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The Impact of UNCLOS-III on the State of Washington

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by

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ABSTRACT

THE IMPACT OF UNCLOS-III
ON THE STATE OF WASHINGTON

The completion of negotiations at the Third United Nations Conference on the Law of the Sea, or UNCLOS-III, marked the start of what may well become a new international order of the seas. A Treaty comprised of 320 Articles, organized in 17 sections, and nine technical annexes has become available for ratification by nations as something of a new 'constitution of the oceans'. The Treaty incorporates existing customary international law and new unique features for addressing contemporary issues in the seventy percent of the world's surface covered by the oceans.

The U.S. has decided to remain apart from the framework of the Treaty, after having participated in the negotiations that resulted in the Treaty. President Ronald Reagan announced on July 9, 1982 that he had decided to withhold his approval from the Treaty due to the provisions addressing the mining of seabed minerals beneath the waters of the high seas. In taking this action he noted that there were other provisions of the Treaty which were acceptable, even desirable, to the U.S.

If there are, in fact, both beneficial and undesirable provisions in UNCLOS-III, then it remains a matter of judgement as to whether or not the interests of the U.S. are best served by rejecting the Treaty. One means of examining the question of Treaty value is to consider the potential impact of the coming into force of the treaty from the perspective of a region within the U.S. The most suitable region for such a study is a state.

The state of Washington presents a wide variety of possible impacts from the Treaty because of its varied geography, large number of ocean-related industries and the presence of the majority of its four million citizens within twenty-five miles of the state's 3,026 miles of frequently convoluted coastline. After taking each of the Treaty's 320 Articles and considering the probable impact that it would have on the state of Washington it is possible to summarize the impacts by category; commercial, conservation, government, military, pollution, research and resources.

From the summary of potential impacts of UNCLOS-III on the state of Washington it is evident that the most marked impacts would result from Article 37, which could effect the Strait of Juan de Fuca with regard to transit passage in international straits, Article 136, limiting access to polymetallic sulfides, Articles 205 and 206, requiring international publicity of the pollution originating in the Hanford nuclear reactors, Article 66, which recognizes U.S. responsibility for Washington salmon found on the high seas and Article 218, which authorizes pollution enforcement in Washington ports against ships violating international pollution standards while on the high seas.

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INTRODUCTION

A new chapter in international ocean law began when 130 nations voted to adopt the Draft Convention at the Third United Nations Conference on the Law of the Sea[1] on April 30, 1982. This milestone in the effort to establish a stable framework for the exploitation of the world's oceans was acheived only after years of prolonged negotiation between the representatives of the nations participating in the Conference. At the time of the action to adopt the Draft Convention there was considerable enthusiasm in many parts of the world for the document which developing states saw as a means of addressing the historical inequities in the global allocation of economic benefits.

The enthusiasm was short-lived among states eager to see the implementation of the treaty following its coming into force. On July 9, 1982[2] U.S. President Ronald Reagan announced that he had decided to reject the Law of the Sea Treaty as a consequence of his reservations about Treaty provisions outlining procedures for access to deep seabed hard minerals. President Reagan took pains to note that he had no philosophical objections to the Treaty provisions covering freedom of international navigation, prevention of international marine pollution, or authorization

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[1] Letter to the Editor from Vincent E. McKelvey, Ocean Development and International Law, Vol. 12, No. 3/4, p. 345.

[2] Ibid. The Draft Convention, as adopted at the Third United Nations Conference on the Law of the Sea will also be refered to by the acronym 'UNCLOS-III' throughout the body of this work.

of exclusive economic zones of up to two hundred miles width. His view was that U.S. approval of UNCLOS-III would prove to be adverse to U.S. economic interests in the undeveloped field of deepsea mining. He expressed a desire to retain as many options as possible with regard to the use of the oceans. In essence it was the conclusion of the Reagan Administration that the overall impact of UNCLOS-III would be unfavorable upon U.S. citizens with the inclusion of the provisions dealing with deep seabed hard mineral acquisition.

The U.S. has remained outside of the Treaty framework. While other nations continue to deposit instruments of ratification with the Seabed Authority in Montego Bay, Jamaica, the U.S. continues to monitor developments without exhibiting any tendency toward reversing its stand on the Treaty.[3] It remains possible that a future U.S. Administration will have different views regarding the terms of the Law of the Sea Treaty and will choose to join the Treaty. Despite the political difficulties that such a move would more than likely entail[4], it is a real possibility given the reality of changing priorities with changing Administrations.

While the focus has been on the national implications of the ratification of the Treaty there are also regional implications that would stem from the Treaty provisions. These regional consequences would be confronted by the governments of individual

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[3]An observer in the State Department has urged a reassessment of U.S. attitude toward UNCLOS-III in the event of Soviet activity in the Seabed Authority. See William B. Jones, "The International Seabed Authority Without U.S. Participation" Ocean Development and International Law, Vol. 12, No. 3/4, 1983, p. 160.

[4]The U.S. Senate would have to give the President its advice and consent.

states within the framework of the federal system of fifty states that is used in the United States. Twenty-three of the fifty states have part of their state boundaries determined by the ocean, including Hawaii which is entirely surrounded by the Pacific Ocean. To these states that must face the implementation of any laws or treaties regarding the ocean, it is important to have some idea of the potential impact upon the economy of the state and the wellbeing of the citizens.

