Negative Brief: Dredge Act Repeal

By “Coach Vance” Trefethen

The Dredge Act of 1906 is another version of the Jones Act. Dredge Act requires ships that dredge (dig, clear out, improve) US ports must be US-built and crewed by US citizens. AFF Plan repeals it. You should spend the entire 1NC arguing topicality. There are some good Topicality arguments here, but they take a number of cards and arguments to set up, so you need to read them and become familiar with the arguments ahead of the debate round.

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Negative: Dredge Act Repeal

BACKGROUND / DEFINITIONS

Definition of the Foreign Dredge Act of 1906

Nicolas Loris 2019. (economist; Deputy Director of the Thomas A. Roe Institute and Herbert and Joyce Morgan Fellow in Energy and Environmental Policy ) 2 Aug 2019 "This 113-Year-Old Law Is Hurting American Ports" (accessed 8 Nov 2022)https://www.heritage.org/trade/commentary/113-year-old-law-hurting-american-ports

The Foreign Dredge Act of 1906 prohibits any foreign-built or chartered ships from dredging in the U.S. The result is to exclude the world’s largest dredging companies that could provide better and cheaper service for dredging projects at the behest of a few politically connected companies.

TOPICALITY

1. "Effects" topicality

Link: Dredging isn't import or export. It's just digging sand

National Oceanic & Atmospheric Administration 2021 (agency of the US Federal government) last updated 17 Feb 2021 "What is dredging?" (accessed 8 Nov 2022) https://oceanservice.noaa.gov/facts/dredging.html

Dredging is the removal of sediments and debris from the bottom of lakes, rivers, harbors, and other water bodies.

Violation: Digging sand doesn't import nor export anything

That's rather obvious. The sand isn't being imported nor exported, just moved around.

They're going to respond in 2AC that dredging "affects" ports and ports "affect" foreign trade.

Response #1. Almost everything potentially affects foreign trade.

Almost everything affects foreign trade, imports and exports, so almost everything becomes topical if you accept their "effects topicality" argument.

Here's a real life example: The EPA says climate change affects the functioning of ports

Environmental Protection Agency 2022. last updated 27 June 2022 (accessed 26 Nov 2022) Ports Primer: 2.2 Current Port Industry Challenges https://www.epa.gov/community-port-collaboration/ports-primer-22-current-port-industry-challenges#shipping

Climate Adaptation/Resilience
Ports are increasingly devoting substantial resources to address risks associated with extreme weather events and sea level rise (e.g., disruption of supply chains, storm surge, heat waves, intense rain/flooding, high winds, etc.).

Here's another example: Land use zoning. It has a substantial effect on port capacity and expansion

US Maritime Administration 2009 (part of the federal Dept of Transportation) America’s Ports and Intermodal Transportation System January 2009 (accessed 26 Nov 2022) http://www.glmri.org/downloads/Ports&IntermodalTransport.pdf

Competing land-use issues adversely impact port expansion efforts. A limited amount of property exists for marine development purposes in and around existing port facilities. Port expansion plans face competing development issues and environmental concerns that further limit expansion activities. Property that may be suitable for port development is subject to constant pressures for non-port uses, such as office, residential, or recreational development.

**END QUOTE. If dredging and climate change and land use zoning all affect ports and ports affect international trade, that means land use zoning and climate change plans are topical this year. Give me enough time and I can prove ANYTHING is topical if we allow "effects topicality."**

Response #2. The effects are 2 steps removed

This Affirmative case is a particularly abusive case of effects topicality because they're not telling you that their plan affects trade. They're telling you their plan affects ports and ports affect trade. Their plan is actually 2 steps removed from a trade policy. This multiplies the areas of abuse. For example, the price of gasoline and diesel fuel also affects dredging ships, which affect ports, which affects trade, so now energy policy is topical if you buy their arguments.

Impact: Abuse to the Negative team justifies a Negative ballot

"Effects topicality" is abusive because if Affirmatives can run any plan that could "affect" foreign trade, then the resolution allows a nearly infinite number of Affirmative cases. That puts an abusive level of research burden on Negative teams and needs to be discouraged by casting a Negative ballot to teach them not to do this.

2. Ports are not "within the bounds"

Link: Resolution requires the Affirmative plan to stay "within the bounds of international trade"

That additional phrase was specifically added to the resolution by the debate league because they wanted to further restrict the scope of Affirmative cases this year. If their plan includes even one part or one aspect that goes outside the bounds of international trade, their plan should be rejected as untopical.

