# NSDA Starter Files – September 2021

# Foreword

What a fantastic month it has been for debate already! A huge win from Missouri State at the college season opener, a closeout at Jack Howe by James Logan (who I had the pleasure of judging in the semifinal,) and a killer final round between Mamaroneck and Bronx Science at Yale! Between coaching, judging practice rounds, and judging at Jack Howe, it’s clear that things on the circuit right now look exactly how we expected for the water topic: lots and lots of Settler Colonialism (SetCol) arguments. A friend of mine, indigenous coach and environmental activist Sheelah Bearfoot did a summer lecture series on SetCol arguments, and I can not recommend it enough. There is no better way to understand and respect the nuances of debating SetCol than to learn from the perspective of an indigenous debater. You can access those lectures via [this google form](https://forms.gle/9FzXRFpi93tZyNit5) (<https://forms.gle/9FzXRFpi93tZyNit5> in case the hyperlink doesn’t work correctly.)

In this file, I’ve included a basic 1NC shell for a simple SetCol Kritik, generic answers to SetCol, and some generic K answers for good measure. These include some of the most popular authors on the topic, including Stevenson and Wilson, but I recommend also taking the time to read Tuck and Yang, Sue Jackson, and other big names in SetCol research, particular as it relates to water rights.

# 1NC Shell – SetCol K

#### Link - The affirmative treats water as a resource that can be owned. This reflects a settler colonialist mindset and upholds violent ontologies of the settler state.

**Wilson & Inkster 18** (Nicole Wilson, PhD in Resource Management from University of British Columbia, Jody Inkster, Professor at University of Alberta/Yukon College,  “Respecting water: Indigenous water governance, ontologies, and the politics of kinship on the ground," 07/25/2018, Environment and Planning E: Nature and Space, <https://journals.sagepub.com/doi/abs/10.1177/2514848618789378?journalCode=enea>) [KKu.]

**Water is widely referred to as a ‘‘resource’’** (e.g. Yukon Water Strategy and Action Plan (Environment Yukon, Water Resources Branch), 2014). Also, according to the Yukon Waters Act (Yukon Legislative Counsel, 2003: 3) ‘‘Water belongs to Government.’’ While the idea that the Yukon Government ‘‘owns’’ the water is problematic from the perspective of Indigenous rights and jurisdiction, **it also reveals the pervasiveness of settler colonialism and its buttressing** ontologies – as ‘‘land [s**ynonymous with water]** is remade into property and human relationships to [water],’’ restricting all views ‘‘to the relationship of the owner to his property. **Epistemological, ontological, and cosmological relationships to land** are [thus] interred, indeed made pre-modern and backward. Made savage’’ (Tuck and Yang, 2012: 5). In the same vein, the ‘‘water rights of Yukon First Nations,’’ referred to in the UFA frames the relationship to water in relation to property rights, absenting all reference to water as an ethic of respect. It thus also undermines any charge to First Nations to recognize and enact their **ethic of responsibility, to take care of water – a living entity to which they have kinship ties** (Anderson et al., 2013; McGregor, 2014). **Water is thus rendered a** resource. Or, as Anishinaabe scholar Deborah McGregor states: Water, in the dominant Western Euro-Canadian context, is conceptualized as a resource, a commodity to be bought and sold. Federal and provincial governments therefore make decisions about water based on a **worldview,** philosophy **and set of values** which stands in direct contrast to the views of First Nations people. (2014: 496). Although not necessarily intentional, following Kim Tallbear (2011), engaging settler understandings of water in water governance ‘‘engenders a lot of violence’’ due to the constant impulse to separate humans from non-human

#### IMPACT: The aff’s use of the USFG demands the use of settler mindsets to protect and commodify water. These colonial attitudes fail to work in tandem with indigenous ontologies. The fluid nature of water ensures that the settler state will always overstep jurisdictional boundaries and disrespect indigenous rights.

**Stevenson ’18** (Shaun A. Stevenson, full-time Faculty Member in the University Studies Program at Northern Lakes College, “(Re)Making Indigenous Water Worlds: Settler Colonialism, Indigenous Rights, and Hydrosocial Relations in the Settler Nation State”, A thesis submitted to the Faculty of Graduate and Postdoctoral Affairs in partial fulfillment of the requirements for the degree of Doctor of Philosophy in English Language and Literature Carleton University Ottawa, Ontario, ppg. 41-48)

