles Willard’s concept of argumentative “epistemics” to flesh out his vision for policy studies: Uncovering the epistemic dynamics of public controversies would allow for a more enlightened understanding of what is at stake in a particular dispute, making possible a sophisticated evaluation of the various viewpoints and merits of different policy options. In so doing, the differing, often tacitly held contextual perspectives and values could be juxtaposed; the viewpoints and demands of experts, special interest groups, and the wider public could be directly compared; and the dynamics among the participants could be scrutizined. this would by no means sideline or even exclude scientiic assessment; it would only situate it within the framework of a more comprehensive evaluation. 55 As Davis notes, institutional constraints present within the EPA communicative milieu can complicate efforts to provide a full airing of all relevant arguments pertaining to a given regulatory issue. Thus, intercollegiate debaters can play key roles in retrieving and amplifying positions that might otherwise remain sedimented in the policy process. The dynamics entailed in this symbiotic relationship are underscored by deliberative planner John Forester, who observes, “If planners and public administrators are to make democratic political debate and argument possible, they will need strategically located allies to avoid being fully thwarted by the characteristic self-protecting behaviors of the planning organizations and bureaucracies within which they work.” 56 Here, an institution’s need for “strategically located allies” to support deliberative practice constitutes the demand for rhetorically informed expertise, setting up what can be considered a demand-driven rhetoric of science. As an instance of rhetoric of science scholarship, this type of “switch-side public debate” 57 differs both from insular contest tournament debating, where the main focus is on the pedagogical beneit for student participants, and irst-generation rhetoric of science scholarship, where critics concentrated on unmasking the rhetoricity of scientiic artifacts circulating in what many perceived to be purely technical spheres of knowledge production. 58 As a form of demand-driven rhetoric of science, switch-side debating connects directly with the communication ield’s performative tradition of argumentative engagement in public controversy—a dif erent route of theoretical grounding than rhetorical criticism’s tendency to locate its foundations in the English ield’s tradition of literary criticism and textual analysis.

#### ---Effective deliberation is the lynchpin of solving all existential global problems.

Christian O. Lundberg 10 Professor of Communications @ University of North Carolina, Chapel Hill, “Tradition of Debate in North Carolina” in Navigating Opportunity: Policy Debate in the 21st Century By Allan D. Louden, p311

The second major problem with the critique that identifies a naivety in articulating debate and democracy is that it presumes that the primary pedagogical outcome of debate is speech capacities. But the democratic capacities built by debate are not limited to speech—as indicated earlier, debate builds capacity for critical thinking, analysis of public claims, informed decision making, and better public judgment. If the picture of modem political life that underwrites this critique of debate is a pessimistic view of increasingly labyrinthine and bureaucratic administrative politics, rapid scientific and technological change outpacing the capacities of the citizenry to comprehend them, and ever-expanding insular special-interest- and money-driven politics, it is a puzzling solution, at best, to argue that these conditions warrant giving up on debate. If democracy is open to rearticulation, it is open to rearticulation precisely because as the challenges of modern political life proliferate, the citizenry's capacities can change, which is one of the primary reasons that theorists of democracy such as Ocwey in The Public awl Its Problems place such a high premium on education (Dewey 1988,63, 154). Debate provides an indispensible form of education in the modem articulation of democracy because it builds precisely the skills that allow the citizenry to research and be informed about policy decisions that impact them, to son rhroueh and evaluate the evidence for and relative merits of arguments for and against a policy in an increasingly infonnation-rich environment, and to prioritize their time and political energies toward policies that matter the most to them. The merits of debate as a tool for building democratic capacity-building take on a special significance in the context of information literacy. John Larkin (2005, HO) argues that one of the primary failings of modern colleges and universities is that they have not changed curriculum to match with the challenges of a new information environment. This is a problem for the course of academic study in our current context, but perhaps more important, argues Larkin, for the future of a citizenry that will need to make evaluative choices against an increasingly complex and multimediatcd information environment (ibid-). Larkin's study tested the benefits of debate participation on information-literacy skills and concluded that in-class debate participants reported significantly higher self-efficacy ratings of their ability to navigate academic search databases and to effectively search and use other Web resources: To analyze the self-report ratings of the instructional and control group students, we first conducted a multivariate analysis of variance on all of the ratings, looking jointly at the effect of instmction/no instruction and debate topic . . . that it did not matter which topic students had been assigned . . . students in the Instnictional [debate) group were significantly more confident in their ability to access information and less likely to feel that they needed help to do so----These findings clearly indicate greater self-efficacy for online searching among students who participated in (debate).... These results constitute strong support for the effectiveness of the project on students' self-efficacy for online searching in the academic databases. There was an unintended effect, however: After doing ... the project, instructional group students also felt more confident than the other students in their ability to get good information from Yahoo and Google. It may be that the library research experience increased self-efficacy for any searching, not just in academic databases. (Larkin 2005, 144) Larkin's study substantiates Thomas Worthcn and Gaylcn Pack's (1992, 3) claim that debate in the college classroom plays a critical role in fostering the kind of problem-solving skills demanded by the increasingly rich media and information environment of modernity. Though their essay was written in 1992 on the cusp of the eventual explosion of the Internet as a medium, Worthcn and Pack's framing of the issue was prescient: the primary question facing today's student has changed from how to best research a topic to the crucial question of learning how to best evaluate which arguments to cite and rely upon from an easily accessible and veritable cornucopia of materials. There are, without a doubt, a number of important criticisms of employing debate as a model for democratic deliberation. But cumulatively, the evidence presented here warrants strong support for expanding debate practice in the classroom as a technology for enhancing democratic deliberative capacities. The unique combination of critical thinking skills, research and information processing skills, oral communication skills, and capacities for listening and thoughtful, open engagement with hotly contested issues argues for debate as a crucial component of a rich and vital democratic life. In-class debate practice both aids students in achieving the best goals of college and university education, and serves as an unmatched practice for creating thoughtful, engaged, open-minded and self-critical students who are open to the possibilities of meaningful political engagement and new articulations of democratic life. Expanding this practice is crucial, if only because the more we produce citizens that can actively and effectively engage the political process, the more likely we are to produce revisions of democratic life that are necessary if democracy is not only to survive, but to thrive. Democracy faces a myriad of challenges, including: domestic and international issues of class, gender, and racial justice; wholesale environmental destruction and the potential for rapid climate change; emerging threats to international stability in the form of terrorism, intervention and new possibilities for great power conflict; and increasing challenges of rapid globalization including an increasingly volatile global economic structure. More than any specific policy or proposal, an informed and active citizenry that deliberates with greater skill and sensitivity provides one of the best hopes for responsive and effective democratic governance, and by extension, one of the last best hopes for dealing with the existential challenges to democracy [in an] increasingly complex world.

#### ---Switch side debate is key to indigenous self determination --- Must be prepared to engage the language of policymakers inorder to ensure indigenous survival.

Turner 1997

Dale A., “This is not a Peace Pipe”: Towards an understanding of aboriginal sovereignty, A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfilment of the requirements of the degree of Doctor of Philosophy at McGill University, http://digitool.library.mcgill.ca/webclient/StreamGate?folder\_id=0&dvs=1360425888309~731

Unfortunately, there are parts of the Aboriginal landscape that have been forced upon them. These are the intellectual discourses that have evolved to subjugate, distort, and marginalize Aboriginal ways of thinking. The knowledge and skills required to participate in the Iegal-political discourse of Aboriginal sovereignty, for better or worse, have become a significant part of the Aboriginal intellectual landscape. This discourse has evolved without the significant contribution of Aboriginal voices, yet its effects on Aboriginal communities have been devastating. Consequently, Aboriginal peoples have viewed the Eurocentric legal-political discourse with scepticism and embracing it is seen in the communities as a sign of assimilation. There is an element of truth to this prevailing attitude. But 1 shaH explain why 1 think Aboriginal intellectuals must turn their intellectual energies ta the legalpolitical discourse of sovereignty. Robert Allen Wardor writes: If our struggle is anything, it is a way of life. That way of life is not a matter of defining a political ideology or having a detached discussion about the unifying structures and essences of American Indian traditions. It is a decision-a decision we take in our minds, in our hearts, and in our bodies-to be sovereign and to find out what that means in the process. The point Warrior is trying make here is that we can assert our intellectual sovereignty in imaginative ways without becoming white intellectuals. Warrior argues that Native Ameriean intellectuals have by and large [been] caught in a death dance of dependence between, on the one hand, abandoning ourselves to the intellectual strategies and categories of white, European thought and, on the other hand, declaring that we need nothing outside ourselves and our cultures in arder to understand the world and our place in it. He optimistically adds: When we remove ourselves from this dichotomy, much becomes possible. We see first that the struggle for sovereignty is not a struggle to be free from the influence of anything outside ourselves, but a process of asserting the power we possess as communities and individuals to make decisions that affect our lives. This last comment is worthy of a closer examination in the context of the legal-political discourse 1 am urging Aboriginal intellectuals to embrace. Warrior seems to be suggesting that our struggle to exercise our intellectual sovereignty simply requires us to assert a power we already possesse In one sense he is right; that is, in the end it is up to us to assert our philosophies, and we have to decide as a community to do 50. But there is another aspect to this unilateral assertion of intellectual sovereignty, especially when it is viewed from within the context of the legal-political discourse of Aboriginal sovereignty. This is the fact that our intellectual traditions are not recognized as valuable sources of knowledge, or wisdom, by the legal and political intellectual community. Our tribal secrets are of anthropological or historical interest only-white academics are still most interested in generating a discourse about Aboriginal people. Aboriginal views of political sovereignty occupY little space, if any at all, in the contemporary academic theoretical discourse of sovereignty. Of course, this does not lower the standards of our own philosophical traditions. l am suggesting that it is not enough simply to assert our intellectual sovereignty within an already vigourous white intellectual community. As a matter of survivaI, Aboriginal peoples must engage the non-Aboriginal intellectual landscape from which their rights and sovereignty are articulated. Unlike Aboriginal intellectuals carving out their own communities and asserting their intellectual sovereignty within them, l am suggesting that Aboriginal intellectuals must carve out a community of practitioners within the existing dominant legal and political communities. For example, Aboriginal legal theory has moved in new directions over the past ten years. Douglas Sanders, Brian Slattery, Bruce Clark, PatrickMacklem, and Kent McNeil-all non-Aboriginal legal scholars--have, over thepast twenty years, established Native Law as a subject worthy of specializationwithin the larger field of law.2It is Aboriginal scholars, though, like Mary Ellen Turpel, Sakej Henderson, Russel Barsh, Patricia Montour, Mark Dockstator, and John Borrows who have engaged the discourse in ways that have empowered the Aboriginal presence within the field of legal theory:Aboriginal legal scholars are becoming recognized as the authorities withinthe field of Aboriginallaw in Canada.They in tum can assert theirauthority within the legal community that has increasing influence at aillevels of the Canadian legal culture.Bruce Trigger makes a similar plea in the context of professionalhistorians and anthropologists: While Native people have played the major political roIe inchallenging the image that other Native Americans have of them,non-aboriginal historians and anthropologists have been working todispel myths that their predecessors helped to create....It is essentialthat more Native people who are interested in studying their pastshould become professional historians and anthropologists, sa thattheir special insights and perspectives can contribute te the study ofNative history...so the distinction between professionalanthropologists and historians on the one hand and Native peopleon the other should give way to disciplines in which Native peopleplay an increasingly important role. Such collegiality will mark thebeginning of a new phase in the study of Native history.29 A problem with bringing the Aboriginal voice into this academic community is that the university remains an unfriendly envirenment for most Aboriginal students. Most of the course content that is taught ta Aboriginal students in universities is focused on Aboriginal peoples as abjects of study. Many Aboriginal students experience the residential school attitudes in universities, and therefore most do nat finish their degrees. Trigger is talking about generating a community of Ph.D's, when the truth of the matter is that most Aboriginal students do not graduate from high school. Nonetheless, Trigger's point is weIl taken. The problem, then, is how to establish a community of Aboriginal historians and anthropologists in the first place. This is even more difficult in fields such as philosophy and political science. This is where Tully's notion of the mediator is helpful. He has offered a way for philosophers, especially political philosophers, to see their own field of study in a way that could include, indeed even demands Aboriginal participation. But Tully's mediator requires an Aboriginal mediator. L suggest that an Aboriginal mediator is someone who can embrace Iegal political discourse from the position that the knowledge and skills developed from engaging such a discourse are necessary for the survival of Aboriginal peoples. It is a strange choice to make, but we are a strange multiplicity. Remember the EIder's words at the beginning of this thesis: We have discarded our broken arrows and our empty quivers, for we know what served us in the past can never serve us again...It is only with tongue and speech that l can fight my people’s war.

#### 3-Predictable Ground --- Resolution focused debate is key to pre-round research, argument development and equitable access to the debate space. Solves their offense since they could have made these arguments during the topic meeting.

Zwarensteyn 2012

Ellen C., Masters Candidate in Communications at Grand Valley State University, High School Policy Debate as an Enduring Pathway to Political Education: Evaluating Possibilities for Political Learning, Masters Theses. Paper 35, http://scholarworks.gvsu.edu/theses/35

Galloway (2007) also advances an argument concerning the privileging of the resolution as a basis for debating. Galloway (2007) cites three pedagogical advantages to seeing the resolution and the first affirmative constructive as an invitation to dialogue. “First, all teams have equal access to the resolution. Second, teams spend the entire year preparing approaches for and against the resolution. Finally, the resolution represents a community consensus of worthwhile and equitably debatable topics rooted in a collective history and experience of debate” (p. 13). An important starting point for conversation, the resolution helps frame political conversations humanely. It preserves basic means for equality of access to base research and argumentation. Having a year-long stable resolution invites depth of argument and continuously rewards adaptive research once various topics have surfaced through practice or at debate tournaments.