Violation: Ports exceed the bounds. The Ports they're dredging go beyond the bounds of international trade: they include a lot more than imports and exports

Example #1. National defense. Moving military equipment from the US to overseas combat zones is not international trade

Environmental Protection Agency 2022. "Ports Primer: 2.1 The Role of Ports" last updated 27 June 2022 (accessed 26 Nov 2022) https://www.epa.gov/community-port-collaboration/ports-primer-21-role-ports#:~:text=American%20ports%20are%20gateways%20for,American%20Association%20of%20Port%20Authorities (brackets added)

The DOD [Dept of Defense] is particularly reliant on Strategic Seaports during military surge operations. For example, during Operation Iraqi Freedom, the DOD used these ports to load combat vehicles and aircraft. These operations require Strategic Seaports to have adequate rail infrastructure, significant staging areas for military cargo and workers skilled in handling non-containerized military equipment.

Examples #2, #3 and #4. Cruise ships, Fishing and Recreational Boating. Ports handle all of these too.

Governmental Accountability Office 2021. "Maritime Infrastructure: Public Ports Engage in an Extensive Range of Activities beyond Freight Movement" 15 Dec 2021 (accessed 26 Nov 2022) https://www.gao.gov/products/gao-22-104630

Coastal, Great Lakes, and inland ports are critical to the U.S. economy. Aside from moving freight, ports across the U.S. have a variety of non-freight activities—like cruise ship and ferry terminals, commercial fishing, recreation, and commercial and residential development. Ports engage in non-freight activities to diversify business, find new uses for underused facilities, and contribute to community development.
**END QUOTE. THEY GO ON LATER IN THE ARTICLE WRITING QUOTE:**
For example, one study estimated that commercial fishing activity at the Port of Seattle accounted for 11,300 jobs and generated $1.4 billion in total business output in 2017. Ports most commonly reported funding their non-freight activities with port revenues (55 survey respondents) or state funds (53 survey respondents).

 Impact: "Not within the bounds" means Negative ballot

It's simple: Color within the lines. AFF had a duty to uphold the entire resolution and stay within the bounds. Their plan doesn't. That's a Negative ballot.

3. Dredge ships are not "within the bounds"

Cross-apply the Link above: Resolution requires the plan be "within the bounds of international trade"

Above we argued that the ports they were dredging were not "within the bounds of international trade." Here, I'm going to argue that the dredge ships themselves, which they are changing under their plan, are also not within the bounds of international trade. Dredge ships are used for a number of things other than ports where international trade occurs. That's the…

Violation: Dredge ships are used outside the bounds of international trade. Let's start with…

Example #1. Louisiana coastland. Dredging vessels would be used for Louisiana coastland restoration

Tristan Baurick 2020 (journalist) 11 Oct 2020 Scarcity of dredges could make rebuilding Louisiana's coast slower and more expensive (accessed 8 Nov 2022) (brackets in original) https://www.nola.com/news/environment/article\_97a4e59c-0a72-11eb-931f-53ecee442e18.html

Citing Louisiana's history with storms and land loss, a report from Tulane University last month said the high cost and low availability of dredges should be top concern for state leaders. “Nothing should be more paramount than incentivizing investment in dredging to reduce costs for coastal restoration,” the report said.

Example #2. Mississippi barrier islands. The Army Corps of Engineers wants dredging ships for that too.

Nicolas Loris 2020 (former deputy director of the Thomas A. Roe Institute at Heritage Foundation) 24 June 2020 " How to Improve America’s Ports" (accessed 26 Nov 2022) https://www.heritage.org/transportation/report/how-improve-americas-ports

Another example is the Mississippi Coastal Improvements Program, a project that aims to restore the Mississippi barrier islands, since the islands are the “first line of defense between the Gulf of Mexico and the Mississippi mainland coast.” A June 2018 presentation on the project from the Army Corps’ Coastal Resiliency Program Manager warned that a 45 percent increase in dredging prices in the first 18 months of the project threatened the construction intended.

Impact: "Not within the bounds" means Negative ballot

Once again: Color within the lines. AFF had a duty to stay within the bounds of international trade. Their ports don't and their ships don't, so it's a clear Negative ballot.

4. The Jones Act is outside the bounds

Link: Affirmative must repeal or reform the Jones Act along with the Dredge Act to solve

Taylor Engineering 2018. (coastal waterfront engineering/consulting firm; written by Lori S. Brownell, P.E. Jerry W. Scarborough, P.E. Yehya Siddiqui, E.I. Morgan Smith) September 2018 "Florida Inland Navigation District Intracoastal Waterway Review of Dredging Program Efficiencies" (accessed 27 Nov 2022) http://cms5.revize.com/revize/floridainland/dredging\_and\_land\_management/dredged\_material\_management\_areas/docs/FINAL%20FIND%20Dredging%20Efficiency%20Report%20(09-19-18).pdf

Industry leaders provided useful insight into emerging dredging technology; however, they cautioned against investigation of dredging technologies outside the United States as the 1920 Merchant Marine Act (Jones Act), the Foreign Dredge Act of 1906, and the Shipping Act of 1916 require that all dredging inside the United States must be solely executed by United States (non-foreign) dredging companies.