From state conceptions of land rights discourse, to Indigenous peoples’ inherent rights, assertions of sovereignty, and legal orders, inside and outside of the courtrooms, what then is meant by Indigenous water rights? Not unlike Indigenous sovereignty and law, which existed prior to the imposition of Crown sovereignty, Indigenous water rights, or more accurately, water responsibilities,17 those included in various articulations of Indigenous legal orders, have also existed as integral aspects of Indigenous societies since long before colonial settlement. Indigenous water rights are indeed inherent rights. Water, however, given its unbounded flow between and across territories, is subject to colonial constraints and impositions in ways that are not entirely the case with land. Where Indigenous sovereignty claims may see lands demarcated, set aside, or identified as Indigenous territories, with “Aboriginal title” recognized and affirmed, however limited, Indigenous rights to water remain subject to source water protections, development upstream and down, and the general policies of the settler state, which organize and influence Indigenous territories and their waters, regardless of jurisdictional boundaries. In short, even as it carries the effects of settler colonialism, its policies and pollutants, water most often disrupts the fixity and certainty of settler colonialism, aiding in resisting the foreclosure of Indigenous rights in the settler state. It is in this way that water’s flow, its paradoxical and ambivalent fluidity, reveals the necessity of acknowledging and adhering to the significance of Indigenous water right, relationships, and the legal orders that uphold them. While the different meanings of water for Indigenous and non-Indigenous peoples will be explored further below, it is important to understand the current relationship between Indigenous peoples and water within the settler state, its institutional, legal, and governance structures. To say the least, Indigenous rights to water, and water policy more generally in Canada are complex issues. I will not be able to cover the intricate histories and approaches to water management, governance, and rights across the country and between Indigenous nations and the state; rather, I highlight here some of the important strands that shape and limit Indigenous water rights in Canada, and which may also offer potential for their reconceptualization.

Since early settlement, water rights have been conceived of in ways similar to that of land rights by colonial governments, where the rendering of water as property shapes the meaning of Indigenous water rights. As Kenichi Matsui notes in his text Native Peoples and Water Rights, “Statutory laws that aimed to regulate the use of natural resources also had the effect of commodifying fish, timbre, and water in colonial lands, thereby aiding attempts to establish an imperial regime over nature and Indigenous lands. The idea of water rights,” he continues, “including “Indian water rights,” was derived from such a property-centered legal perspective” (2009, 10). While the meaning of water rights across Canada developed in slightly different ways between the East, the West, and eventually the Northern territories, Canadian water rights policy has historically worked to facilitate the “legal transformation of water into property” (Matsui 28). Whether through “riparian water rights”18 in the East, transported to the colonies through English common law, allocating water to those who possess land along its path, or through “priorappropriation” water rights in the West, wherein the first person to make “beneficial use” of a water source has the right to continue to use that source for that purpose, water rights in Canada, and North America more generally, developed under the same logics of possession expressed through John Locke’s theory of property and Thomas Jefferson’s agrarian ideals. As Matsui states, “Their ideals laid the foundation for legal and political authorities to perceive water as property in order to accommodate capitalistic development” (37).

It is within this property-centered framework that Indigenous water rights have been defined and constrained by the state, if they have been acknowledged at all. Nlaka’pamux lawyer Ardith Walkem writes, “There are several possible sources within Canadian law that deal with the recognition and protection of indigenous peoples’ rights to, and in, water. These include reserve water rights and Aboriginal title, Aboriginal rights, and treaty rights” (2011, 304). Where reserve water rights, and specific treaty rights, set aside waters on reserve lands for the use of Indigenous peoples residing on reserve, Walkem is also careful to note that “despite the fact that reserve lands are federal creations, reserve water allocations fall under provincial or territorial water regimes” (305), which often neglect or break reserve or treaty rights when it serves the interests of the provinces or territories. Merrell-Ann Phare similarly suggests, “governments do not overtly accept that First Nations have rights to water, which means that First Nations are not “allowed” to exercise an inherent jurisdiction to manage or use water” (2009, 12). She highlights a “regulatory gap” in First Nations water rights specifically, where incongruities exist between jurisdictional oversight, protections, and access to clean drinking water (13). Even when Indigenous peoples have determined specific rights regimes within their territories, they are rarely consulted on source water protections, and developments upstream that have direct impacts on their water sources (Phare, 15). For example, “The doctrine of prior appropriation made it possible for entrepreneurs and government officials to build large-scale dams and irrigation systems” (37), which have had devastating effects on Indigenous Nations across the country, a matter that will be discussed in greater detail below. Thus, the colonial water rights regime continues to shape and construe Indigenous water rights in its image, which hinges on notions of private property and water as resource. The establishment of this image, which has structured colonial water rights regimes will be further discussed in chapter one.

As Walkem notes, “Aboriginal rights and title” is also an integral aspect of determining the meaning of Indigenous water rights. As stated above, these rights must be understood to exist with or without state recognition, as sui generis rights, prior to the formation of the Canadian state and its imposition of colonial water rights’ frameworks. Walkem writes, Despite many years of colonization, the destruction of our territories, and the imposition of foreign laws and values, Indigenous peoples have maintained awe and reverence for the life-giving force of water and, across generations, have continued to call for the return of indigenous laws and traditions so that we can protect our peoples, waters, and territories” (304). Where “Aboriginal title” remains a contentious and poorly defined issue within the courts, Indigenous law, and water laws specifically, must play a role in determining the meaning of Indigenous water rights in the settler colonial nation state. Indeed, “constitutional and legal recognition is hollow if it does not provide and protect jurisdictional space for indigenous laws on lands, waters, and territories that are constitutive of Aboriginal nationhood and existence” (309).