#### 4-Rejecting switch side debate makes exclusion covert without improving the quality of debates.

Day 1966

Dennis, Assistant professor and director of forensics @ U. of Wisconsin, Madison, *central states speech journal,* “The Ethics of Democratic Debate” v17 p8

The ethic suggested here is similar to another ethical position which is widely accepted. Most readily acknowledge an ethical responsibility to oppose overt attempts to silence debate or suppress the expression of minority and unpopular views, even when such attempts are made in the name of personal conviction. Most fail, however, to recognize the more subtle and dangerous form of suppression which takes place in the name of personal conviction: an individual’s failure to give effective expression to an argument which is not otherwise being effectively expressed, because the argument is in opposition to his personal conviction on a problem. The act of suppression is no less harmful to the decision-making process because it is covert instead of overt. The social effects are the same: decision based on incomplete debate. The covert suppression of argument and information is as ethically culpable as is overt suppression. And personal conviction is no justification for either. Covert suppression is the greater threat to democratic processes because it is clandestine and is more difficult to overcome because of the ego involvement that usually accompanies personal conviction.

#### ---Policy debate strengthens student’s fundamental values; not hampers their development.

Zwarensteyn 2012

Ellen C., Masters Candidate in Communications at Grand Valley State University, High School Policy Debate as an Enduring Pathway to Political Education: Evaluating Possibilities for Political Learning, Masters Theses. Paper 35, http://scholarworks.gvsu.edu/theses/35

Finally, shifting political identities is not a source of concern. The PEP researchers found how teaching for political learning did not change students’ fundamental values. Instead teaching different political concepts helped align students to their own political identities; teaching politics helps students explore their own internal argumentative consistency and beliefs. Evaluating “tensions and consistencies among values and beliefs or between values and actions is an important part of working toward a more ‘examined life’ and a more fully integrated sense of oneself as a civic or political person” (Colby, Beaumont, Ehrlich, and Corngold, 2007, p. 262). Thus, political learning practices help students realize their own political identity through careful consideration of multiple viewpoints.

#### ---The preservation of clash comes before the evaluation of the affirmative --- The impossibility of objective knowledge means the political clash informs the basis for representations, discourse, epistemology and ontology; not the other way around.

Swyngedouw 2009

Erik, School of Environment and Development, Manchester University, The Antinomies of the Postpolitical City: In Search of a Democratic Politics of Environmental Production, International Journal of Urban and Regional Research, Volume 33, Issue 3, pages 601–620

Political struggles are central in shaping alternative or different trajectories of socio-metabolic change and the construction of new and emancipatory urban environmental geographies. All manner of critical social-theoretical analyses have been mobilized to account for these processes. Marxist and post-Marxist perspectives, environmental justice arguments, deconstructionist and poststructural musings, science/technology studies, complexity theory, postcolonial, feminist and Latourian views, among others, have attempted to produce what I would ultimately be tempted to call a ‘sociological’ analysis of urban political-ecological transformations. What they share, despite their different — and often radically opposed — ontological and epistemological claims, is the view that critical social theory will offer an entry into strategies, mechanisms, technologies of resistance, transformation and emancipatory political tactics. In other words, the implicit assumption of this sociological edifice is that ‘the political’ is instituted by the social, that political configurations, arrangements and tactics arise out of the social condition or process or, in other words, that the social colonizes ‘the political’ (Arendt, 1968). The properly political moment is assumed to flow from this ‘sociological’ understanding or analysis of the process. Or in other words, the ‘political’ emerges, both theoretically and practically, from the social process, a process that only knowledge has access to. Put differently, most urban political ecological perspectives assume the political to arise from analysis, but neither theorizes nor operationalizes the properly political within a political ecological analysis. This opens a theoretical and practical gap as the properly political is evacuated from the theoretical considerations that have shaped (urban) political ecology thus far. This ‘retreat of the political’ (Lefort, 1988; Lacoue-Labarthe and Nancy, 1997) requires urgent attention. This retreat of the properly political as a theoretical and practical object stands in strange contrast to the insistence of urban political ecology that urban socio-environmental conditions and processes are profoundly political ones and that, consequently, the production of different socio-environmental urban trajectories is a decidedly political process. Considering the properly political is indeed all the more urgent as environmental politics increasingly express a postpolitical consensual naturalization of the political. As argued by Swyngedouw (2007a), Žižek (2002 [1992]) and Debruyne (2007), among others, the present consensual vision that the environmental condition presents a clear and present danger that requires urgent techno-managerial re-alignments and a change in the practices of governance and of regulation, also annuls the properly political moment and contributes to what these and other authors have defined as the emergence and consolidation of a postpolitical condition. These will be the key themes I shall develop in this contribution. First, I shall explore what might be meant by the ‘properly’ political. In conversation with, and taking my cue from, political philosophers and theorists like Slavoj Žižek, Jacques Rancière, Alain Badiou, Etienne Balibar, Claude Lefort, David Crouch, Mustafa Dikeç, Chantalle Mouffe and Peter Hallward, I attempt to theorize and re-centre the political as a key moment in political-ecological processes. What these perspectives share is not only the refusal to accept the social as the foundation of the political, but, more profoundly, the view that the absence of a foundation for the social (or, in other words, the ‘social’ being constitutively split, inherently incoherent, ruptured by all manner of tensions and conflicts) calls into being ‘the political’ as the instituting moment of the social (see, e.g., Marchart, 2007; Stavrakakis, 2007). Put differently, it is through the political that ‘society’ comes into being, achieves a certain coherence and ‘sustainability’. Prioritizing ‘the political’ as the foundational gesture that permits ‘the social’ maintains ‘absolutely the separation of science and politics, of analytic description and political prescription’ (Badiou, quoted in Hallward, 2003a: 394). This is not to say, of course, that politics and science are not enmeshed (on the contrary, they are and increasingly so), but rather that unravelling the science/politics imbroglios (as pursued by, among others, critical sociologies of science, science and technology studies, science-discourse analysis and the like) does not in itself permit opening up either the notion or the terrain of the political. The aim of this article, in contrast, is to recover the notion of the political and of the political polis from the debris of contemporary obsessions with governing, management, urban polic(y)ing and its associated technologies (Lacoue-Labarthe and Nancy, 1997).

### 1NC cp

#### Text --- The United States federal government should;

#### reinstate federal liability over tribal energy resource agreements

* **allow identification and incorporation of environmental mitigation measures at the discretion of individuals entering into Tribal Energy Resource Agreements**
* **stream-line approval of Tribal Energy Resource Agreements and automatically approve Tribal Energy Resource Agreement proposals pending 271 days if inaction is taken on behalf of the Secretary of the Interior.**

#### Contention One --- Solvency

**---Changing the Secretary’s approval process solves the case --- Avoids paternalism, spurs indigenous energy development and balances self-determination with the trust doctrine.**

Royster 2012

Judith V., Co-Director – Native American Law Center @ University of Tulsa,“Tribal Energy Development: Renewables and the Problem of the Current Statutory Structures,” March, 31 Stan. Envtl. L.J. 91

Nonetheless, there are steps that can be taken to tighten up the approval process and make it friendlier to renewable energy development. The **two amendments** to the IMDA **proposed here** [\*133] would provide that the Secretary's failure to act within the time allotted constitutes approval, and that in determining whether a minerals agreement is in the tribe's best interest, the Secretary will defer to the tribe's decision.¶ Under the IMDA, the Secretary has 180 days to approve or disapprove a minerals agreement, or 60 days after compliance with the National Environmental Policy Act (NEPA), whichever is later. n189 The statute specifically provides that the Secretary's failure to meet the deadline is enforceable by a mandamus action in federal court. n190 Making the Secretary's deadline mandatory is useful, but authorizing enforcement by court action is not. Civil suits proceed slowly through the federal courts, and it is unlikely that a writ of mandamus would be issued before the Secretary reached a decision on the minerals agreement. Waiting two years for the court's decision is no better than waiting two years for the Secretary's.¶ A better approach would borrow from the proposed statutory amendments to the TERA process. The proposed TERA amendments would replace a provision giving the Secretary 270 days to approve a TERA, with a provision that 271 days after the tribe submits its TERA application, the TERA "shall" become effective if the Secretary has not disapproved it. n191 A similar amendment to the IMDA could provide that 181 days after the tribe submits a proposed minerals agreement, or 61 days after compliance with NEPA, whichever is later, the agreement "shall" take effect if the Secretary has not disapproved it or has not provided the tribe with written findings of the intent to approve or disapprove the agreement. n192 As with the proposed TERA [\*134] amendment, this would put substantial additional pressure on the Department of the Interior to act quickly. But the benefit to tribes of knowing whether their minerals agreements have been approved, and being able to implement their agreements within a reasonable time, outweigh those concerns.¶ The second way to streamline the approval process for renewable energy resources is to address the substance of the Secretary's **review of mineral agreements.** The IMDA provides that the Secretary must determine whether a proposed agreement "is in the best interest of the Indian tribe." n193 In so doing, the Secretary "shall consider, among other things, the potential economic return to the tribe; the potential environmental, social, and cultural effects on the tribe; and provisions for resolving disputes that may arise between the parties to the agreement." n194 The statute expressly provides, however, that the Secretary is not responsible for preparing any studies regarding "environmental, socioeconomic, or cultural effects" other than the environmental studies required by NEPA. n195¶ The regulations, on the other hand, require that the Secretary determine both that the minerals agreement is in the tribe's best interest and that any adverse cultural, social, or environmental impacts do not outweigh the benefits of the agreement. n196 The "best interest" standard is further defined as requiring "the Secretary [to] consider any relevant factor, including, but not limited to: economic considerations, such as date of lease or minerals agreement expiration; probable financial effects on the Indian mineral owner; need for change in the terms of the existing minerals agreement; marketability of mineral products; and potential environmental, social and cultural effects." n197 The regulations further specify that the "best interest" standard is based on information supplied by the parties "and any other [\*135] information considered relevant by the Secretary." n198 That information may include comparisons to other contracts or offers for similar resources, "insofar as that information is readily available." n199¶ These standards, derived from judicial determinations that the Secretary must consider all relevant factors in reviewing mineral leases under the IMLA, n200 place considerable decision-making power with the Secretary. During the rulemaking process, in fact, the Department of the Interior rejected a commenter's suggestion that minerals agreements should be approved if the agreements were in compliance with law. The Department noted that the law itself "allows the Secretary the discretion to weigh relevant factors and requires the Secretary to make, on the basis of the Secretary's judgement, a best interest determination." n201¶ At the time the IMDA was enacted in 1982, federal Indian policy had only recently focused on tribal self-determination, n202 and Indian tribes were still emerging from the uncertainties and destruction of the termination era. n203 The Department of the Interior had experience with considering all relevant factors in the approval of IMLA leases, and carried that standard into the new world of minerals agreements. It took twelve years for the Department to issue IMDA regulations, but the regulations again reflected the central role of the Secretary and the importance of the Secretary's judgment call. In the 1980s and even early 1990s, the Secretary's stringent oversight may have been justified by the imbalance of knowledge and bargaining power between tribes and energy companies.¶ But nearly twenty years have passed since the regulations were [\*136] promulgated in 1994. Indian tribes have thirty years of experience with IMDA minerals agreements, and many of the energy tribes have become sophisticated negotiators of development deals. Certainly tribes are the best determiners of cultural and social impacts, and often of the economic impacts as well. In light of those factors, the **standards for approval** of IMDA agreements are due for amendment.¶ Amending the statute itself to revisit the appropriate factors may be the best choice, **but a simpler** and perhaps **quicker fix is** also **available.** The Department could amend the regulations to reflect modern realities. Similar to the best interests determination in the regulations for agricultural and other surface leases, the IMDA regulations could provide that in reviewing an IMDA minerals agreement, the Secretary will defer to the tribe's determination that the agreement is in its best interest, **to the maximum extent possible.** n204 Although the conditional "maximum extent possible" language preserves the Secretary's ultimate authority under the statute, the regulation would ensure that the Secretary will undertake the minerals agreement review process with **due respect for the tribe's decision.** **Even if** a deferential review is current practice, embedding it in the regulations **strengthens the tribe's role in the decision making process.**¶VII. Conclusion¶ Renewable energy resources are taking on increased importance for tribal economies. While these resources are abundant in Indian country, the federal statutory authority for their development is dispersed and often problematic. Mineral development statutes may or may not apply; other statutes not originally intended for energy development fill the gap, but generally confine tribes to a passive role in renewables development. The recent energy statute solves many of the problems with the other approaches, but creates a process that is [\*137] complex and expensive enough to discourage most tribes from using it. Recent bills would tweak the energy statute and propose broader leasing authority, but none addresses the overarching problem of providing tribes with a way to take an active role in the development of renewable resources without undue expense or federal oversight.¶ The amendments to the IMDA and its regulations proposed here also do not solve that overarching problem entirely. They are intended to suggest **steps in the direction of greater tribal self-determination** in renewable energy development. They would free tribes to **take more active roles** in renewable energy projects, while preserving tribes' ability to use the variety of other available statutory approaches. And they would rein in the secretarial approval power by providing that federal inaction benefits the tribes and by reframing the best interests analysis. Under these proposals, Indian tribes could more easily develop their renewable energy resources, and do so with **more direct say** in the development itself.

#### ---Only the counterplan solves --- Tribes won’t engage in energy production without the reinstatement of federal liability.

Kronk 2012

Elizabeth Ann, Assistant Professor, Texas Tech University School of Law. J.D., University of Michigan School of Law; B.S., Cornell University, Tribal Energy Resource Agreements: The Unintended “Great Mischief for Indian Energy Development” and the Resulting Need for Reform, Volume 29, Issue 3 Spring, http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1705&context=pelr

Despite Senator Campbell’s reaction to Senator Bingaman’s proposed amendment, **a review of the legislative history related to this provision suggests that the majority of the commentators were concerned that the waiver of the federal government’s liability** contained **in** the then-pending **TERA provisions amounted to an abrogation of the federal government’s trust responsibility to federally recognized tribes. This concern**, like the issues previously examined, **has likely contributed to tribes’ unwillingness to enter into a TERA**.