Violation: Jones Act has nothing to do with imports or exports within the bounds of international trade

[Ernest Istook](https://www.realcleardefense.com/authors/ernest_istook/) 2017. (former Congressman **Ernest Istook** served on the House subcommittees that funded national defense, homeland security, and transportation. He now teaches political science at Utah Valley Univ.) 14 Sept 2017 Stay the Course: Maintaining America’s Maritime Security <https://www.realcleardefense.com/articles/2017/09/14/stay_the_course_maintaining_americas_maritime_security_112296.html> (accessed 10 Sept 2022)

The Jones Act does not restrict foreign-flagged vessels from engaging in international trade at our ports. But for cargo moving solely within and along our own borders, the Act requires using American-built vessels that are at least 75% American-owned with crews who are at least 75% American staffed.

Violation: Jones Act has no impact on foreign trade

Reeve Associates and ETI 2018. (Reeve & Associates is a management consulting firm based in Massachusetts. The principal of the firm, John Reeve, has substantial experience in the Jones Act shipping markets, having advised several clients since the 1980s in all of the noncontiguous Jones Act markets. Estudios Técnicos, Inc. ETI is one of the largest and most respected consulting firms in Puerto Rico; leading provider of economic analysis, as well as disaster preparedness, management, and recovery-related consulting services.) (accessed 10 Sept 2022) "Impact of the U.S. Jones Act on Puerto Rico" July 2018 https://3snn221qaymolkgbj4a0vpey-wpengine.netdna-ssl.com/wp-content/uploads/2018/07/Report\_Impact-of-the-Jones-Act-on-Puerto-Rico\_FINAL2.pdf

The Jones Act has no impact on the nation’s foreign trade and shipping services, including that of Puerto Rico. Foreign vessels carrying foreign trade regularly call at Puerto Rican ports.

Impact: Outside the bounds means Negative ballot

If AFF doesn't repeal the Jones Act, they don't solve. If they do repeal or reform it, they're outside the bounds of international trade and they lose on topicality.

INHERENCY

1. US harbors already good

US East Coast harbors are already dredged and ready for big ships, or else they are well on their way

Paul Benecki 2017 (journalist) 15 Dec 2017 "GLOBAL ECONOMIC GROWTH IS DRIVING DREDGING MEGA-PROJECTS." THE MARITIME EXECUTIVE (accessed 26 Nov 2022) https://maritime-executive.com/magazine/digging-deep

While China is putting billions into overseas infrastructure, most of the rest of the world is investing closer to home. In the U.S., attention has been focused on projects that are intended to make container ports “big ship ready.” For years, America’s East Coast ports have been preparing their channels and harbors for the arrival of 14,000-TEU container vessels via the expanded Panama Canal, the “big ships” that promise to increase efficiency and improve ocean carriers’ margins. Half a dozen ports along the eastern seaboard say they must have 50 feet of channel depth (or more, in one case) to compete for boxship traffic. PortMiami and the Port of New York and New Jersey have already dredged to 50 feet, and Charleston, Savannah, Jaxport and Port Everglades are well on their way. Baltimore and Norfolk already had 50 feet.

SOLVENCY

1. Other barriers block dredging solutions

Corpus Christi, Texas: They wanted to dredge the port deeper but what blocked it was Congress not allocating the funding

Paul Benecki 2017 (journalist) 15 Dec 2017 "GLOBAL ECONOMIC GROWTH IS DRIVING DREDGING MEGA-PROJECTS." THE MARITIME EXECUTIVE (accessed 26 Nov 2022) https://maritime-executive.com/magazine/digging-deep

Corpus Christi now exports about 22 million barrels of crude each quarter, about a third of the nation’s total. It is a multibillion-dollar business, and Platts expects American crude exports to rise sharply in the near term, especially at Texas ports. Among other things, this means increasing tanker traffic and a demand for bigger, more efficient ships. For now, that isn’t possible at Corpus Christi: The port has a 47-foot draft limit, barely enough for a fully laden Aframax. Bigger tankers can enter the port when empty but cannot leave fully laden.
The Port of Corpus Christi
Authority aims to lift that limit. It has a congressionally-approved, $350 million plan in place to dredge its channel to 54 feet, which would be enough for million-barrel Suezmax tankers. Congress authorized the project for construction in 2007 and gave the U.S. Army Corps of Engineers enough money to complete two of four phases. The Corps finished this initial scope in 2012, but the most important elements – the main channel and barge lanes – languished for lack of funding.