Currently, however, most assertions of Indigenous water law remain subject to colonial water rights regimes, wherein co-management or water governance agreements may exist, but always within the confines of settler government jurisdiction. Some Indigenous nations have maintained important assertions of water sovereignty within these confines; for example, the Yinka Dene ‘uza’hné from Nadleh Whut’en and Stellat’en in British Columbia, formally enacted the Yinka Dene ‘Uza’hné Surface Water Management Policy and Yinka Dene ‘Uza’hné Guide to Surface Water Quality Standards in 2016, effectively enacting Indigenous water law in their territories, in accordance with the Yinka Dene legal tradition that have governed these territories “for thousands of years” (Yinka Dene ‘Uza’hné Surface Water Management Policy 2016, 1). This agreement is significant in settler colonial nations because it represents the necessity and potential for reckoning with water’s unquestionable relationality and in ways that flow from the distinct worldviews of Indigenous peoples. It is important to note, however, that the unique context of “Aboriginal title” in British Columbia makes such an enactment of Indigenous jurisdictional power over water obtainable in ways that may not be possible in other parts of the country.

Where Indigenous peoples’ inherent rights to waters, and assertions of water law remain negated, there exists a huge gap in water management and protection for both Indigenous and non-Indigenous peoples in the settler state. Indeed, in Canada, settler water governance generally is marked by mismanagement and regulatory gaps. Phare points out that water is, shockingly, not mentioned at all within the Canadian Constitution. She writes, “the lack of reference in the Constitution was instrumental in creating one of our most challenging ecological, human health and economic issues today: the mythical belief held by Canadians that we have, and always will have, vast amounts of fresh water available to us” (22); she continues, “We have no national water policy, no enforceable national standards for drinking water quality, no binding national governmental statements about what we as Canadians consider to be the minimum water flows needed by all ecosystems. We have a system rife with gaps” (27). Understanding of water’s significance and complexity have thus been neglected by the settler state, limited within frameworks of property rights that do not account for water’s flows and requirements. Canada’s negation of Indigenous water law marks both an extension of this neglect, and an active disavowal of existing systems of law that foreground water as an integral part of our health and ecology, requiring respect and responsibility. Reckoning with the legibility of Indigenous water law, on the other hand, offers the potential to not only decolonize Indigenous rights in the settler state through the recognition of Indigenous jurisdictional powers, but also to create the possibilities for an approach to water that Canada as a nation has largely ignored. I do not intend, however, to uphold Indigenous legal orders as an idealized solution to Canada’s inadequate water policy. Indeed, this might be the most natural solution within a late or neo-liberal Canadian environmentalism that would seek to situate Indigenous peoples as environmental stewards in a moment of global climate change and governance structures that have largely divested itself from environmental protections, or, ironically, have only committed to such protections while simultaneously investing in the very development projects that perpetuate both climate change and the destruction of Indigenous lands and waters; this is the seemingly progressive liberalism that I will discuss and critique further below and in chapter two of this dissertation. Further, as Rey Chow has cautioned in Ethics After Idealism, there is an idealistic tendency “to relate to alterity through mythification; to imagine the ‘other,’ no matter how prosaic or impoverished, as essentially different, good, kind, enveloped in a halo, and beyond the contradictions that constitute our own historical place” (1998, xx). Thus, I do not want to situate Indigenous water law as a kind of mythic alternative to the perils of Western environmental policy; however, as Walkem writes, “Environmental justice for the waters, for indigenous peoples, and for all life requires fundamentally rethinking the way that we, as humans, interact with the waters that give us life” (313). Therefore, Indigenous water law is not mobilized as an idealized solution to global climate change, but as a political necessity for the lives and well-being of Indigenous peoples. To be sure, there are significant differences between Western water rights policy and the way that Indigenous legal orders conceptualize water and the responsibilities it requires. These differences have largely not had the opportunity to proliferate under settler colonialism and the material water worlds it constructs. Clogg et al. write, “Indigenous legal traditions have a critical role to play in environmental governance in Canada. Indigenous law has governed the territory now known as Canada for millennia, and Indigenous legal traditions contain a wealth of accumulated knowledge about effective strategies for environmental governance” (2016, 255). Water’s unquestionable relationality demands a consideration of what alternative approaches to water could mean for everyone who inhabits these lands and their waterways. Thus, I aim to both resist the idealization of Indigenous approaches to water, and Indigenous worldviews more generally, while also reading the expression of these worldviews on their own terms and in ways that might create the conditions for a remade approach to environmental governance in the settler nation state.

#### **ALT: The alternative is a rejection of the affirmative’s settler logics and a decolonization of our approach to water rights. Upholding the ontology of the 1AC prioritizes a theoretical government action over the very real harms of the settler mindset against indigenous people.**

**AND Decolonization must be unyielding and absolute. Any attempt at a perm fails to provide the unique solidarity that makes indigenous struggle successful**

**Walia ‘12** (Harsha, South Asian organizer and writer based in Vancouver Coast Salish Territories, “Moving Beyond a Politics of Solidarity Towards a Practice of Decolonization,” Jan 5, www.peopleofcolororganize.com/analysis/theory/moving-beyond-politics-solidarity-practice-decolonization/) \*\*\*We don’t endorse ableist language.