#### Contention Two --- Corporate Exploitation

**Eliminating review entirely recreates neo-colonial structures of oppression --- The plan opens the floodgates replacing federal paternalism for corporate energy exploitation.**

**Mills 2011**

Andrew D, Energy and Resources Group at UC Berkeley, Wind Energy in Indian Country: Turning to Wind for the Seventh Generation,"

Broadly, the idea of dependency is summarized in the common phrase “the development of underdevelopment.” Dependency is a critique of the idea of the economic base in that underdeveloped regions become specialists in providing raw materials and resources that are used in developed regions to create manufactured goods. Substantial value is added to products in the latter stages of processing, but very little of that value is transferred to the developing region. Furthermore, **when large multi-national companies control the extraction of the resources the developing region often forgoes the opportunity to build capacity in the production of the base resource**. Instead, the local economy simply provides access to the resource and unskilled or semiskilled laborers (See Palma 1989 and Kay 1991). Beyond the lack of opportunity to capture value, the dependency critique argues that the success of developing a base resource can distort the structure of the regional economy. Instead of entrepreneurs developing a strong, diversified economy, the businesses that do emerge in the regional economy are oriented toward providing services to the large industrial companies that extract resources (Gunton 2003, 69). The services provided by the government can become focused on increasing the development of just one sector and income to the government becomes tied to the production of the resource. The economy of the entire region and the services provided by the government become linked to the price of the export resource. Moreover, if the resource is depleteable, the economy contracts as the resource becomes more and more difficult to extract in comparison to alternative resources. One measure of the degree of specialization in the production of energy resources is called the “oil dependency” metric. The “oil dependency” of the Navajo Nation is the ratio of the value of the energy exports (oil, coal, and gas) to the gross regional product of the Navajo Nation (Ross 2001). A rough approximation of the “oil dependency” for the Navajo Nation was found to be 1.1 using data available in the Comprehensive Economic Development Strategy of the Navajo Nation (Choudhary 2003) and energy prices from the Energy Information Agency. The most oil dependent national economy in the world is Angola (68.5). Norway, which exports a considerable amount of oil has an oil dependency of 13.5. The 25th of the top 25 most oil dependent nations has an oil dependency of 3.5 (Ross 2001). Although the Navajo Nation would not be considered as “oil dependent” as these other countries, it is also important to realize that 15- 20% of the Navajo Nation annual funds are from royalties on energy resources. If the grants from external sources like the federal government are not included in the sources of annual funds, then the share of energy resources increases to 25-50% of the Navajo Nation budget (Choudhary 2003, 65 - Table 7). Furthermore, the second largest recipient of revenues from the Navajo General Fund is the Division of Natural Resources (ibid, 64 – Table 6C). Overall these statistics indicate that **the Navajo Nation is oriented toward a heavy reliance and focus on energy development**. Discussions of the Navajo economy in the context of dependency often focus on the importance of the tribe being in control of energy development. By control, most authors are referring to the right to dictate the pace and laws surrounding energy development on their lands (Owens 1979, Ruffing 1980). However, gaining control of energy development is only one part of the dependency critique. The second part is that even with control over the pace and quality of energy development the Navajo government needs to steer the economy in diverse directions so that the economy does not become specialized in providing services to energy extraction companies. One could easily argue that the Navajo Nation is focusing significant efforts on increasing the level of energy development at the expense of supporting alternative development pathways (for example, the speech by Shirley and Trujillo to the World Bank, 2003). Many authors draw from dependency theories to show why the Navajo Nation is locked into an energy development pathway. One of the more important historical reasons for the orientation of the Navajo government toward energy development was that the Navajo government was first formed in 1922 by the federal government to act as a representative of the Navajo interests in signing oil leases on Navajo land. As part of organizing the relationship between the federal government, the Navajo Business Council (as it was first called) and energy developers, the Interior Department set policy such that the Navajo government would own all of the mineral resources on tribal land, rather than individual Navajo owning rights to the mineral resources (Wilkins 2002, 101-3). At the end of World War II, the still fledgling tribal government turned to economic development to improve the conditions in Navajoland in hopes that young people would not feel forced to live elsewhere (Iverson and Roessel 2002, 189). **In a process** LaDuke and Churchill refer to as **“Radioactive Colonialism”, the driver of economic development became, with pressure from energy companies and** the Bureau of Indian Affairs (**BIA), revenues from leasing land for large-scale extraction of the Navajo’s mineral resources by private non-Navajo enterprises**. The Vanadium Corporation of America and Kerr-McGee provided $6.5 million in uranium mining revenues and jobs for Navajo miners. The miners worked under dangerous and unhealthy conditions, but many of the jobs were the only wage employment ever brought to the southeastern part of the reservation. An oil boom in Navajoland between 1958-62 provided tens of millions of dollars in revenues to the tribal government (Iverson and Roessel 2002, 218-20). The Tribal Council used the revenues to provide services to many of the Navajo and increasingly employed Navajo in government related jobs. The government officials and workers, along with the few that obtained jobs in the capital-intensive extractive industries formed a class with similar economic interests. Their wealth and power increased with increasing energy development. LaDuke and Churchill explain: “**With this reduction in self-sufficiency came the transfer of economic power to a neo-colonial structure lodged in the US/tribal council relationship:** ‘development aid’ from the US, an ‘educational system’ geared to training the cruder labor needs of industrialism, and employment contracts with mining and other resource extraction concerns… for now dependent Indian citizens.”(LaDuke and Churchill 1985, 110) The relationship between economic development and energy development was further extended in the 1960’s with the development of large coalmines and power plants on Navajo lands. The federal government played numerous roles in support of connecting energy developers and the tribal government. One example that illustrates the diverse ways in which the federal government encouraged energy development with tribes was a stipulation in the contracts for cooling water for the Mohave Generating Station in Nevada that specified that the owners of Mohave could only use the Colorado River for cooling water as long as the power plant used “Indian Coal”6 (also see Wiley and Gottlieb 1982, 41-53; and Wilkinson 1996, 1999 for more of the history of coal development in the Western Navajo Nation). Recommendations for economic development in initial stages of the self-determination era focused not on how to build a diverse economy, but how to take control of energy development and ensure that the Navajo Nation received the best deal for their resources. In describing the role of policy in energy development on the Navajo Nation one author focuses on the capital-intensive nature of energy development. Whereas one recommendation might be to shift the focus to other development pathways, her recommendation was to take steps to ensure that the jobs that are created by energy development go toward tribal members. She recommended that provisions should be included in contracts for training and preference hire for tribal members with all energy development projects (Ruffing 1980, 56-7). A major transition point in the history of energy development on Navajo lands involved the Chairman of the Navajo Nation, Peter McDonald, declaring that changes needed to take place before the Navajo Nation would support continued development of energy resources on their land in the 1970’s. **Two major points he stressed included making sure that energy development was being carried out for the benefit of the Navajo people and that the tribe should be given opportunities to participate in and control energy development** (Robbins 1979, 116). **The main critique of both these stances from dependency theory is that even with control over energy development, it is still a capital-intensive, highly technical, and tightly controlled industry** (Owens 1979, 4). **The Navajo Nation can participate in energy development, but not without creating distortions in the orientation of the economy and government.** In this same vein, **it is difficult to argue that wind energy is inherently different that other forms of energy development from the dependency perspective.** While it is possible for the Navajo Nation to take steps to ensure that the tribe will obtain the maximum benefit from wind development, such as ensuring that tribal members and Navajo owned businesses have preference in hiring, **it is not likely that the tribe can become a self-sufficient wind developer without severely distorting the priorities of the economy and Navajo government. The alternative is to allow a specialized, large company from off the reservation to develop the wind farm,** with the possibility that a Navajo partner can take part in the ownership of the wind farm. While the Navajo Nation may now have the institutional structure in place to control wind energy development on their land, **wind development is still subject to the dependency critique.**

**---Only the counterplan solves their ethics/framing arguments --- It’s key to reform institutions that shield indigenous cultures from coercive market forces.**

**Mills 2011**

Andrew D, Energy and Resources Group at UC Berkeley, Wind Energy in Indian Country: Turning to Wind for the Seventh Generation,"

**To allow the market mechanism to be the sole director of the fate of human beings and their natural environment… would result in the demolition of society**…. Labor cannot be shoved about, used indiscriminately, or even left unused without affecting also the human individual who happened to be the bearer of that particular commodity. In disposing of a man’s labor power the system would incidentally, dispose of the physical, psychological, and moral entity ‘man’ attached to that tag. **Robbed of the protective covering of cultural institutions, human beings would perish from the effects of social exposure; they would die as the victims of acute social dislocation through vice, perversion, crime, and starvation**. Nature would be reduced to its elements, neighborhoods and landscapes defiled, rivers polluted…, the power to produce food and raw materials destroyed (Karl Polanyi quoted in Block 2001, 75-6). Polanyi argues that there is a moral impediment to disembedding the economy from society. It is simply wrong to treat nature and human beings as objects whose value is determined entirely by the market. Subordinating the organization of nature and human beings to market forces violates principles that have governed societies for centuries: nature and human life have almost always been recognized as having a sacred dimension (Block 2001, xvii – xxxix). In trying to understand the impacts of energy development on families that were directly impacted by energy development on the Navajo Nation, a group of anthropologists in the early 1980’s applied enthoscience methods to unearth the social impacts of energy development. Instead of applying a cost benefit analysis approach whereby the economic value of the social costs were compared to the economic benefits of energy development, the researchers recognized that they must begin with a framework that allows for some costs to a way of life to not have a simple monetary value. Essentially they recognized that **what determines the quality of life in not always based on the monetary value of resources.** Instead**, if energy development were to occur and cause impacts, certain mitigating steps would need to be in place to prevent severe deterioration in the way of life for families impacted by energy development. The researchers evaluated the impacts by first establishing the possible costs to the way of life.** Then instead of looking at benefits to offset the costs, they evaluated possible mitigations to the costs that would be required before the impacted families could even begin to assess any benefits that would accompany energy development (Schoepfle et al. 1984, 887-8).

### 1NC

#### Counter-advocacy: We agree red pedogogy is good, but don’t endorse discussions of energy – solves all of their self-detemrination offense but doesn’t link to politics

#### CIR will pass---but fights are coming

Miami Herald 2/5 (“Will immigration reform go the distance?” http://www.miamiherald.com/2013/02/05/v-print/3218867/will-immigration-reform-go-the.html

Immigration reform is having a “Kumbaya” moment, with support from the White House, a bipartisan contingent in Congress, business and labor. The Republicans are petrified after their dismal showing among the fastest-growing slices of the electorate, Hispanics and Asians; President Barack Obama wants to reward the loyalty of those voters. Business and labor, as well as many politicians, want to fix a dysfunctional system. There are more than 11 million undocumented immigrants, 5 percent of the work force. Many of these people live in fear of discovery, while jobs go unfilled in some areas. Hold the champagne. When it comes to immigration laws, the concept is always easier than the reality. Change failed to happen six years ago, even with a push from a high-powered coalition led by President George W. Bush and Senators John McCain and Edward M. Kennedy. The dynamics are more favorable today. Still, the same obstacles persist; the powerful countervailing considerations include: • A Pathway to Where? There’s a fairly broad consensus for ending the illegal status of the undocumented. The White House, Hispanic groups and most Senate supporters insist that any reform must lead to a pathway to citizenship. That approach faces great resistance. Some lawmakers demand that any move toward citizenship must come second to solving the border-security problem, at a minimum. For some, this is a political cover; under the Obama administration, resources for border security have been increased sharply, including the use of drones. And deportations of undocumented immigrants are at a record high. A border-security trigger is realistic if it includes quantifiable goals, such as the number of new Border Patrol agents, the amount of resources allocated and the new technologies utilized. It isn’t reasonable if it requires meeting an amorphous standard such as “operational control” of a border that is always changing. Hispanic groups assert that the real motive for such demands is to unreasonably stretch out any possibility of granting citizenship. “There would be a backlash if citizenship is delayed for 15 or 20 years,” warns Gary Segura, a Stanford University professor and co-founder of Latino Decisions, a research organization on Hispanic public opinion. • A Fragile Coalition: Equally contentious is the question of future flows of immigrants. One proposal would link the number of legal immigrants to economic conditions: more would be let in when times are good, fewer in tougher times. That sounds easier than it is. There will be clashes over how great a priority should be given to those with high-tech skills or to agricultural workers or to family reunification. Small businesses will rebel against any costly verification plan. Most independent studies show that immigration is a decided economic plus, bringing in revenue and increasing productivity and innovation. Yet the arguments of the populist right may resonate more as the debate heats up. NumbersUSA, a leading anti-immigration group, is reviving charges that immigration reform would drive down wages for middle- and low-income workers. Kris Kobach, the Kansas secretary of state who authored anti-immigration measures in several states and the Republican Party’s platform position on the issue last summer, charges taxpayers would be hit with $2.6 trillion in added food stamp, Medicare and Medicaid and welfare costs. That estimate is refuted by reliable studies; it still cuts. • The Ghost of Dennis Hastert: The former Republican speaker of the House decreed that any bill must command majority support among majority party members. Last month, House Speaker John Boehner, Ohio, waived the rule twice: To pass a measure avoiding the automatic spending cuts and tax increases known as the fiscal cliff and then for aid to victims of Hurricane Sandy. Boehner, along with most party leaders, understands his party’s serious difficulties with Hispanic voters and fears making matters worse by blocking an overhaul. Two of the most virulent anti-immigration Republicans in the House, Lamar Smith of Texas and Steve King of Iowa, no longer hold important committee chairmanships. Yet with anti-immigration sentiment still running high among many Republican rank-and-file voters, it’s tough to imagine a majority of the party’s House members backing a comprehensive bill, even if, as is certain, the Senate goes first. Boehner’s only option might be to let a bill pass primarily with Democratic votes. To do that, he would need the support of House Majority Leader Eric Cantor and the whip, Kevin McCarthy; there’s no shrewder politician than McCarthy, who is always attuned to the party’s base. He’s also from California where, after Gov. Pete Wilson played the anti-immigration card in 1994, the Democrats completely dominate politics. • Who is the Ted Kennedy or Rahm Emanuel? The successful, if flawed, passage of Obama’s health-care measure probably wouldn’t have been possible without the savvy hand of former White House Chief of Staff Emanuel. Congressional Democrats and some outside advocates see no Emanuel counterpart in the current White House; privately, some say they would like the White House to enlist a special envoy — perhaps former Housing Secretary and San Antonio Mayor Henry Cisneros or former Senate Majority Leader Tom Daschle — to shepherd the legislation. There was no more capable legislator or deal-maker than the late Senator Kennedy. Egos and tensions already are surfacing among supporters of reform; Republicans don’t trust the White House, and some Democrats worry that Marco Rubio, the ambitious young Republican senator from Florida, will look for a reason to peel off as he comes under pressure from his party’s right wing. There is no senator today who possesses Kennedy’s skill for navigating these shoals. It’s still a slightly better bet that a big immigration bill will be enacted in this Congress. Getting there will be ugly, and the measure will seem to die more than once as it battles these cross pressures.