2. "Access" to international markets doesn't solve

Having "access" to international dredging companies wouldn't actually solve for US dredging requirements

Megan Milliken Biven 2020 (former Program Analyst at federal [Bureau of Ocean Energy Management, Regulation, and Enforcement](https://at.linkedin.com/company/bureau-of-ocean-energy-management?trk=public_profile_experience-item_profile-section-card_subtitle-click)) "Dredging Up the Past" 25 May 2020 (accessed 26 Nov 2022) https://www.currentaffairs.org/2020/05/dredging-up-the-past

 Like many “experts,” I believed we could solve the problem by [expanding](https://www.wsj.com/articles/protecting-u-s-dredgers-kills-jobs-1523915698) international [competition](https://csis-prod.s3.amazonaws.com/s3fs-public/publication/180601_Collis_ExpandingCompetitionExpandingPorts_Web.pdf?OUdRA9ITG8uH8IbfdOsezeHkyiKCIE53#page=13) and overturning the Foreign Dredge Act of 1906, which prevented foreign firms from conducting dredging operations in the United States. This solution, however, would only provide access to the international market. While the international fleet of dredging vessels is larger, cheaper, and more modern, we would still be faced with steep mobilization/demobilization costs and scheduling conflicts—again and again and again. Dredging isn’t a one-off activity, after all. Rivers never stop shoaling, and storms have annual seasons.

3. The Shipping Act of 1916

AFF didn't repeal the Shipping Act of 1916, but it too, along with the Jones Act, restricts foreign dredging in US ports

Taylor Engineering 2018. (coastal waterfront engineering/consulting firm; written by Lori S. Brownell, P.E. Jerry W. Scarborough, P.E. Yehya Siddiqui, E.I. Morgan Smith) September 2018 "Florida Inland Navigation District Intracoastal Waterway Review of Dredging Program Efficiencies" (accessed 27 Nov 2022) http://cms5.revize.com/revize/floridainland/dredging\_and\_land\_management/dredged\_material\_management\_areas/docs/FINAL%20FIND%20Dredging%20Efficiency%20Report%20(09-19-18).pdf

Industry leaders provided useful insight into emerging dredging technology; however, they cautioned against investigation of dredging technologies outside the United States as the 1920 Merchant Marine Act (Jones Act), the Foreign Dredge Act of 1906, and the Shipping Act of 1916 require that all dredging inside the United States must be solely executed by United States (non-foreign) dredging companies.

DISADVANTAGES

1. Louisiana Coastal Wetlands

**Our Disadvantage is a bit unusual, so let me explain it before we go through the evidence. The Status Quo is trying to rebuild coastal wetlands along the eroding Gulf of Mexico shoreline of southern Louisiana. They're trying to do that because the government believes coastal wetland restoration has positive environmental and economic benefits. But it doesn't. It's a huge waste of resources. Fortunately, the lack of dredging equipment in the Status Quo blocks these expensive and wasteful efforts. If the Affirmative plan works the way they claim it will, dredging and coastal restoration will take off. The impact will be billions of dollars in waste that will offset the benefits of the Affirmative plan.**

Link: Andrew Lifsey in 2016 advocates the Affirmative plan because he wants it to stop blocking Louisiana coastal restoration

Andrew Lifsey 2016 (JD candidate at Loyola Univ. School of Law) Winter 2016 (accessed 8 Nov 2022) "Dredging laws and the coastal ramifications for Louisiana"  [Loyola Maritime Law Journal](https://go.gale.com/ps/aboutJournal.do?contentModuleId=AONE&resultClickType=AboutThisPublication&actionString=DO_DISPLAY_ABOUT_PAGE&searchType=&docId=GALE%7C4HHN&userGroupName=anon%7E6cd4f1f9&inPS=true&rcDocId=GALE%7CA449928314&prodId=AONE&pubDate=120160101) (Vol. 15) Publisher: Loyola University New Orleans, School of Law https://go.gale.com/ps/i.do?id=GALE%7CA449928314&sid=googleScholar&v=2.1&it=r&linkaccess=abs&issn=15452506&p=AONE&sw=w&userGroupName=anon%7E6cd4f1f9

However, current legislation--including the Foreign Dredge Act of 1906 and the Merchant Marine Act of 1920 (the latter commonly known as, and hereinafter sometimes referred to, as the "Jones Act")--has placed an artificial barrier to entry on the dredging industry, with significant ramifications for coastal Louisiana. With Louisiana suffering an annual coastal land loss of approximately twenty-nine square miles annually, sustainable solutions are of paramount importance to help rebuild the eroded wetlands.