Decolonization is as much a process as a goal. It requires a profound re-centring of Indigenous worldviews in our movements for political liberation, social transformation, renewed cultural kinships, and the development of an economic system that serves rather than threatens our collective life on this planet. As stated by Toronto-based activist Syed Hussan “Decolonization is a dramatic re-imagining of relationships with land, people and the state. Much of this requires study, it requires conversation, it is a practice, it is an unlearning.” It is a positive sign that a growing number of social movements are recognizing that Indigenous self- determination must become the foundation for all our broader social-justice mobilizing. Indigenous peoples are the most impacted by the pillage of lands, experience disproportionate poverty and homelessness, are over-represented in statistics of missing and murdered women, and are the primary targets of repressive policing and prosecutions in the criminal injustice system. Rather than being treated as a single issue within a laundry list of demands, Indigenous self-determination is increasingly understood as intertwined with struggles against racism, poverty, police violence, war and occupation, violence against women, and environmental justice. Intersectional approaches can, however, subordinate and compartmentalize Indigenous struggle within the machinery of existing Leftist narratives: anarchists point to the anti-authoritarian tendencies within Indigenous communities, environmentalists highlight the connection to land that Indigenous communities have, anti-racists subsume Indigenous people into the broader discourse about systemic oppression, and women’s organizations point to relentless violence borne by Indigenous women in discussions about patriarchy. We have to be cautious to avoid replicating the state’s assimilationist model of liberal pluralism, whereby Indigenous identities are forced to fit within our existing groups and narratives. The inherent right to traditional lands and to self-determination is expressed collectively and should not be subsumed within the discourse of individual or human rights. Furthermore, it is imperative to understand being Indigenous as not just an identity but a way of life, which is intricately connected to Indigenous people’s relationship to the land and all its inhabitants. Indigenous struggle cannot simply be accommodated within other struggles; it demands solidarity on its own terms.

# SetCol Answers

#### The K’s assumption that all indigenous people are “ecologically pure” is rooted in settler romanticizing of indigenous cultures. This leads to victim blaming indigenous groups when things go wrong.

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We’ve all heard it a million times: Native Americans are the original environmentalists. Not that it’s not flattering. In a country whose history is built and maintained on the erasure of the “inferior” indigenous population, as a Native person I can say it’s nice to get credit for something once in awhile. Nor is it entirely a falsehood. It’s true that indigenous peoples in the U.S. (and around the world) tend to have relationships with the land and the environment that are qualitatively different than populations built on imperialism and heavy industrialization. But to apply to them the blanket statement that they are “original environmentalists” is to overlook the meaning of the concept of environmentalism on the one hand, and on the other to mischaracterize Native peoples’ actual relationship to land. It creates an impossibly high standard to live up to, exposing Native peoples to dangerous policy objectives when they fail to meet those standards. Euphemistically called the “ecological Indian” stereotype,[1] it has its roots in the earliest portrayals of Indians by European settlers. Back then, though, they were not the celebratory representations they are today. They hark back to a time when Native peoples were generally understood as so inferior that they were not even fully human. Consider the words of George Washington: “Indians and wolves are both beasts of prey, tho’ they differ in shape.” To Washington, Indians were clearly no different than animals, indistinguishable from any other form of wildlife. They lurked about in the wilds of the “untamed” landscape, attacking without cause. Naturally, this informed Washington’s policies toward them (which were largely war and displacement), earning him the Iroquois moniker “Town Destroyer.” In the settler imagination Native people had to be constructed as less than human in order to justify settlers’ relentless and often illegal incursions into Indian lands. By the nineteenth century, with the rise of anthropology, emergent theories classified humans by different races in what we know today as scientific racism. The theories that constituted scientific racism contributed to the narrative of the “vanishing Indian” who was doomed to perish by virtue of his inherent inferiority, and these narratives were plainly visible in popular cultural representations. Indians were common subjects of the earliest Hollywood films, which invariably lamented the tragedy of their vanishing at a time when they were outnumbered and militarily defeated. These cinematic representations capitalized on what by then were firmly established tropes of the noble savage in American literature. The noble savage was a recuperated version of the ignoble savage, the wild beasts of the forest who needed to be excised from the environment because they were obstacles to “progress.” Now safely disappearing, the noble savage could be enshrined into America’s romanticized narratives in which settlers as the rightful inheritors of the land were destined to replace the primitive indigenes. Throughout the first half of the twentieth century, however, Indians reliably appeared in cinema and other popular culture texts as the ignoble savage. What would those old spaghetti westerns and Louis L’Amour novels be, after all, without bloodthirsty, marauding Indians? The civil rights movements of the 1960s ushered in a new era of Indian cultural representations. Native peoples were rising up, fighting for the protection of their treaty rights in places like the Pacific Northwest and Alcatraz Island. This is when Indians became cool, even if they were portrayed predominantly by non-Natives. Think Tom Laughlin in Billy Jack; Richard Harris in A Man Called Horse; Dustin Hoffman in Little Big Man. 1971 saw the official birth of the environmental Indian stereotype with the launch of an anti-littering campaign that featured the famous “crying Indian.” Dressed in full buckskin regalia and feather headdress — an invocation of the disappeared noble savage — the “Indian” is shown among intermingled images of pristine nature and man-made pollution. Never mind that the Indian is no Indian at all, but the long-ago-outed 100 percent Sicilian fraud Espero Oscar de Corti. Chief Seattle's fake speech excerpt A popular excerpt from a speech attributed to the Suwamish Chief Sealth, but actually written by a Texas screenwriter in 1971. The ecological Indian is thus a mixed bag of beguiling messages. He is part of a larger phenomenon in the American cultural landscape, one that is a reflection of the country’s ambivalent relationship with indigenous peoples. As the noted Native scholar Philip Deloria argued in his now-classic book Playing Indian, this ambivalence spans centuries, embodied in federal policies that vacillated between extermination on the one hand, and assimilation on the other. It explains American’s bizarre obsession with appropriating all things Indian, from the theatrical Indian impersonations of the Boston Tea Party to the Indian hobbyist organizations like the Boy Scouts of America, and even the pervasive use of non-Native actors to play Native roles. Native American appropriation is enmeshed with — really, a product of — the American imperative to claim ownership of that which is not one’s own, beginning with land, and inevitably identity. By the 1960s, when disaffected American youth began waking up to their spiritually and morally bankrupt society, they looked to indigenous peoples for answers. The counterculture movement was born, and back to the land the hippies went, bedecked in beads, feathers, and buckskins. There they lived in pseudo tribal communities (which invariably involved tipis), and flocked to Indian reservations to learn Native wisdom. They learned that Indians had a different, more harmonious relationship to the land. The intensely romanticized savage Indian was redeemed. But he became the symbol of renewed hope for America, the possibility to return to a simpler and more honorable past. At its core, however, the trope of the ecological Indian symbolizes an idealized — and largely fictitious — appeal to a perceived lost purity, and in the words of Noel Sturgeon, is “the founding moment of conservationist or preservationist environmentalism.”[2] Preservation and conservation was the language of the earliest environmentalists, beginning in the early twentieth century with the creation of the National Parks Service. Both imagined a “pure” environment, either free of human interference, or in need of a highly regulated human presence. Either way, the environment was seen for its utilitarian value relative to humans. In other words, humans were viewed as as separate from, and even a threat to, a pristine natural environment. Yet indigenous peoples hadn’t just lived sustainably in virtually all of the landscapes on the continent for thousands of years; many Native nations are also known to have had complex land management practices. That these facts were and are systematically ignored was part of larger patterns of erasure, genocide, and dispossession.