Energy push requires massive political capital---Obama doesn’t have time and energy to get energy and immigration reform

Davenport-energy correspondent for National Journal-12/6/12

How Obama and Congress Could Find Common Ground on Energy

<http://www.nationaljournal.com/magazine/how-obama-and-congress-could-find-common-ground-on-energy-20121206>

AGAINST THE CLOCK One big obstacle is time. A second-term president has about two years to push through major legislation before the next presidential campaign begins. In addition, two huge issues are already on the docket: immigration and tax reform. A sweeping overhaul of the nation’s tax code, which could easily absorb Congress through 2014, offers the first opportunity for major energy reform. Some lawmakers will probably insert a carbon-tax swap proposal in a broader tax-reform package, although for now the carbon tax seems unlikely to succeed. Democrats will also try to end tax breaks for the oil industry while extending those for renewable energy. But if the tax-reform debate ends without comprehensive new energy provisions, it may be too late to enact an energy overhaul. “If President Obama has victories on immigration and the deficit, that’s two potentially momentous victories for the president in a second term, where victories are not typical,” says historian Alfred Zacher, author of Trial and Triumph: Presidential Power in the Second Term. “It’s difficult to believe he’d win three.” Still, Zacher says, “because of his desire for a legacy, and the fact that he won’t need to worry about his base or reelection, he could come up with some unexpected environmental solutions. He’ll have to be a very capable politician, but if he can pull it off, he’ll be revered.” Ultimately, as Dorgan puts it, “there needs to be a will to do it, and it needs to come from the president and the leaders of Congress. If there’s not a will on the part of the president and the leaders of the House and Senate, it won’t happen. He needs to make it a priority.” If President Obama wants a legacy on energy, he’ll have to bring to the issue the same passion that candidate Obama once did.

Political capital is key

Weigant 1/23 (Chris WeigantPolitical writer and blogger at ChrisWeigant.com “Handicapping Obama's Second Term Agenda”

http://www.huffingtonpost.com/chris-weigant/obama-second-term\_b\_2537802.html

The second big agenda item is immigration reform. President Obama holds virtually all the cards, politically, on this one. All Republicans who can read either demographics or polling numbers know full well that this may be their party's last chance not to go the way of the Whigs. Their support among Latinos is dismal, and even that's putting it politely. Some Republicans think they have come up with a perfect solution on how to defuse the issue, but they are going to be proven sadly mistaken in the end, I believe. The Republican plan will be announced by Senator Marco Rubio at some point, and it will seem to mirror the Democratic plan -- with one key difference. Republicans -- even the ones who know their party has to do something on the immigration problem -- are balking at including a "path to citizenship" for the 11 million undocumented immigrants who are already in America. The Republicans are trying to have their cake and eat it too -- and it's not going to work. "Sure," they say, "we'll give some sort of papers to these folks, let them stay, and even let them work... but there's no need to give them the hope of ever becoming a full citizen." This just isn't going to be good enough, though. There are essentially two things citizens can do which green card holders cannot: serve on juries, and vote. The Republicans are not worried about tainted juries, in case that's not clear enough. Republicans will bend over backwards in an effort to convince Latinos that their proposal will work out just fine for everyone. Latinos, however, aren't stupid. They know that being denied any path to citizenship equals an effort to minimize their voice on the national political stage. Which is why, as I said, Obama holds all the cards in this fight. Because this is the one issue in his agenda which Republicans also have a big vested interest in making happen. Obama and the Democrats will, I believe, hold firm on their insistence on a path to citizenship, and I think a comprehensive immigration bill will likely pass some time this year, perhaps before the summer congressional break. The path to citizenship it includes will be long, expensive and difficult (Republicans will insist on at least that), but it will be there. On gun control, I think Obama will win a partial victory. On immigration, I think he will win an almost-total victory. On global warming, however, he's going to be disappointed. In fact, I doubt -- no matter how much "bully pulpiting" Obama does -- that any bill will even appear out of a committee in either house of Congress. This will be seen as Obama's "overreach" -- a bridge too far for the current political climate. Anyone expecting big legislative action on global warming is very likely going to be massively disappointed, to put it quite bluntly. In fact, Obama will signal this in the next few months, as he approves the Keystone XL pipeline -- much to the dismay of a lot of his supporters. Of course, I could be wrong about any or all of these predictions. I have no special knowledge of how things will work out in Congress in the immediate future. I'm merely making educated guesses about what Obama will be able to achieve in at least the first few years of his second term. Obama has a lot of political capital right now, but that could easily change soon. The House Republicans seem almost demoralized right now, and Obama has successfully splintered them and called their bluff on two big issues already -- but they could regroup and decide to block everything the White House wants, and damn the political consequences. Unseen issues will pop up both on the domestic and foreign policy stages, as they always do. But, for now, this is my take on how the next few years are going to play out in Washington. Time will tell whether I've been too optimistic or too pessimistic on any or all of Obama's main agenda items. We'll just have to wait and see.

#### Comprehensive immigration reform is key to the economy and highly skilled workers

Farrell 12/13/12 (Chris, a contributing editor for Bloomberg Businessweek. From 1986-97, he was on the magazine's staff, as a corporate finance staff and department editor and then as an economics editor. Farrell wrote Right on the Money: Taking Control of Your Personal Finances and Deflation: What Happens When Prices Fall? Among Farrell's many awards are a National Magazine Award, two Loeb Awards, and the Edward R. Murrow Award. Farrell is a graduate of the London School of Economics and Stanford University. “Obama’s Next Act: Immigration Reform” <http://www.businessweek.com/articles/2012-12-13/obamas-next-act-immigration-reform>)

Washington won’t get much of a reprieve from verbal pyrotechnics once the drama of the fiscal cliff is over. Up next: major immigration reform. President Obama has made it clear that a comprehensive overhaul of the nation’s badly frayed immigration system is a second-term priority. Many Republican lawmakers are convinced the big takeaway from the 2012 election results is that conservatives need to rethink their hard-line stance on immigration—including illegal immigrants. Here’s what Washington should do before tackling the tough job of rewriting the immigration laws: Create a quicksilver path to citizenship for the 11 million to 12 million undocumented workers in the U.S. (excluding the small number convicted of violent crimes or multiple felonies). The shift in status acknowledges that these foreign-born newcomers, like previous generations of immigrants, overcame significant obstacles to come to the U.S. to make a better life for their families. Illegal immigrants are neighbors heading off to work, sending their kids to school, and attending church. Their everyday lives would vastly improve by moving from the shadows of society into the mainstream. More important from a public-policy perspective, the change would give a boost to the economy’s underlying dynamism. “What you’re doing in the short run is making it easier for workers to move between jobs, a relatively small effect,” says Gordon Hanson, a professor of economics at the University of California at San Diego. “The larger effect from eliminating uncertainty for these immigrants is creating incentives for them to make long-term investments in careers, entrepreneurship, education, homes, and community.” Let’s state the obvious: A rapid transformation of illegal immigrants into legal immigrants isn’t in the cards. Amnesty—let alone citizenship—is an anathema to large parts of the electorate. Too bad, since the scholarly evidence is compelling that immigrants—documented or not, legal or illegal—are a boon to the net economy. “Competition fosters economic growth,” says Michael Clemens, senior fellow at the Center for Global Development in Washington. The economic return from attracting skilled immigrants to the U.S. is well known. Foreign-born newcomers account for some 13 percent of the population, yet they are responsible for one-third of U.S. patented innovations. The nation’s high-tech regions such as Silicon Valley, the Silicon Hills of Austin, Tex., and Boston’s Route 128 rely on immigrant scientists, engineers, entrepreneurs, and employees. Better yet, economist Enrico Moretti at the University of California at Berkeley calculates that a 1 percent increase in the share of college-educated immigrants in a city hikes productivity and wages for others in the city. Less appreciated is how much the economy gains from the efforts of less-skilled immigrants, including illegal workers. Throughout the country, foreign-born newcomers have revived beaten-down neighborhoods as immigrant entrepreneurs have opened small businesses and immigrant families have put down stakes. Immigrant workers have played a vital role keeping a number of industries competitive, such as agriculture and meatpacking. Cities with lots of immigrants have seen their per capita tax base go up, according to David Card, an economist at UC Berkeley. Despite the popular impression that a rising tide of immigrants is associated with higher crime rates, research by Robert Sampson of Harvard University and others offer a compelling case that it’s no coincidence that the growing ranks of immigrants tracks the reduction in crime in the U.S. But don’t newcomers—legal and illegal—drive down wages and job opportunities for American workers? Not really. A cottage industry of economic studies doesn’t find any negative effect on native-born wages and employment on the local level. On the national level the research shows the impact on native-born Americans doesn’t drift far from zero, either positively or negatively. “In both cases, immigrants are more likely to complement the job prospects of U.S.-born citizens than they are to compete for the same jobs as U.S.-born citizens,” Giovanni Peri, an economist at the University of California at Davis, writes in Rationalizing U.S. Immigration Policy: Reforms for Simplicity, Fairness, and Economic Growth. The counterintuitive results reflect a numbers of factors. Immigrants expand the size of the economic pie by creating new businesses, new jobs, and new consumers. Middle-class families find it easier to focus on careers with affordable immigrant labor offering gardening, child care, and other services. Many illegal immigrants aren’t fluent in English, so they don’t compete for the same jobs as native-born workers. Another factor behind the lack of direct competition is the higher educational level of native-born Americans. In 1960 about half of U.S.-born working-age adults hadn’t completed high school, while the comparable figure today is about 8 percent. The real downside concern is on the fiscal side of the immigrant ledger. Yes, more taxes would go into Social Security, Medicare, and the like with legalization, but more people would qualify for Medicaid, welfare, and other benefits. At the local level, many school districts are strained financially from educating immigrant children, legal and illegal. That said, the prospect of fiscal costs would diminish as newly legalized immigrant workers move freely around the country seeking jobs, entrepreneurs are comfortable expanding their payrolls, and immigrant parents push their children to live the American Dream. “Over time, as entrepreneurs emerge and families are better able to get their kids through high school and college, you’re reducing the long-run fiscal claim of the group,” says Hanson. There is no economic evidence that making roughly 6 percent of the workforce illegal will benefit the economy. Plenty of research supports the opposite case. A fast track to legality offers Washington a rare twofer: a just move that’s economically efficient.

**Decline goes nuclear**

**Harris and Burrows 09** PhD European History @ Cambridge, counselor in the National Intelligence Council (NIC) & member of the NIC’s Long Range Analysis Unit

Mathew, and Jennifer “Revisiting the Future: Geopolitical Effects of the Financial Crisis” <http://www.ciaonet.org/journals/twq/v32i2/f_0016178_13952.pdf>

Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which the potential for greater conflict could grow would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks\_and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdown of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises. 36 Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in interstate conflicts if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

### 1nc Solvency

#### ---Their evidence assumes legal precedent overturned in the 1980s --- United States vs. Sioux Nation reversed paternalism & facilitates legitimate trust partnership that privileges Indigenous interests.

Ezra 1989

Jeri Beth, The Trust Doctrine: A Source of Protection for Native American Sacred Sites, Catholic University Law Review, 38 Cath. U. L. Rev.