Backup Link: Lack of available dredges blocks restoration efforts

Tristan Baurick 2020 (journalist) 11 Oct 2020 Scarcity of dredges could make rebuilding Louisiana's coast slower and more expensive (accessed 8 Nov 2022) (brackets in original) https://www.nola.com/news/environment/article\_97a4e59c-0a72-11eb-931f-53ecee442e18.html

The dearth of dredges is likely to delay or balloon the budgets of several projects the state is counting on to substantially slow the rate of land loss, improve habitat for fish and birds, and protect New Orleans and other populated areas from surging waters from hurricanes and tropical storms.

**END QUOTE. But Louisiana coastal wetland and barrier island restoration is a bad thing, and we see that in our impacts…**

Impact #1: Billions of dollars.  Louisiana coastal restoration can never solve the root cause, and will never achieve benefits worthy of the cost

Prof. Robert S. Young and Prof. David M. Bush 2005. (professors of geology at, respectively, Western Carolina University and the University of West Georgia) NEW YORK TIMES 27 Sept 2005 Forced Marsh [(accessed 28 Nov 2022) http://www.nytimes.com/2005/09/27/opinion/27young.html?\_r=0](http://www.nytimes.com/2005/09/27/opinion/27young.html?_r=0)

In addition, none of the restoration plans address the root causes of wetland loss: man-made alterations to the Mississippi River that reduce the amount of sediment flowing into the marshes, the saltwater allowed in by navigation canals cut through the delta, and a lowering of ground levels throughout the region brought on by natural and industrial activities. We are being sold a giant engineering project intended to fix problems caused by engineering projects elsewhere on the river and in the delta. We find it paradoxical that many of the people calling for wetland restoration are also calling for higher levees to protect populated areas, since the levees, which prevent flooding and thus the natural addition of sediment to the marshes, are a big reason the wetlands are disappearing. And even if we could rebuild these wetlands, maintaining them at a time of rising ocean levels is probably untenable. We would be creating our own little Holland, with a need for ever-more expensive construction and maintenance far into the future. Last, if the government is going to spend $15 billion on restoration, let's put all the country's wetlands on the table. We seriously doubt that any objective scientific cost-benefit review would find that spending all that money in Louisiana makes sense.

 Impact #2. False Hope and Destroyed Homes.  We harm coastal communities with false hope that coastal restoration can save them from storm damage.

**They won't plan for future emergencies adequately if they think wetlands will protect them from storms.**

Geological Society of America 2008. (nonprofit organization dedicated to the advancement of the geosciences, founded by geologists in 1888) Wetlands Restoration Not a Panacea for Louisiana Coast   24 Sept 2008 http://www.geosociety.org/news/pr/08-50.htm

Counting on wetlands restoration projects to protect storm buffeted infrastructure along the Louisiana Coast is likely to be a "losing battle" that provides "false hope" and prevents endangered communities from clearly planning for their future, says a researcher from Western Carolina University (WCU). As hurricanes have pounded the Gulf of Mexico this fall, the media has been filled with the words of politicians, policy makers, NGOs and local communities touting the importance of ongoing wetlands restoration projects as long-term storm protection for coastal communities and infrastructure. Unfortunately, there's little science to support this growing belief.

Destroyed houses and an ongoing cycle of wasting billions more dollars putting even more homes in danger

Prof. Robert S. Young and Prof. David M. Bush 2005. (professors of geology at, respectively, Western Carolina University and the University of West Georgia) NEW YORK TIMES 27 Sept 2005 Forced Marsh [(accessed 28 Nov 2022) http://www.nytimes.com/2005/09/27/opinion/27young.html?\_r=0](http://www.nytimes.com/2005/09/27/opinion/27young.html?_r=0)

As coastal scientists, we are excited to see the idea of wetlands restoration so widely discussed. Yet we think the Louisiana plan is ill conceived. When a major storm tears apart any coastal area, people tend to take on an attitude that we can win this "war" with the weather if we spend enough money. Sadly, then, hurricanes often bequeath gigantic urban renewal projects. Destroyed houses are replaced by bigger ones that lack even the protection of dunes that were eroded by the storm. Within a few years, more property than ever stands at risk. Now we are being told that we should spend billions not just on rebuilding houses and roads but on re-engineering the environment as well. Louisiana's coastal scientists, engineers and politicians suggest that without this coastal restoration project, all other efforts will be endangered. But it's not that simple, for several reasons.