#### Water legislation should be wielded by indigenous governments to resist colonial water legislation – the K fails to utilize this space

Wilson, 19 – Nicole (University of British Columbia, Canada) “Seeing Water Like a State?”: Indigenous water governance through Yukon. First Nation Self-Government Agreement. *GEOFORUM*. <https://doi.org/10.1016/j.geoforum.2019.05.003>.

SGAs create opportunities to implement new approaches to water governance. Although no Yukon First Nation has done this to date, **the potential to create legislation** asserting their Chapter 14 rights **is of utmost interest, particularly in reference to protecting water quality**, quantity and rate of flow for waters on or adjacent to Settlement Lands. These laws could supersede the Yukon Waters Act and Regulations (2003) as a “law of general application,” however federal laws relating to water could still apply. Several Yukon First Nations are thus working towards implementing these Chapter 14 rights as a function of SGAs and in reference to potential water laws and regulations on Settlement Land. Both THFN and C/TFN noted that they are working towards this goal but are still early in the process. Although it is not legislation, Champagne and Aishihik First Nations’ (CAFN) Water Strategy provides perhaps the most advanced example. As of May 2013, that strategy’s draft vision statement read, “CAFN Government and its citizens have a great and deep respect for water. It is a gift that sustains all life throughout the land. As long as the rivers flow, CAFN government and its citizens will promote the protection and conservation of water throughout the traditional territory” (2013, p. 1). While CAFN’s water strategy is still in draft format, it provides an example of how other First Nations are working to protect their relationships to water through the powers of self-government, as recognized by the settler state through SGAs. Interviews, conducted as part of this project, showed that water is a priority for Yukon First Nations given concerns about resource development in Yukon and the significance of Yukon First Nation sociocultural and material relationships to water. While linguistic and cultural diversity exists across the three Yukon First Nations engaged in this research, a sense of complex connectivity to water was expressed by all. Many Elders and First Nation government employees articulated these relationships by underscoring that they are “part of the water, part of the land.” Put another way, Yukon First Nations and their legal orders are inseparable from the lands and waters within their territories. Furthermore, Yukon First Nations view water as a living entity that has spirit and must be respected (Wilson and Inkster, 2018). These relationships with water are characterized by respect, responsibility and reciprocity and through which water is seen as part of an extended network of kinship (Cf., Anderson et al., 2013; Chiblow (Ogamauh annag qwe), 2019; Craft, 2014; Daigle, 2018; McGregor, 2014; Todd, 2017). As one C/TFN Elder notes, Water is important to me because it’s the stuff of life. Without it, life can’t go on. And I think it’s important to all of life on the planet. And I try to share that with the family, and they know that it’s the stuff of life, very important, and to treat it like a relative, and to treat it good, and to appreciate it (C/TFN, 2012). The idea that we should treat water as a relative encapsulates many aspects of Yukon First Nation understandings and relationships to water. This understanding of water differs fundamentally from the Modern Water or water as a resource engaged through the hydrologic sciences and colonial resource management (Cavazos Cohn et al., 2019; Wilson et al., 2019; Wilson and Inkster, 2018; Yates et al., 2017). All three Yukon First Nations discussed the development of water legislation to protect First Nation relationships with water. However, Elders and First Nations government officials from C/TFN, in particular, expressed the desire to develop legislation consistent with their relationships to water and their ontologies, epistemologies and Indigenous legal traditions. **Such an approach would directly contrast with present colonial water legislation.** For example, a key critique of the Yukon Waters Act (2003) has been its assertion of Crown jurisdiction or “ownership” of water. While the assertion of “ownership” highlights conflicting views of jurisdiction – as these colonial arrangements were unilaterally imposed through the Canadian Constitution Act – it also highlights the pervasiveness of settler colonial water ontologies and epistemologies imposed through water “governmentalities,” which view water as a resource that can be owned, managed and exploited (see Wilson and Inkster, 2018). **Therefore, the development of Indigenous water legislation and the assumption of jurisdiction over water through that legislation represents an opportunity to better reflect First Nation relationships to water and legal orders.**