The unique relationship of Native American tribes with the United States225 gives rise to legally enforceable duties incumbent upon the government to uphold.226 Chief Justice Marshall originally characterized the trust relationship in the Cherokee cases227 and relied on the natives' status as "domestic dependent nation[s]"228 to conclude that the Federal Government owed an obligation of protection to the Native American tribes.229 The obligation imposed upon the Federal Government by the Cherokee cases served as a basis for federal preemption of state activity in the area of tribal sovereignty.210 The Supreme Court rejected the argument that the United States, as the stronger nation, could eliminate all vestiges of the weaker native nation's sovereignty.231 Hence, it originally appeared that the Court linked the concept of legally enforceable duties to protect the Native Americans' separate identity to the tribes' status as domestic sovereigns.312 At the turn of the century, the Court permitted Congress to pursue and exercise heavily paternalistic policies towards Native American affairs. Decisions such as United States v. Kagama233 and Lone Wolf v. Hitchcock234 allowed Congress to implement, virtually unchecked, policies designed to destroy the Native American tribal system. In 1980, the Supreme Court, in United States v, Sioux Nation.235 reversed those decisions and in doing so, implicitly rejected Congress' ability to act paternalistically on behalf of Na-tive Americans. The Court's decision in Sioux Nation makes it possible for Native Americans to assert their valuations of their interests. It indicates the Court's willingness to disturb congressional determinations of Native American interests if the surrounding historical circumstances do not reasonably support congressional findings.236 Rejecting government paternalism grants Native Americans a participatory role in asserting and determining interests that warrant federal protection.237 Although the fiduciary obligation remains necessary to insure government protection of Native American interests, the fiduciary duty does not justify government's determination of those interests absent any input from tribal representatives.238 By rejecting Congress' paternalistic practices, the Court effectively eliminated the judiciary's ability to practice paternalism. The same reasoning that precludes paternalistic congressional and executive appraisals of Native Americans' best interests, precludes similar judicial appraisals as well. Substituting a federal court's judgment for that advanced by the native tribe eliminates the effect of Sioux Nation, and results in judicial paternalism. Thus, federal courts, when faced with suits brought under the trust doctrine, should accept as legitimate the interests advanced by the native tribe.239 Historically, the trust doctrine secured Native American tribes' essential material needs.2\*0 Courts generally protected the natives' right to their land,241 their right to hunt and fish,242 and their right to protect their tribal assets.243 In doing so, courts have construed the terms of treaties broadly to include rights that constitute an integral part of native culture and survival.244 In addition, the United States Court of Appeals for the First Circuit245 construed the Non-Intercourse Act246 broadly and concluded that it created a general trust relationship between the Federal Government and all native tribes, regardless of whether a specific treaty exists which creates such a relationship.247 Therefore, it appears that government action that adversely affects Native Americans' basic needs violates the government's fiduciary duty owed Native Americans.

#### ---Err negative --- Not all tribes have equal resources --- Abdicating federal responsibility ensures devastating corporate energy exploitation and a loss of self-determination.

Reese 2005

April, "ENERGY POLICY: New federal law encourages tapping of Indian resources," Lexis

Supporters of the measure, which was proposed by members of the Council of Energy Resource Tribes (CERT), say it will help tribes meet growing demand for energy both on and off the reservation. "Indian lands represent tremend ous potential for economic advancement for the tribes that want to use those resources and develop them, and they represent an important energy supply to the rest of the country," said David Lester, executive director of CERT, adding that tribes can provide "far more" energy than the Arctic National Wildlife Refuge holds. Tribal populations are growing twice as fast as the general U.S. population and tribal economies are growing three times as fast as the national economy, Lester said. With almost all of the 562 federally recognized Indian tribes harboring some kind of energy resource, from wind, solar and biomass to coal and natural gas, tribes that choose to take advantage of the incentives in the new law can provide electricity and heat to their members, with plenty left over to sell to their non-tribal neighbors, he said. While only about 2 percent of the lands within the United States are tribally owned, lands on or adjacent to reservations contain more than 30 percent of its fossil energy sources, Lester said. Supporters, which include the National Congress of American Indians, say **giving Indian tribes more control over their resources is a good idea, especially since the federal government has not been a good steward of tribal lands in the past.** Several tribes have wrangled in court with the Interior Department and energy companies over what they contend are paltry royalty payments for resources extracted from their lands. **A major case involving the federal government's alleged mishandling of tribal energy revenues is still pending in federal court. The new law**, Lester and others say, **will help avoid such problems by giving tribes greater say over energy development on their lands.** 'Culture at stake' But **critics of the new law say not all tribes are ready for that kind of responsibility. They fear it will allow energy companies to take advantage of tribes that are energy-rich but lack the governing capacity to ensure they are getting a fair deal.** Clayton **Thomas-Muller, native energy organizer at the Indigenous Environmental Network, said some tribes** also **do not have the institutional and enforcement mechanisms needed to guarantee that their resources will be developed responsibly. The law** essentially **allows the federal government to abandon its trust responsibility to the tribes, which is intended to prevent unfair treatment of tribes by outside entities such as energy companies**, he said. "Yes, there are tribes that have those resources -- the lawyers, the scientists, the capacity to do what they need to do -- but there are hundreds that don't and are being set up to fail," Thomas-Muller said. "**This energy bill basically takes us back 100 years, allowing corporations to exploit tribes that are still reeling from the impacts of colonization and dealing with different socioeconomic situations." The law encourages development of conventional energy resources like coal, natural gas and oil, which could scar tribal lands and undermine native ways of life, while bringing very little benefit to the tribes**, he added. "**Our very culture is at stake here**," Thomas-Muller said. "To further destroy our land, our air, and our water for short-term economic solutions is not economic development, and it sets up our unborn generations for a very hard life." Lester emphasized that the new incentives will encourage the development of renewables like wind and solar, which are even more abundant on Indian lands than conventional, fossil-based resources. And the measure is voluntary, he added, noting that tribes can choose not to develop their resources, and those that do can choose to continue using NEPA instead of crafting their own regulatory framework. "**This law strengthens each tribe's hand to use energy resources the way they want to use them**," he said. "If they have coal resources but don't want to develop them, there's nothing that says they have to." And **the law also seeks to ensure that tribes are capable of regulating energy development themselves before handing over the reins to them.** When considering whether to approve a tribal energy resource agreement, the secretary of Interior must determine that the tribe "has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe," according to the law. Obstacles Bob Gough, secretary of the Intertribal Council on Utility Policy, which promotes renewable energy development on tribal lands, characterized the measure as "a good start" but said some of the timelines for implementing its provisions appear to be unrealistic. For instance, it will likely take tribes six months or more to set up a system to sell clean energy bonds and funds to support that effort are not likely to be available until fiscal year 2007. But the provision expires at the end of 2007, he said. "There are a whole lot of new procedures," Gough said. "It's not going to happen overnight. There aren't a lot of tribes who will take advantage of this quickly." Tribal leaders, Interior officials and energy industry representatives will meet Monday in Chicago to discuss what the new law means and how to implement it, Gough said. Lizana Pierce, with DOE's tribal energy program in Golden, Colo., said the law has the potential to help tribes develop their resources, but that it will mean little unless Congress provides the funding to implement it. "There's a whole cadre of deadlines," she said. "But at least on the DOE side, there's no funds." Lester said the CERT tribes plan to "work our tails off" to convince lawmakers to back the law with appropriate funding levels, most likely through the Interior and Energy appropriations bills for fiscal year 2007. "We have a lot of work ahead of us," Lester said. Southwest reporter April Reese is based in Santa Fe, N.M.

#### ---Federal intrusion is inevitable --- Annual review, lengthy application process and secretarial regulations.

Unger 2009

Kathleen, J.D. Candidate, May 2010, Loyola Law School Los Angeles; M.A., Linguistic Anthropology, University of Texas at Austin; A.B., Anthropology, University of Michigan, Change is in the Wind: Self-Determination and Wind Power through Tribal Energy Resource Agreements, 43 Loy. L.A. L. Rev. 329, http://digitalcommons.lmu.edu/llr/vol43/iss1/6

The federal government sets the terms of resource development agreements through its extensive legislative and regulatory requirements for TERAs and for agreements forged pursuant to TERAs. First, the Indian Energy Act dictates the required terms of TERAs in great detail. 209 Among the requirements, tribes must allow the Secretary to review their performance under a TERA. 210 These reviews must occur annually for the first three years and thereafter at least biannually. 2 Thus, the legislation both specifies the form of a TERA and requires constant federal oversight after the DOI approves a tribe's TERA. Second, federal control over TERA approval and review is substantial. 2' The approval process involves extensive consultation and a lengthy time for application review. 213 There is also a broad set of regulations for Secretarial review of a tribe's compliance with its TERA. 24 Thus, the TERA framework has changed the federal role in tribal resource development without necessarily reducing it or shifting true control to tribes.

#### ---Energy production destroys tribal sovereignty --- Success means the government can seize territory under the guise of ‘national security’ and failure means total collapse of tribal ecosystems and cultural infrastructure.

Awehali 2006

Brian, publisher and co-editor of LiP Magazine, Who Will Profit from Native Energy?, http://www.projectcensored.org/top-stories/articles/25-who-will-profit-from-native-energy/

According to Theresa Rosier, Counselor to the Assistant Secretary for Indian Affairs, “increased energy development in Indian and Alaska Native communities could help the Nation have more reliable homegrown energy supplies.” This, she says, is “consistent with the President’s National Energy Policy to secure America’s energy future.” Rosier’s statement conveys quite a lot about how the government and the energy sector intend to market the growing shift away from dependence on foreign energy. The idea that “America’s energy future” should be linked to having “more reliable homegrown energy supplies” can be found in native energy-specific legislation that has already passed into law. What this line of thinking fails to take into account is that Native America is not the same as US America. The domestic “supplies” in question belong to sovereign nations, not to the United States or its energy sector. So far, government plans to deregulate and step up the development of domestic (native) energy resources is being spun as a way to produce clean, efficient energy while helping Native Americans gain greater economic and tribal sovereignty. Critics charge, however, that large energy companies are simply looking to establish lucrative partnerships with tribal corporations, which are largely free of regulation and federal oversight. For example, in 2003, the Rosebud Sioux of South Dakota, in partnership with NativeEnergy, LLC, completed the first large-scale native-owned wind turbine in history. The project was billed as a way to bring renewable energy–related jobs and training opportunities to the citizens of this sovereign nation, who are among the poorest in all of North America. NativeEnergy’s President and CEO Tom Boucher, an energy industry vet, financed the Rosebud Sioux project by selling “flexible emissions standards” created by the Kyoto Protocol. These are the tax-deductible pollution credits from ecologically responsible companies (or in this case, Native American tribes), which can then be sold to polluters wishing to “offset” their carbon dioxide generation without actually reducing their emissions. Since the Rosebud test case proved successful, NativeEnergy moved forward with plans to develop a larger “distributed wind project,” located on eight different reservations. NativeEnergy also became a majority Indian-owned company in August 2005, when the pro-development Intertribal Council on Utility Policy (COUP) purchased a majority stake in the company on behalf of its member tribes. The COUP-NativeEnergy purchase just happened to coincide with the passage of the 2005 Energy Policy Act. The act contains a number of native energy–specific provisions in its Title V, many of which set alarming precedents. Most outrageously, it gave the US government the power to grant rights of way through Indian lands without permission from the tribes—if deemed to be in the strategic interests of an energy-related project. Under the guise of “promoting tribal sovereignty,” the act also released the federal government from liability with regard to resource development, shifting responsibility for environmental review and regulation from the federal to tribal governments. Also, according to the Indigenous Environmental Network, the act “rolls back the protections of…critical pieces of legislation that grassroots indigenous peoples utilize to protect our sacred sites.” Some critics have derided the 2005 act as a fire sale on Indian energy, characterizing various incentives as a broad collection of subsidies (federal handouts) for US energy companies. America’s native peoples may attain a modicum of energy independence and tribal sovereignty through the development of wind, solar, and other renewable energy infrastructure on their lands. But, according to Brian Awehali, it won’t come from getting into bed with, and becoming indebted to, the very industry currently driving the planet to its doom.

## \*\*\*2NC

### 2nc A2 We Meet --- Eliminate Interior Authority

#### --Explodes limits --- Allowing the elimination of review processes enables a flood of affirmatives that garner advantages solely off who has review authority, not based off of an increase or decrease of energy production.

Doub 1976

Energy Regulation: A Quagmire for Energy Policy Annual Review of Energy Vol. 1: 715-725 (Volume publication date November 1976) DOI: 10.1146/annurev.eg.01.110176.003435LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street NW, Washington, DC 20036 Mr. Doub is a principal in the law firm of Doub and Muntzing, which he formed in 1977. Previously he was a partner in the law firm of LeBoeuf, Lamb, Leiby and MacRae. He was a member of the U.S. Atomic Energy Commission in 1971 - 1974. He served as a member of the Executive Advisory Committee to the Federal Power Commission in 1968 - 1971 and was appointed by the President of the United States to the President's Air Quality Advisory Board in 1970. He is a member of the American Bar Association, Maryland State Bar Association, and Federal Bar Association. He is immediate past Chairman of the U.S. National Committee of the World Energy Conference and a member of the Atomic Industrial Forum. He currently serves as a member of the nuclear export policy committees of both the Atomic Industrial Forum and the American Nuclear Energy Council. Mr. Doub graduated from Washington and Jefferson College (B.A., 1953) and the University of Maryland School of Law in 1956. He is married, has two children, and resides in Potomac, Md. He was born September 3, 1931, in Cumberland, Md. http://0-www.annualreviews.org.library.lausys.georgetown.edu/doi/pdf/10.1146/annurev.eg.01.110176.003435

FERS began with the recognition that federal energy policy must result from concerted efforts in all areas dealing with energy, not the least of which was the manner in which energy is regulated by the federal government. Energy selfsufficiency is improbable, if not impossible, without sensible regulatory processes, and effective regulation is necessary for public confidence. Thus, the President directed that "a comprehensive study be undertaken, in full consultation with Congress, to determine the best way to organize all energy-related regulatory activities of the government." An interagency task force was formed to study this question. With 19 different federal departments and agencies contributing, the task force spent seven months deciphering the present organizational makeup of the federal energy regulatory system, studying the need for organizational improvement, and evaluating alternatives. More than 40 agencies were found to be involved with making regulatory decisions on energy. Although only a few deal exclusively with energy, most of the 40 could significantly affect the availability and/or cost of energy. For example, in the field of gas transmission, there are five federal agencies that must act on siting and land-use issues, seven on emission and effluent issues, five on public safety issues, and one on worker health and safety issues-all before an onshore gas pipeline can be built. The complexity of energy regulation is also illustrated by the case of Standard Oil Company (Indiana), which reportedly must file about 1000 reports a year with 35 different federal agencies. Unfortunately, this example is the rule rather than the exception.

#### Restrictions are direct governmental limitations on production

Annamaria Viterbo 12 , Assistant Professor in International Law at the University of Torino, PhD in International Economic Law from Bocconi University and Jean Monnet Fellow at the European University Institute, 2012, International Economic Law and Monetary Measures: Limitations to States' Sovereignty and Dispute, p. 166

In order to distinguish an exchange restriction from a trade measure, the Fund chose not to give relevance to the purposes or the effects of the measure and to adopt, instead, a technical criterion that focuses on the method followed to design said measure.

An interpretation that considered the economic effects and purposes of the measures (taking into account the fact that the measure was introduced for balance of payments reasons or to preserve foreign currency reserves) would have inevitably extended the Fund's jurisdiction to trade restrictions, blurring the boundaries between the IMF and the GATT. The result of such a choice would have been that a quantitative restriction on imports imposed for balance of payments reasons would have fallen within the competence of the Fund.

After lengthy discussions, in 1960 the IMF Executive Board adopted Decision No. 1034-(60/27).46 This Decision clarified that the distinctive feature of a restriction on payments and transfers for current international transactions is "whether it involves a direct governmental limitation on the availability or use of exchange as such\*.47 This is a limitation imposed directly on the use of currency in itself, for all purposes.

#### Independently, the plan is extra-topical.

#### A. It rejects control over forestry and other resources not in the topic.

#### 1AC evidence

Henson and Taylor 4 (1AC)  
http:~/~/www.pieganinstitute.org/[pdf](http://opencaselist.paperlessdebate.com/xwiki/bin/create/%2F%2Fwww.pieganinstitute.org%2Fnativeamericaatthenewmillennium/pdf?parent=West+Georgia.Feliciano%2DDavis+Aff)  
"As noted in the section on Land...on the same land.

As noted in the section on Land, American Indian reservations cover more than 55 million acres in the continental United States. Native Villages and Corporations account for and additional 44 million acres in Alaska. 490 In addition to the natural resources on reservation lands, some tribes possess rights to resources beyond reservation and Alaska village boundaries. These additional rights have been reaffirmed through treaties, 491 or through adjudication of land and other claims. 492 The result is that tribes have access to a variety of natural resources including timber and non-timber forest products, fish and game, coal, oil and gas, hard rock minerals, and water.

#### B. Extra-topicality is a voting issue because it allows the affirmative to generate an infinite number of unpredictable advantages destroying negative research and ground.

#### Including energy regs is too big---it’s torture for the neg

Edwards 80 Opinion in BAYOU BOUILLON CORP. v. ATLANTIC RICHFIELD CO. Court of Appeal of Louisiana, First Circuit. May 5

Comprehending the applicability and complexity of federal energy regulation necessitates both a stroll down the tortuous legislative path and a review of legal challenges so numerous as to require the establishment of a Temporary Emergency Court of Appeals.

#### That destroys education---too much to comprehend

Stafford 83 G. William is an Associate at Ross, Marsh and Foster. Review of “Federal Regulation of Energy” by William F. Fox, Jr, http://felj.org/elj/Energy%20Journals/Vol6\_No2\_1985\_Book\_Review2.pdf

It may safely be said that any effort to catalogue "the entire spectrum of federal regulation of energy"' in a single volume certainly requires an enterprising effort on the part of the author. In this regard, Mr. Willam F. Fox, Jr., an Associate Professor of Law at Catholic University of America, has undertaken an examination of a vital aspect of United States policy in Federal Regulation of Energy, published in 1983 with an annual pocket supplement available. Despite the complex nature of the subject of his work, Mr. Fox has prepared a text that provides a significant description of many aspects of federal energy regulatory policy. Initially, the book's title may prove somewhat misleading in that it approaches the subject from an historical perspective focused more on substantive than procedural issues. Although a reader gets the impression that the author at time has tried to do too much -at least from the standpoint of the energy practitioner- the historical and technical insights it offers the student of federal energy relation are valuable. Moreover; its detailed explanations of the methods used to tneet federal energy goals are useful for those in the position of initiating energy policy. This strength notwithstanding, it appears unlikely that an energy law practitioner would benefit significantly from its use, other than from its historical point of view. A general impression is that the author may have been overly ambitious in his effort to undertake the monumental task of evaluating laws, regulations, and significant judicial decisions in a single work.

#### ---Reasonability is impossible – it’s arbitrary and undermines research and preparation

Resnick, assistant professor of political science – Yeshiva University, ‘1

(Evan, “Defining Engagement,” Journal of International Affairs, Vol. 54, Iss. 2)

In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.

## Politics

### Econ

#### ---Economic decline hits Native Americans the hardest.

Muhammad 2009

Dedrick Muhammad is the Senior Organizer and Research Associate for the Program on Inequality and the Common Good at the Institute for Policy Studies., Challenges to Native American Advancement: The Recession and Native America, First Peoples Worldwide Institute for Policy Studies November, 2009 The Program on Inequality and the Common Good

As with all people in the United States, the current economic recession has presented great challenges to Native Americans. Even tribes with lucrative gaming operations have been hit hard. Jacqueline Johnson Pata, executive director of the National Congress of American Indians (NCAI), noted in February 2009 that “in this particular recession we’re seeing, there is a downturn in most gaming operations.…Only those that are really strategically located fare very well. But even [in] those places, you’ll see massive layoffs as they’re dealing with the economic downturn.”35 The Mohegan Sun Casino in Connecticut, for example, saw steady growth is every year since it opened in 1996, until its slot-machine revenues dropped in 2008. To respond to the slowdown, the casino cut the salaries of all 9,800 employees.36 The largest Indian gaming operations with casinos located in metropolitan areas have been affected significantly with decreases in revenue near 10 percent.37 Historically, Native Americans suffer more and for longer periods of time during recessions than do other ethnic groups. Native Americans’ relatively weak economic position in the U.S. economy makes them even more vulnerable to economic downturns. During the recession of the early 1980s, Native Americans on reservations saw a decline of real family income that lasted for a decade. Alvin M. Josephy notes in his book Now That the Buffalo’s Gone that “reservation unemployment, increased further by the economic recession that began in 1981, rose abruptly from an average of about 35 percent to as high as 85, and even 95, percent among some tribes.” As Robert Gregory and others point out, the 1980s saw the deterioration of the labor market for low-skilled, low-paid men, a category in which many Native American men find themselves.38 These conditions, coupled with a fairly significant decrease in federal income support for Native communities, resulted in the overall decrease in real per capita income between 1980 and 1990, as shown in Figure 5.1. The recession of the early 1980s was less severe than the current recession and should serve as a reminder of the strong negative impact recessions have on the Native American community and how quickly hard-won socioeconomic gains can be reversed. Due to the poor statistical tracking of the Native population, it is difficult to quantify how they are doing nationwide during the current recession, but all indications point to a disproportionately negative impact on Native Americans. Outside of gaming, other sectors of the economy important to Native American communities have seen devastating losses in recent years. In particular, the timber industry has collapsed due to the housing crisis.

### A2 Utilitarianism Bad --- 2nc Politics

#### ---Their critiques of utilitarianism don’t link --- The evaluation of consequences and consideration of impacts is contextual and subsumes their ethical frame by allowing assessments of its utility. The risk of extinction combined with a counterplan that solves most of the aff means this is a unique circumstance not assumed by their evidence.

#### ---Their turns are inevitable --- The position of human subjectivity makes consequentialism is inevitable.

Ratner 1984

Leonard G. Ratner, professor of law at USC, Hofstra Law Journal, 12 Hofstra L. Rev. 723, spring, 1984

All systems of morality, however transcendental, rest ultimately on utilitarian self interest (i.e., on personal need/want fulfillment), because those who fashion such systems, like those who accept or reject them, cannot escape their own humanness. The physically controllable acts of each individual 221 are the choice of that individual, though all of the consequences may not be foreseen or desired. 222 Behavior choices are necessarily determined by the experience, feelings, habits, and attitudes; the concerns and beliefs; the needs and wants -- in short, by the ultimate self interest -- of the individual.

#### ---Means/ends distinctions are a moral cop out --- There are no absolutes beyond the evaluation of comparative risk.

Alinsky 1971

Saul D., Activist, Professor, and Social Organizer with International Fame, Founder of the Industrial Areas Foundation, Rules for Radicals, pg. 24-27

We cannot think first and act afterwards. From the moment of birth we are immersed in action and can only fitfully guide it by taking thought. Alfred North Whitehead That perennial question, “Does the end justify the means?” is meaningless as it stands; the real and only question regarding the ethics of means and ends is, and always has been, “Does this particular end justify this particular means?” Life and how you live it is the story of means and ends. The end is what you want, and the means is how you get it. Whenever we think about social change, the question of means and ends arises. The man of action views the issue of means and ends arises. The man of action views the issue of means and ends in pragmatic and strategic terms. He has no other problem; he thinks only of his actual resources and the possibilities of various choices of action. He asks of ends only whether they are achievable and worth the cost; of means, only whether they will work. To say that corrupt means corrupt the ends is to believe in the immaculate conception of ends and principles. The real arena is corrupt and bloody. Life is a corrupting process from the time a child learns to play his mother off against his father in the politics of when to go to bed; he who fears corruption fears life. The practical revolutionary will understand Geothe’s “conscience is the virtue of observers and not of agents of action”; in action, one does not always enjoy the luxury of a decision that is consistent both with one’s individual conscience and the good of [hu]mankind. The choice must always be for the latter. Action is for mass salvation and not for the individual’s personal salvation. He who sacrifices the mass good for his personal conscience has peculiar conception of “personal salvation”; he doesn’t care enough for people to be “corrupted” for them. The men [people] who pile up the heaps of discussion and literature on the ethics of means and ends—which with rare exception is conspicuous for its sterility—rarely write about their won experiences in the perpetual struggle of life and change. They are strangers, moreover, to the burdens and problems of operational responsibility and the unceasing pressure for immediate decisions. They are passionately committed to a mystical objectivity where passions are suspect. They assume a nonexistent situation where man suspect. They assume a nonexistent situation where men dispassionately and with reason draw and devise means and ends as if studying a navigational chart on land. They can be recognized by one of two verbal brands; “We agree with the ends but not the means,” or “This is not the time.” The means-and-end moralists or non-doers always wind up on their ends without any means. The means-and-ends moralists, constantly obsessed with the ethics of the means used by the Have-Nots against the Haves, should search themselves as to their real political position. In fact, they are passive—but real—allies of the Haves. They are the ones Jacques Maritain referred to in his statement, “The fear of soiling ourselves by entering the context of history is not virtue, but a way of escaping virtue.” These non-doers were the ones who chose not to fight the Nazis in the only way they could have been fought; they were the ones who drew their window blinds to shut out the shameful spectacle of Jews and political prisoners being dragged through the streets; they were the ones who privately deplored the horror of it all—and did nothing. This is the nadir of immorality. The most unethical of all means is the nonuse of any means. It is this species of man how so vehemently and militantly participated in that classically idealistic debate at the old League of Nations on the ethical differences between defensive and offensive weapons. Their fears of action drive them to refuge in an ethics so divorced from the politics of life that it can apply only to angels, not to men. The standards of judgment must be rooted in the whys and wherefores of life as it is lived, the world as it is, not our wished-for fantasy of the world as it should be. I present here a series of rules pertaining to the ethics of means and ends: first, that one’s concern with the ethics of means and ends varies inversely with one’s personal interest in the issue. When we are not directly concerned our morality overflows; as La Rochefoucauld put it, “We all have strength enough to endure the misfortunes of others.” Accompanying this rule is the parallel one that one’s concern with the ethics of means and ends varies inversely with one’s distance from the scene of conflict. The second rule of the ethics of means and ends is that the judgment of the ethics of means is dependent upon the political position of those sitting in judgment. If you actively opposed the Nazi occupation and joined the underground Resistance, then you adopted the means of assassination, terror, properly destruction, the bombing of tunnels and trains, kidnapping, and the willingness to sacrifice innocent hostages to the end of defeating the Nazis. Those who opposed the Nazi conquerors regarded the Resistance as a secret army of selfless, patriotic idealists, courageous beyond expectation and willing to sacrifice their lives to their moral convictions. To the occupation authorities, however, these people were lawless terrorists, murders, saboteurs, assassins, who believed that the end justified the means, and were utterly unethical according to the mystical rules of war. Any foreign occupation would so ethically judge its opposition. However, in such conflict, neither protagonist is concerned with any value except victory. It is life or death.