#### Working with the state has succeeded in the past for tribal governments; the perm solves better.

Wilson, 19 – Nicole (University of British Columbia, Canada) “Seeing Water Like a State?”: Indigenous water governance through Yukon. First Nation Self-Government Agreement. *GEOFORUM*. <https://doi.org/10.1016/j.geoforum.2019.05.003>.

While Yukon First Nations are still early in the process of developing their water legislation, much can be learned from the examples of Indigenous peoples who have developed legal approaches to water. For instance, a parallel can be drawn between the opportunities available to SGYFNs related to water and the “Treatment as State” (TAS) of Tribes under the U.S. Clean Water Act (1972). TAS acknowledges Indigenous peoples’ legal authorities to develop water codes or legislation (see Berry, 2012; Cavazos Cohn et al., 2019; Diver, 2018). Thus, **the experience of Tribes who have attained TAS status is instructive for Yukon First Nations looking to develop water legislation.** The U.S. Federal Pollution Control Act, more commonly known as the “Clean Water Act” (CWA) (1972) was created to “restore and maintain the chemical, physical, and biological integrity of the nation’s waters.” The CWA was to be implemented through relationships between the U.S. Federal government and states but remained silent on the role of Tribes. The involvement of Tribes was not clarified until 1987 when Congress passed the “Treatment as States” (TAS) provision of the CWA. In general, the Code of Federal Regulations governing the Protection of the Environment now stipulates that tribal WQS would have the same treatment under section 510 of the CWA as states WQS. Tribes, like states can develop WQS more conservative than the CWA requires (40 CFR 131.3(j) and 40 CFP 131.4 (a))) (U.S. EPA, 2002). The TAS approach explicitly acknowledges the status of Tribes as sovereign nations and implicitly recognizes the importance of the natural environment for the survival of tribal cultures, which are inextricably connected to the environment. **It can be understood as a powerful tool for Tribes to extend authority over tribal waters** (e.g., the ability to develop more stringent WQS including those based on cultural and spiritual designated uses). This was demonstrated in the legal case City of Albuquerque v. Browner (1993) over the Pueblo of Isleta’s tribal WQS. The Pueblo’s boundaries are located only five miles downstream from the City of Albuquerque’s sewage plant outlet. While the Pueblo get their drinking water from groundwater, the Rio Grande is central for religious reasons and the river water is consumed directly during ceremony. The Pueblo of Isleta quickly applied for TAS under the CWA and received this approval in October of 1992. They adopted water quality standards for the stretch of the Rio Grande which runs through their lands. The Pueblo designated the waters for “primary contact ceremonial use,” “primary contact recreational use,” “warm water fishery use,” “secondary contact recreational use,” “agricultural water supply use,” and “industrial water supply use,” and promulgated numeric and narrative limitations to support these uses.” They submitted these WQS to the EPA and the EPA approved them despite some concerns (Fort, 1995). In this dispute, the EPA attempted to set aside as many jurisdictional questions as possible by relying on the scientific evidence put forth by the Tribe associated with the creation of the WQS as they might impact the City of Albuquerque. **In relation to the Pueblo of Isleta WQS, Dussias (1998) emphasized the importance of the EPA’s approach to approval based on the tribe’s Indigenous Knowledge and interests in developing the WQS represents a radical departure from previous federal efforts to eliminate or ignore tribal relationships to the environment and spirituality.**

# Generic K Answers

#### The alternative gets coopted to break down the state and motivate white supremacist action

**ADL**, 4-16-**2019**

[Anti-Defamation League, "White Supremacists Embrace "Accelerationism"," Anti-Defamation League, https://www.adl.org/blog/white-supremacists-embrace-accelerationism