### A2 Ethics First --- 2nc Politics

#### ---Nuclear war is the largest impact and it’s prevention the greatest ethical concern.

Kateb 1992

George, Professor of Politics at Princeton University, “The Inner Ocean” pg. 111-112

Schell's work attempts to force on us an acknowledgment that sounds far-fetched and even ludicrous, an acknowledgment hat the possibility of extinction is carried by any use of nuclear weapons, no matter how limited or how seemingly rational or seemingly morally justified. He himself acknowledges that there is a difference between possibility and certainty. But in a matter that is more than a matter, more than one practical matter in a vast series of practical matters, in the "matter" of extinction, we are obliged to treat a possibility-a genuine possibility-as a certainty. Humanity is not to take any step that contains even the slightest risk of extinction. The doctrine of no-use is based on the possibility of extinction. Schell's perspective transforms the subject. He takes us away from the arid stretches of strategy and asks us to feel continuously, if we can, and feel keenly if only for an instant now and then, how utterly distinct the nuclear world is. Nuclear discourse must vividly register that distinctiveness. It is of no moral account that extinction may be only a slight possibility. No one can say how great the possibility is, but no one has yet credibly denied that by some sequence or other a particular use of nuclear weapons may lead to human and natural extinction. If it is not impossible it must be treated as certain: the loss signified by extinction nullifies all calculations of probability as it nullifies all calculations of costs and benefits. Abstractly put, the connections between any use of nuclear weapons and human and natural extinction are several. Most obviously, a sizable exchange of strategic nuclear weapons can, by a chain of events in nature, lead to the earth's uninhabitability,

to "nuclear winter," or to Schell's "republic of insects and grass." But the consideration of extinction cannot rest with the possibility of a sizable exchange of strategic weapons. It cannot rest with the imperative that a sizable exchange must not take place. A so-called tactical or "theater" use, or a so-called limited use, is also prohibited absolutely, because of the possibility of immediate escalation into a sizable exchange or because, even if there were not an immediate escalation, the possibility of extinction would reside in the precedent for future use set by any use whatever in a world in which more than one power possesses nuclear weapons. Add other consequences: the contagious effect on nonnuclear powers who may feel compelled by a mixture of fear and vanity to try to acquire their own weapons, thus increasing the possibility of use by increasing the number of nuclear powers; and the unleashed emotions of indignation, retribution, and revenge which, if not acted on immediately in the form of escalation, can be counted on to seek expression later. Other than full strategic uses are not confined, no matter how small the explosive power: each would be a cancerous transformation of the world. All nuclear roads lead to the possibility of extinction. It is true by definition, but let us make it explicit: the doctrine of no-use excludes any first or retaliatory or later use, whether sizable or not. No-use is the imperative derived from the possibility of extinction. By containing the possibility of extinction, any use is tantamount to a declaration of war against humanity. It is not merely a war crime or a single crime against humanity. Such a war is waged by the user of nuclear weapons against every human individual as individual (present and future), not as citizen of this or that country. It is not only a war against the country that is the target. To respond with nuclear weapons, where possible, only increases the chances of extinction and can never, therefore, be allowed. The use of nuclear weapons establishes the right of any person or group, acting officially or not, violently or not, to try to punish those responsible for the use. The aim of the punishment is to deter later uses and thus to try to reduce the possibility of extinction, if, by chance, the particular use in question did not directly lead to extinction. The form of the punishment cannot be specified. Of course the chaos ensuing from a sizable exchange could make punishment irrelevant. The important point, however, is to see that those who use nuclear weapons are qualitatively worse than criminals, and at the least forfeit their offices. John Locke, a principal individualist political theorist, says that in a state of nature every individual retains the right to punish transgressors or assist in the effort to punish them, whether or not one is a direct victim. Transgressors convert an otherwise tolerable condition into a state of nature which is a state of war in which all are threatened. Analogously, the use of nuclear weapons, by containing in an immediate or delayed manner the possibility of extinction, is in Locke's phrase "a trespass against the whole species" and places the users in a state of war with all people. And people, the accumulation of individuals, must be understood as of course always indefeasibly retaining the right of selfpreservation, and hence as morally allowed, perhaps enjoined, to take the appropriate preserving steps.

### Unpopular Link --- 1nc Politics

#### ---The plan is unpopular and divisive --- Legislative history indicates it’s overwhelmingly seen as a violation of federal trust responsibilities.

Kronk 2012

Elizabeth Ann, Assistant Professor, Texas Tech University School of Law. J.D., University of Michigan School of Law; B.S., Cornell University, Tribal Energy Resource Agreements: The Unintended “Great Mischief for Indian Energy Development” and the Resulting Need for Reform, Volume 29, Issue 3 Spring, http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1705&context=pelr

**Whether or not the federal trust responsibility is consistent with increased tribal sovereignty** or self-determination **turns on how one conceives of the federal trust responsibility**. On the one hand, the federal trust responsibility, when considered as an outgrowth of the Marshall trilogy of cases, may be perceived as a doctrine to protect tribes from federal and state infringement into internal tribal matters. 68 Alternatively, if based on the Kagama line of cases, the federal trust responsibility may be seen as “premised on dependency of tribes,” which supports continued federal involvement in tribal matters.69 Both of these perspectives of the federal trust responsibility are represented in comments made regarding the then-pending TERA provisions. For example, Senator Campbell’s comments and proposed amendment arguably represented the conception of the federal trust responsibility as originating in the Marshall trilogy of cases; Senator Bingaman’s comments and proposed amendment generally represent the viewpoint that the federal trust responsibility originates in the Kagama line of cases. C. Comments from the TERA Legislative History Related to the Federal Trust Relationship **A review of the legislative history suggests that** some **commentators were concerned that** the then-**proposed TERA provisions would negatively impact the federal government’s trust responsibility to federally-recognized tribes**. These comments are more fully discussed below. As an initial starting point, The Department of Interior and former Senator Campbell did not share this view. On March 19, 2003, Theresa Rosier, Counselor to the Assistant Secretary for Indian Affairs, Department of Interior, explained that the language in the bills provided “a limited trust responsibility” on behalf of the federal government to the tribes.70 On June 5, 2003, Senator Campbell agreed with Ms. Rosier’s prior testimony that the TERA provisions would not affect the federal government’s trust responsibilities to federally recognized tribes.71 **The majority of the** comments related to the pending legislation’s **impact on the federal trust responsibility, however, indicating a concern that the legislation would have a negative impact**. Some who testified before the Senate Committee on Indian Affairs expounded upon what the federal government’s role under the TERA provisions should be, in light of the existing federal trust responsibility to tribes. For example, David Lester, Executive Director of the Council for Energy Resource Tribes, stated that: As we saw in the Navajo case, the companies have no obligation to put all the information on the table for the tribes to know. We believe that is a violation of the trust. We think that the trust requires that the tribe be given assistance so that the asymmetrical nature of the negotiations is removed and we have a level playing field.72 Some, such as Chairman Vernon Hill of the Eastern Shoshone Business Council of the Wind River Indian Reservation, believed that the TERA provisions amounted to a violation of the federal government’s trust responsibilities to tribes.73 Perhaps Rebecca L. Adamson, in an e-mail to Senator Campbell, summed up these concerns best when she stated that “[t]hese bills appear to be designed as tools for trust ‘reform’ either overtly, by legislated abrogation of the government’s trust responsibility.”74 Moreover, as exemplified by the May 6, 2003 statement of Senator Bingaman (included in the introduction to this Section), **at least one Senator was concerned that the proposed TERA provisions represented a departure from the** federal **government’s historic** trust **responsibility to tribes**.75 Based on the foregoing, **except for a handful of commentators, most** people who commented on the then-pending TERA provisions and their relationship to the federal trust responsibility seemed **concerned that such provisions would negatively impact** the **federal** government’s **responsibility** to federally recognized tribes.

### PC real

#### Also- studies prove the theory of political capital

Eshbaugh-Soha, M. (2008). Policy Priorities and Presidential Success in Congress. Conference Papers -- American Political Science Association, 1-26. Retrieved from Political Science Complete database.

Presidential-congressional relations are a central topic in the scientific study of politics. The literature is clear that a handful of variables strongly influence the likelihood of presidential success on legislation. Of these variables, party control of Congress is most important (Bond and Fleisher 1990), in that conditions of unified government increase, while conditions of divided government decrease presidential success, all else equal. The president’s approval ratings (Edwards 1989) and a favorable honeymoon (Dominguez 2005) period may also increase presidential success on legislation. In addition, presidential speeches that reference policies or roll-call votes tend to increase the president’s legislative success rate (Barrett 2004; Canes-Wrone 2001; Eshbaugh-Soha 2006). In their landmark examination of presidential success in Congress, Bond and Fleisher (1990, 230) identify yet another condition that may facilitate presidential success on legislation when they write that “the president’s greatest influence over policy comes from the agenda he pursues and the way it is packaged.” Moreover, the policies that the president prioritizes have “a major impact on the president’s relationship with Congress.” Taken together, these assertions strongly suggest that the policy content of the president’s legislative agenda—what policies the president prioritizes before Congress—should be a primary determinant of presidential success in Congress.

#### Bargaining chips are limited – plan directly trades off

Bernstein, 8/20/11

Jonathan Bernstein is a political scientist who writes about American politics, especially the presidency, Congress, parties and elections, http://www.salon.com/news/politics/war\_room/2011/08/20/bernstein\_presidential\_power/index.html

Moreover, the positions of the president and most everyone else are, to look at it one way, sort of opposites. The president has potential influence over an astonishing number of things -- not only every single policy of the U.S. government, but policy by state and local governments, foreign governments, and actions of private citizens and groups. Most other political actors have influence over a very narrow range of stuff. What that means is that while the president's overall influence is certainly far greater than that of a House subcommittee chair or a midlevel civil servant in some agency, his influence over any specific policy may well not be greater than that of such a no-name nobody. A lot of good presidential skills have to do with figuring out how to leverage that overall influence into victories in specific battles, and if we look at presidential history, there are lots of records of successes and failures. In other words, it's hard. It involves difficult choices -- not (primarily) policy choices, but choices in which policies to fight for and which not to, and when and where and how to use the various bargaining chips that are available.

### A2 Political Considerations Are Racist --- 2nc Politics

#### ---The counterplan makes their critique of politics is self defeating --- The claim that Native American groups are excluded from politics means the evaluation of pragmatic strategies that can successfully avoid opposition to actually see implementation are of critical importance.

Dean 2009

Jodi, Professor of political science at Hobart and William Smith Colleges, Post-politics? No Thanks!, Future Non Stop, http://future-nonstop.org/c/b122b85eff80835dfd654453d325ba0b

Some of the aspects of the current conjuncture the depoliticization diagnosis highlights are well-worth emphasizing, namely, the neoliberal capitalist economy, the fragile, consuming individual, and the surveilling, controlling state. Yet post-politics, depoliticization, and de-democratization are inadequate to the task of theorizing this conjunction. The claim that states are decreasing in significance and impact because of the compulsions of the market ignores the millions of dollars regularly spent in political campaigns. Business and market interests as well as corporate and financial elites expend vast amounts of time and money on elections, candidates, lobbyists, and law-makers in order to produce and direct a political climate that suits their interests. Capitalizing on left critiques of regulation and retreats from the state, neoliberals move right in, deploying state power to further their interests. Similarly, social conservatives in the persistently fight across a broad spectrum of political fronts. In the U.S. these include local school boards, state-wide ballot initiatives, judicial appointments, and mobilizations to amend the Constitution. **The left-wing lament regarding post-politics not only overlooks the reality of politics on the ground, but it cedes in advance key terrains of activism and struggle**. Not recognizing these politicized sites as politicized sites, it fails to counter conservative initiatives with a coherent alternative. Claims for post-politics are childlishly petulant. Leftists assume that our lack of good political ideas means the end of politics as such. If the game isn't played on our terms, we aren't going to play at all. We aren't even going to recognize that a game is being played. To this extent, the claim for post-politics erases its own standpoint of enunciation. Why refer to a formation as post-political if one does not have political grounds for doing so? If one already has such grounds, then how exactly is the situation post-political? If one lacks them, then what is the purpose of the claim if not to draw attention to or figure this lack?

## \*\*\*1NR

### 1NR Overview

#### Eliminating approval authority without resolving questions of corporate exploitation that is externalized from state processes and restrictions on Indian sovereignty means the ethical decision to vote affirmative is inherently unethical – 2 reasons to vote negative

#### A. Corporate Power DA – mills says when the Bureau of Land Management abdicated responsibility over Indian land, multi-national corporations were able to exploit indigenous communities over Uranium mining because they used cash as a carrot. This resulted in environmental destruction and integrity of native health – the 1AC cannot resolve this because it’s proof that corporate incentives and education can co-opt the development of new educational processes that they seek to open up as a result of a reduction in federal restrictions. There is no space for democratic institutions and educational interactions between those that are oppressed – turns their red pedogoy offense

#### B. The counterplan is comparatively ethical – even if it still leaves regulations and restrictions on the books – it resolves tribal soveirgnty through giving them the ability to request an environmental review of corporate investment, lets them engage in tribal resource agreements where they set the terms of engagement, and has a set amount of time in which deals can be produced so that the deals are examined with enough time to prevent corporate exploitation

### 1NR A2: Get Rid of Federal Control #4, 7,8

**---No Link and turn --- The trust relationship protected by the counterplan is distinct from colonial paternalism and is a critical partnership necessary to preserve tribal self determination.**

**Clinton 1993**

Former Iowa Law Prof, 46 Ark. L. Rev. 77

Given the chameleon-like nature of and complex roles played by the federal trusteeship doctrine over the course of American legal history, it may not be sufficient only to identify it as a legacy of colonial oppression of Indian tribes and to condemn it to the oblivion of America's colonialist past. Although the doctrine has been destructive to Indian tribes and their cultures, it also **has protected ~~tribal~~ communities by affording redressability for past wrongs**. For example, Chief Justice Marshall used the doctrine in Cherokee Nation in part to insinuate the federal government's obligation by treaty or otherwise to protect the sovereignty and lands of the Cherokee Nation from encroachment by the State of Georgia and its [\*134] citizens. Surely, this protective role, for which many tribes diligently negotiated in many of the treaties**, does not represent a legacy of colonialism**. Rather, it is a logical outgrowth of the political relationships created by such treaties and the course of dealings between the federal government and the tribes. Similarly, while colonialism certainly caused the federal government to assume the management of many Indian minerals and resources, the legal doctrines derived from the trusteeship hold the federal government legally accountable for actual mismanagement of such Indian resources, and therefore, **they should not be simplisticly condemned and eliminated as a vestige of colonialism.** Thus, dealing with the federal trusteeship in the visionary world of a decolonized federal Indian law poses significant conceptual problems. Certainly, the elements of the doctrine which justify the exercise of plenary federal authority, federal usurpation of the management of or decision making about Indian resources, or federal efforts to "enlighten" Indians by depriving them of their tribal traditions and culture represent a part of the legacy of conquest and properly should be jettisoned by a decolonized federal Indian law as relics of America's colonialist past. By contrast, a decolonized federal Indian law still might retain those elements of the trusteeship under which the federal government justified its protection of the legal autonomy of communities from the onslaught of the legal authority of the states that surrounded them or under which it has sought to provide legal redress for harms caused by its past colonialist excesses. Perhaps doctrinal labels less paternalistic than trusteeship, guardianship, wardship, or the like could be found to describe these legal theories, but, nevertheless, these elements, which historically have been associated with the federal trusteeship over Indian affairs, **should escape the scalpel of decolonization of federal Indian law.**

**Err negative --- Federal trust doctrine based on protecting Native resources is key to preventing indigenous extinction.**

**Wood 1994**

Oregon Assistant Law Professor, 1994 Utah L. Rev. 1471

Since first entering into treaties with the United States, native nations have waged a 200-year struggle to maintain their autonomy against an encroaching majority society. With all too few exceptions, native interests have been overwhelmingly subjugated to the political will of the majority. Now, positioned at the threshold of the twenty-first century, tribes are still adjusting to the relatively new era of Self-Determination--an era marked by federal policy supportive of native sovereignty. Despite the comforting tenor of current federal policy, the future of tribal existence for many native nations is imperiled. While the remaining three percent of the native land base is vital to preserving tribal autonomy, **it stands to be lost in a storm of development and pollution** throughout the United States. Many native lands are severely contaminated as a result of non-Indian activities occurring off reservations, and tribes are finding it increasingly difficult to continue their traditional way of life because of unrestrained non-Indian activities that are depleting and degrading shared resources. But the threat also arises from within Indian society itself. Indian lands are increasingly eyed by the majority society to alleviate scarcity outside of Indian Country. Such lands may be developed only with the consent of the governing tribal entity--consent that is more readily given in times of economic hardship, such as the present. As this Article points out, the deep aversion of a significant portion of the native population to industrial development of their lands is largely overlooked in the face of tribal council approvals legitimized by the policy of Self-Determination. This Article has explored the federal government's role in the continuing assault on Indian lands and has examined modern governmental duties and obligations owed to tribes within a sovereign trust paradigm. The federal government's trust duty is rooted in the land cessions made by the native nations. As expressed in treaties and elsewhere, the land cessions were conditioned upon an understanding that the federal government would safeguard the autonomy of the native nations by protecting their smaller, retained territories from the intrusions of the majority society and its ambitious entrepreneurs. This promise of a viable separatism forms the heart of the federal government's continuing trust responsibility toward the native nations. The continuing entitlement of tribes to maintain a separate existence, however, has been obfuscated by a modern trend [\*1568] to address native needs through the legal structure developed for a non-Indian society--a structure consisting primarily of constitutional and statutory protections. Such legal protections, geared as they are toward non-Indian needs and values, are often inadequate to protect the distinctive sovereign character of native nations. Now, with much of the native land base and corollary resources on the verge of irrevocable deterioration, renewed attention to the trust doctrine **is critical.** This Article charted a course for the trust doctrine within the context of the Mitchell decisions and post-Mitchell precedent. It concluded that, while courts will likely remain reluctant to enforce trust obligations against Congress, trust claims against the executive branch remain viable after Mitchell in both the federal landmanagement and incidental-action contexts. In the incidental-action context, the trust doctrine allows tribes to challenge federal action which, though perhaps permissible under federal environmental law, detrimentally affects their unique way of life. In the land-management context, the trust doctrine provides important redress for tribes against governmental mismanagement of tribal lands and resources. Just as important, the trust claim may provide critical protection to tribal members seeking to safeguard their lands and resources against large-scale disposition to private interests through lease arrangements. In this latter context, the federal fiduciary duty to protect a tribe's territory against market encroachments of the majority society may sometimes outweigh the inevitable intrusion into tribal council prerogatives resulting from federal disapproval of a project. This argument recognizes the complex underpinnings of tribal sovereignty on many reservations and seeks to define the federal government's trust obligation not as a duty to automatically approve each transaction negotiated by a tribal government, but rather as a duty to safeguard the land interests of the tribe as a whole for present and future generations. To conclude, native nations in the Self-Determination era face threats to their autonomy perhaps more subversive and subtle **than those of any previous era**. While the current Self-Determination era carries pleasant overtones of tribal autonomy, in reality it may be promoting a rapid conversion of tribes from culturally autonomous, land-based societies, to substantially assimilated, corporate-like entities reflecting normative characteristics of the highly industrialized majority society that surrounds them. Undoubtedly the most dangerous aspect of the modern policy is its effective disguise of the continued pressures exerted by the majority society to sever native people from their lands and extinguish their way of life. As this Article has pointed out, Self-Determination will prove a hollow concept [\*1569] if industry and the government **exploit it to serve the interests** of the majority society at the expense of the native nations. Indeed, it will become nothing more than continued **colonialism under the banner of native sovereignty.**At a very basic level this Article has suggested a fundamental shift in the policy and law paradigm governing federal-tribal relations. The federal duty of protection, which forms the basis of the sovereign trusteeship as secured by the vast land cessions of two centuries ago, should again serve as the focal point of future dealings between tribes and the federal government. This duty of protection does not justify or authorize plenary power over sovereign native nations, but rather translates into self-restraint on the part of the majority society to refrain from taking actions injurious to native lands and resources.

#### ---Status quo self determination efforts solve.

#### (A.) Self governance compacts, self determination contracts, greater tribal budget control, and education assistance.

Tribal Nations Progress Report 2011

White House Tribal Nations Conference Progress Report, “Achieving a Brighter Future for Tribal Nations”, 12/2010, http://www.whitehouse.gov/sites/default/files/2011whtnc\_report.pdf

President Obama strongly supports tribal self-determination and self-governance. This support reflects a true commitment to improve tribal governments’ capacity for controlling their own futures. Selfgovernance compacts and self-determination contracts provide tribal governments with greater program flexibility during fluctuations in the federal budget. By increasing program flexibility, tribal governments can prepare for new budget challenges that will be shared across the federal government. That is why we are working to improve opportunities through the Indian Self Determination and Education Assistance Act (Public Law 93-638 or “638”, as amended by Public Law 103-413), and the Indian Employment, Training, and Related Services Demonstration Act of 1992 (Public Law 102-477 or “477”) in a way that will help tribes to maximize federal programs in the future. Over the past year, the Interior Department has worked with tribes and lawmakers on a legislative proposal to streamline the 638 program and self-governance compacts, and today, the Interior Department joins tribes in supporting a legislative proposal to improve tribes’ ability to control tribal programs under the Indian Self-Determination and Education Assistance Act. There is a similar story in the area of 477 program funding. Under the 477 program, tribes can combine formula-funded federal grant funds that are employment–and training-related into a single budget. This provides tribes with the opportunity to be flexible in how they maximize services for tribal members. The Bureau of Indian Affairs is working hard to promote and organize this program so that tribal governments can take better advantage of federal funding that will increase job opportunities in Indian country.

<Abe note --- 638 is the name, not the number of programs>

#### (B.) Native American farm recompense and pragmatic aid.

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In 2010, the Administration reached a $760 million settlement with Native American farmers and ranchers in the Keepseagle v. Vilsack case alleging discrimination by the Department of Agriculture in loan programs. Under the agreement, the United States will pay $680 million in damages and forgive up to $80 million of outstanding farm loan debt. Important programmatic relief is also included in the settlement, including establishment of a Council on Native American Farming and Ranching, technical assistance to enable greater access to programs, publishing of a guide to programs; and other important efforts to improve access to UDSA programs.

#### ---Their indicts of the federal government are wrong--- Their totalizing rejection of Western influence simultaneously overly-romanticizes traditional culture and underestimates the benefits of some western elements can provide for indigenous cultural rejuvenation.

Alfred 1999

Taisiake, Director of the Indigenous Governance Program @ University of Victoria, Peace, Power, Righteousness: An Indigenous Manifesto

Efforts to recover the integrity of indigenous societies are not new. The first post-European Native cultural revival, at the start of the nineteenth century, was aimed largely at expunging cultural influences that were seen to be destructive. Various social and religious movements, including the Ghost Dance, Peyoteism, and the Code of Handsome Lake, sought to overcome the loss of the spiritual rootedness and refocus attention on Native value systems. Experience since then has shown that cultural revival is not a matter of rejecting all Western influences, but of separating the good from the bad and of fashioning a coherent set of ideas out of the traditional culture to guide whatever forms of political and social development—including the good elements of Western forms—are appropriate to the contemporary reality. It is this rootedness in traditional values that defines an indigenous people; a culture that does not reflect the basic principles of the traditional philosophy of government cannot be considered to be indigenous in any real sense. In lamenting the loss of traditional frame of reference, we must be careful not to romanticize the past. Tradition is the spring from which we draw our healing water; but any decisions must take into account contemporary economic, social, and political concerns.

#### ---Rejecting the federal government is bad --- Even if it’s imperfect, there is no alternative enforcement mechanism for preserving Native American land base and treaty rights.

Churchill 1983

Ward, Marxism and Native Americans, pg 1-2

Hess’ talk covered what was (for him) tried and proven ground: growing trout under high density conditions in tenement cellars, roof-top gardening techniques, solar power in the slums, neighborhood self-police forces and block governing committees, collective small-shop production of “appropriate” technology, the needlessness of federal income tax. The upshot of his vision was that the federal government is a worse than useless social oppression which should be dissolved so the United States can be taken over by a self-sufficient citizenry at each local level. After the customary polite applause, the session was thrown open to questions from the audience. The question I had to ask was: “How, in the plan you describe, do you propose to continue guarantees to the various Native American tribes that their landbase and other treaty rights will be continued?” Hess seemed truly flabbergasted. Rather than address the question, he pivoted neatly into the time-honored polemicist’s tactic of discrediting the “opposition” by imputing to it subversive or (in this case) reactionary intentions: “Well, I have to admit that that’s the *weirdest* defense of the federal government I’ve ever heard.” The debate was joined. I countered that I had no interest in protecting the federal government, but since Hess was proposing to do away with it, I was curious to know the nature of the mechanism he advocated to keep the Indian’s rather more numerous white neighbors from stealing the last dregs of Indian land—and anything else they could get their hands on. After all, such a scenario of wanton expropriation hardly lacks historical basis. Perplexed by my insistence and a growing tension in the room, Hess replied that the federal government seemed something of a poor risk for Native Americans to place their faith in. Perhaps, he suggested, it was time Indians tried “putting their faith in their *fellow man* rather than in bureaucracies.” Now it was my turned to be stunned. A bit feebly, I rejoined that I wasn’t aware that anyone was making an argument in favor of the federal bureaucracy, but I was still waiting to hear what his *replacement* for federal guarantees would be in the new anarchist society, or in a Marxist state if he wished to address that. But I couldn’t grasp his notion that elimination of the feds would do anything positive for Native people if it threw them upon the goodwill of their non-Indian neighbors. What, I asked, was it that whites had ever done to warrant that sort of faith in their collective intentions that Hess was recommending?

#### ---Opposition to America is self defeating --- Identifying the west as a culture of paternalistic murderers maintains the exceptional capacity of the Euro-American subject by inverting rather than deconstructing colonial structure.

Bruckner 2010

Pascal, French Philosopher & Writer, The Tyranny of Guilt, pg. 33-35

Nothing is more Western than hatred of the West, that passion for cursing and lacerating ourselves. By issuing their anathemas, the high priests of defamation only signal their membership in the universe they reject. The suspicion that hovers over our most brilliant successes always threatens to degenerate into facile defeatism. The critical spirit rises up against itself and consumes its form. But instead of coming out of this process greater and purified, it devours itself in a kind of self-cannibalism and takes a morose pleasure in annihilating itself. Hyper-criticism eventuates in self-hatred, leaving behind it only ruins. A new dogma of demolition is born out of the rejection of dogmas. Thus we Euro-Americans are supposed to have only one obligation: endlessly atoning for what we have inflicted on other parts of humanity. How can we fail to see that this leads us to live off self-denunciation while taking a strange pride in being the worst? Self-denigration is all too clearly a form of indirect self-glorification. Evil can come only from us; other people are motivated by sympathy, good will, candor. This is the paternalism of the guilty conscience: seeing ourselves as the kings of infamy is still a way of staying on the crest of history. Since Freud we know that masochism is only a reversed sadism, a passion for domination turned against oneself. Europe is still messianic in a minor key, campaigning for its own weakness, exporting humility and wisdom.6 Its obvious scorn for itself does not conceal a very great infatuation. Barbarity is Europe’s great pride, which it acknowledges only in itself; it denies that others are barbarous, finding attenuating circumstances for them (which is a way of denying them all responsibility).

### #6 1NR A2: Environment DA

#### Corporations are comparatively worse – they’ll engage in ecologically unsustainable practices

Awehali 2006

Brian, publisher and co-editor of LiP Magazine, Who Will Profit from Native Energy?, http://www.projectcensored.org/top-stories/articles/25-who-will-profit-from-native-energy/

I believe the topic of this article was important and urgent because sometimes all that glitters really is gold, even if the marketing copy says it’s green. The long and utterly predictable history where indigenous peoples and US government and corporate interests are both concerned shouldn’t be forgotten as we enter the brave new green era. Marketing for-profit energy schemes on Indian lands as a means of promoting tribal sovereignty is both ludicrous and offensive, as are “green” development plans intrinsically tied to the extraction of fossil fuels in the deregulated Wild West of Indian Country. Energy companies are only interested in native sovereignty because it means operations on Indian lands are not subject to federal regulation or oversight. This is why I included a discussion in my article about the instructive example of the Alaska tribal corporations and the ways they’ve mutated into multi-billion dollar loophole exploiters. (My brief examination of Alaska tribal corporations drew heavily from an excellent Mother Jones article, “Little Big Companies,” by Michael Scherer). It’s also my belief that the probably well-intentioned idea of “green tags,” carbon offset credits, and market-enabled “carbon neutrality” should be examined very closely: Why are we introducing systems for transferring (or trading) the carbon emissions of “First World” polluters to those who contributed least to global warming? I would argue that this is merely a nice-sounding way for the overdeveloped world to purchase the right to continue its pathologically unsustainable mode of existence, while doing little to address the very grave ecological realities we now face.

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