Fueled by the perception that the future of the white race is bleak, these white supremacists believe they must employ any means necessary to expedite the collapse of the current system.  Solutions to bring down the system range from the most extreme form, violence, to deliberate political engagement that supports destructive and divisive societal elements. For example, Tarrant referenced the need to bring about collapse by leaning in to disruptive forces, even those antithetical to white supremacist beliefs, writing, “A vote for a radical candidate that opposes your values and incites agitation or anxiety in your own people works far more in your favour than a vote for a milquetoast political candidate that has no ability or wish to enact radical change.” Accelerationists believe that setting off a series of reactions, even if they result in changes that directly threaten the white race, can actually be a useful tool for motivating more reticent white supremacists. Following an extremist terrorist attack such as the Tree of Life shooting or Christchurch rampage, accelerationists identify a domino effect that is set into motion – a chain of societal reactions that further exacerbate the feeling of alienation among white supremacists, and, theoretically, a greater impulse to engage in violence or other destructive behavior. This phenomenon was articulated by one anonymous 8chan post on March 21, 2019: “… ‘acceleration’ means…making things worse…and thus t [sic] alienate [sic] the White popluation [sic] and get the fence sitters off the fence…This was the core of what Bretton [sic] was trying to explain in his manifesto. He understood that ZOG [anti-Semitic conspiracy of Jewish control called the Zionist Occupied Government] would double down on censorship, gun grabbing, free speech, etc.” But at the core of accelerationism is the goal of creating societal chaos. Tarrant wrote, “True change and the change we need to enact only arises in the great crucible of crisis. A gradual change is never going to achieve victory. Stability and comfort are the enemies of revolutionary change. Therefore [sic] we must destabilize and discomfort society where ever possible.” Tarrant presumably believed his murder of 50 worshippers at New Zealand mosques was helping to bring this extreme theory into the real world.

#### Mapping DA: Even if the state is terrible, we need to understand it to defeat it AND the alternative can not solve, it is rooted in the language of the academy and leaves out the people needed to make concrete changes.

**Bryant**, Collin College Philosophy Professor, **2012**

[Levi R., War Machines and Military Logistics: Some Cards on the Table Posted by larvalsubjects under Uncategorized, September 15, 2012 https://larvalsubjects.wordpress.com/2012/09/15/war-machines-and-military-logistics-some-cards-on-the-table/]

We need answers to these questions to intervene effectively.  We can call them questions of “military logistics”.  We are, after all, constructing war machines to combat these intolerable conditions.  Military logistics asks two questions:  first, it asks what things the opposing force, the opposing war machine captured by the state apparatus, relies on in order to deploy its war machine: supply lines, communications networks, people willing to fight, propaganda or ideology, people believing in the cause, etc.  Military logistics maps all of these things.  Second, military logistics asks how to best deploy its own resources in fighting that state war machine.  In what way should we deploy our war machine to defeat war machines like racism, sexism, capitalism, neoliberalism, etc?  What are the things upon which these state based war machines are based, what are the privileged nodes within these state based war machines that allows them to function?  These nodes are the things upon which we want our nomadic war machines to intervene.  If we are to be effective in producing change we better know what the supply lines are so that we might make them our target. What I’ve heard in these discussions is a complete indifference to military logistics.  It’s as if people like to wave their hands and say “this is horrible and unjust!” and believe that hand waving is a politically efficacious act.  Yeah, you’re right, it is horrible but saying so doesn’t go very far and changing it.  It’s also as if people are horrified when anyone discusses anything besides how horribly unjust everything is.  Confronted with an analysis why the social functions in the horrible way, the next response is to say “you’re justifying that system and saying it’s a-okay!”  This misses the point that the entire  point is to map the “supply lines” of the opposing war machine so you can strategically intervene in them to destroy them and create alternative forms of life.  You see, we already took for granted your analysis of how horrible things are.  You’re preaching to the choir.  We wanted to get to work determining how to change that and believed for that we needed good maps of the opposing state based war machine so we can decide how to intervene.  We then look at your actual practices and see that your sole strategy seems to be ideological critique or debunking.  Your idea seems to be that if you just prove that other people’s beliefs are incoherent, they’ll change and things will be different.  But we’ve noticed a couple things about your strategy:  1) there have been a number of bang-on critiques of state based war machines,  without things changing too much, and 2) we’ve noticed that we might even persuade others that labor under these ideologies that their position is incoherent, yet they still adhere to it as if the grounds of their ideology didn’t matter much.  This leads us to suspect that there are other causal factors that undergird these social assemblages and cause them to endure is they do.  We thought to ourselves, there are two reasons that an ideological critique can be successful and still fail to produce change:  a) the problem can be one of “distribution”.  The critique is right but fails to reach the people who need to hear it and even if they did receive the message they couldn’t receive it because it’s expressed in the foreign language of “academese” which they’ve never been substantially exposed to (academics seem to enjoy only speaking to other academics even as they say their aim is to change the world).  Or b) there are other causal factors involved in why social worlds take the form they do that are not of the discursive, propositional, or semiotic order.  My view is that it is a combination of both.

#### You should prioritize large-scale existential impacts like nuclear war. These existential risks are subject to bias against them and must be weighed more heavily to accommodate.

GPP 17 [Global Priorities Project, Future of Humanity Institute at the University of Oxford, Ministry for Foreign Affairs of Finland, 2017, “Existential Risk: Diplomacy and Governance,” <https://www.fhi.ox.ac.uk/wp-content/uploads/Existential-Risks-2017-01-23.pdf>]

1.2. THE ETHICS OF EXISTENTIAL RISK In his book Reasons and Persons, Oxford philosopher Derek Parfit advanced an influential argument about the importance of avoiding extinction: I believe that if we destroy mankind, as we now can, this outcome will be much worse than most people think. Compare three outcomes: (1) Peace. (2) A nuclear war that kills 99% of the world’s existing population. (3) A nuclear war that kills 100%. (2) would be worse than (1), and (3) would be worse than (2). Which is the greater of these two differences? Most people believe that the greater difference is between (1) and (2). I believe that the difference between (2) and (3) is very much greater. ... The Earth will remain habitable for at least another billion years. Civilization began only a few thousand years ago. If we do not destroy mankind, these few thousand years may be only a tiny fraction of the whole of civilized human history. The difference between (2) and (3) may thus be the difference between this tiny fraction and all of the rest of this history. If we compare this possible history to a day, what has occurred so far is only a fraction of a second.65 In this argument, it seems that Parfit is assuming that the survivors of a nuclear war that kills 99% of the population would eventually be able to recover civilisation without long-term effect. As we have seen, this may not be a safe assumption – but for the purposes of this thought experiment, the point stands. What makes existential catastrophes especially bad is that they would “destroy the future,” as another Oxford philosopher, Nick Bostrom, puts it.66 This future could potentially be extremely long and full of flourishing, and would therefore have extremely large value. In standard risk analysis, when working out how to respond to risk, we work out the expected value of risk reduction, by weighing the probability that an action will prevent an adverse event against the severity of the event. Because the value of preventing existential catastrophe is so vast, even a tiny probability of prevention has huge expected value.67 Of course, there is persisting reasonable disagreement about ethics and there are a number of ways one might resist this conclusion.68 Therefore, it would be unjustified to be overconfident in Parfit and Bostrom’s argument. In some areas, government policy does give significant weight to future generations. For example, in assessing the risks of nuclear waste storage, governments have considered timeframes of thousands, hundreds of thousands, and even a million years.69 Justifications for this policy usually appeal to principles of intergenerational equity according to which future generations ought to get as much protection as current generations.70 Similarly, widely accepted norms of sustainable development require development that meets the needs of the current generation without compromising the ability of future generations to meet their own needs.71 However, when it comes to existential risk, it would seem that we fail to live up to principles of intergenerational equity. Existential catastrophe would not only give future generations less than the current generations; it would give them nothing. Indeed, reducing existential risk plausibly has a quite low cost for us in comparison with the huge expected value it has for future generations. In spite of this, relatively little is done to reduce existential risk. Unless we give up on norms of intergenerational equity, they give us a strong case for significantly increasing our efforts to reduce existential risks. 1.3. WHY EXISTENTIAL RISKS MAY BE SYSTEMATICALLY UNDERINVESTED IN, AND THE ROLE OF THE INTERNATIONAL COMMUNITY In spite of the importance of existential risk reduction, it probably receives less attention than is warranted. As a result, concerted international cooperation is required if we are to receive adequate protection from existential risks. 1.3.1. Why existential risks are likely to be underinvested in There are several reasons why existential risk reduction is likely to be underinvested in. Firstly, it is a global public good. Economic theory predicts that such goods tend to be underprovided. The benefits of existential risk reduction are widely and indivisibly dispersed around the globe from the countries responsible for taking action. Consequently, a country which reduces existential risk gains only a small portion of the benefits but bears the full brunt of the costs. Countries thus have strong incentives to free ride, receiving the benefits of risk reduction without contributing. As a result, too few do what is in the common interest. Secondly, as already suggested above, existential risk reduction is an intergenerational public good: most of the benefits are enjoyed by future generations who have no say in the political process. For these goods, the problem is temporal free riding: the current generation enjoys the benefits of inaction while future generations bear the costs. Thirdly, many existential risks, such as machine superintelligence, engineered pandemics, and solar geoengineering, pose an unprecedented and uncertain future threat. Consequently, it is hard to develop a satisfactory governance regime for them: there are few existing governance instruments which can be applied to these risks, and it is unclear what shape new instruments should take. In this way, our position with regard to these emerging risks is comparable to the one we faced when nuclear weapons first became available. Cognitive biases also lead people to underestimate existential risks. Since there have not been any catastrophes of this magnitude, these risks are not salient to politicians and the public.72 This is an example of the misapplication of the availability heuristic, a mental shortcut which assumes that something is important only if it can be readily recalled. Another cognitive bias affecting perceptions of existential risk is scope neglect. In a seminal 1992 study, three groups were asked how much they would be willing to pay to save 2,000, 20,000 or 200,000 birds from drowning in uncovered oil ponds. The groups answered $80, $78, and $88, respectively.73 In this case, the size of the benefits had little effect on the scale of the preferred response. People become numbed to the effect of saving lives when the numbers get too large. 74 Scope neglect is a particularly acute problem for existential risk because the numbers at stake are so large. Due to scope neglect, decision-makers are prone to treat existential risks in a similar way to problems which are less severe by many orders of magnitude. A wide range of other cognitive biases are likely to affect the evaluation of existential risks.75