This study examines the potential impact of UNCLOS-III on one state, Washington. The impact is only potential as there is no foolproof means of predicting with any degree of accuracy the precise course that would be followed within the state of Washington in the event that a future Administration ratified UNCLOS-III. However it is possible to examine the articles and annexes of the Treaty, one by one, and conclude what the likely impact would be on the institutions and citizens of the state of Washington.

One possible objection to this approach is that it has a high probability of identifying impacts that would not be unique to Washington but would be common to most of the other coastal states. That this is true cannot be disputed. In fact it is this very aspect of the study that offers the most potential value. What may be true of UNCLOS-III may also be true of the other states. Severe adverse impacts for Washington would more than likely be reflected in other coastal states. Similarly, a finding of limited adverse impacts on Washington from UNCLOS-III would be strong evidence that other coastal states would not be

seriously harmed by U.S. participation in the Law of the Sea Treaty.

The Law of the Sea Treaty consists of more than the sea-bed mining provisions. While the U.S. may view its seabed mining interests as being unduly jeopardized by the Treaty provisions on that subject, there are other at least as important U.S. interests which are secured by the terms of the Treaty. The Administration has a responsibility to represent all U.S. interests as evenhandedly as possible. There is no doubt that this is a difficult task at best. That it is arduous in no way exempts the Administration from the responsibility to consider all U.S. interests when deciding an issue as significant as the possible ratification of UNCLOS-III. This work proposes to look at the issues that would be raised upon ratification of UNCLOS-III through the perspective of one state. There remains the task of examining these same issues through the perspectives of the other coastal states. Once having completed such a task a proper context will have been developed in which to view the relative importance of any limitations to U.S. deep seabed hard mineral exploitation that might result from U.S. ratification of UNCLOS-III.

The choice of the state of Washington for this work is felicitous on several counts. Washington has extensive fishery resources. It is the terminus for several transpacific trade routes. The Washington coastline is complex, including a river mouth, an international border, and straits used for international navigation. Off of Washington are the polymetallic sulfides of Juan de Fuca Ridge. It is intended that the choice of Washington for this work will illustrate as many possible impacts of UNCLOS-III as can be proposed.

I. GENERAL BACKGROUND

A. UNCLOS-III

The document known as UNCLOS-III that resulted from the negotiation between 1973 and 1981 at the Third United Nations Convention on the Law of the Sea is a powerful tool for change in the existing world order. It brings into effect a system of management for the world's ocean beyond the limits of national jurisdiction in place of the centuries of reliance upon the concept of freedom of the seas. The potential limits of national jurisdiction are also addressed within UNCLOS-III, enlarging the total area available to individual nations while simultaneously decreasing the area regarded as part of the global commons. Depending on one's point of view the sweeping changes in the concept of freedom of the seas are either a radical change brought about by a powerful bloc of developing nations for their own ends, or a long overdue shifting of the existing international economic order among nations.

The forces that resulted in the UNCLOS-III negotiations had been building for many years prior to the initial sessions of the Convention in 1973. The U.S. proposed the first changes in the traditional law of the sea with the issuance of the 1945 Truman Proclamations on the Continental Shelf and the Extended Fisheries Zone.[1] These proclamations were the first major effort to redefine the legal nature of the world's oceans. Some thirteen

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[1]While it was issued, the Extended Fishery Zone was not enforced.

years later the First United Nations Conference on the Law of the Sea was held resulting in the Convention on the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, and the Convention on the Continental Shelf. The U.S. joined most other nations of the time in ratifying these treaties. What is noteworthy about these treaties is that they were negotiated with less than seventy nations participating. What seems like a low number of participating states today is actually a large number of the total number of independent sovereign states existing in 1958. The Law of the Sea Conference of 1958, as well as the relatively unsuccessful Second United Nations Conference on the Law of the Sea in 1960, occured prior to the tremendous decolonialization and subsequent birth of sovereign states that took place during the period from 1960 to 1975.

The dozens of new nation-states that emerged from colony status brought with them a number of new viewpoints. The world community was soon forced to listen to these ideas because of the numerical voting strength of the newly created states in international bodies like the United Nations. Due to their common interests these new states tended to group together for consultation and formulation of common strategies to address global issues. Although they came to number more than eighty, the developing nations came to be called the Group of 77. Most of the membership of the Group of 77 was drawn from Asian, African, and Latin American states that were young and relatively impoverished. What these nations had in common with the older South American states was a heritage of colonial domination by the

long established developed states of Europe.[2] The Group of 77 perceived that its greatest strength in the bargaining with developed states for increased economic influence stemmed from the large bloc of votes which its member states could muster in international organizations on questions of interest to them. It soon became apparent to developed states that the Group of 77 could bring tremendous influence to bear on substantive questions through united voting on resolutions crafted with language that favored the needs of developing states.

It was in this climate in 1967 that Ambassador Arvid Pardo of Malta gave a speech to the First Committee of the United Nations declaring that the wealth of the ocean floor ought to be regarded as the Common Heritage of Mankind instead of the private property of the first nations able to exploit it. His tripartite thesis was that without international cooperation the oceans would soon be marred by pollution, exhaustion of marine living resources and international strife. He pointed out that the traditional freedom of the seas and the sovereignty then claimed by coastal nations could not protect the seas from these three problems.

The United Nations was stirred to action as developing states responded to Ambassador Pardo's challenge. In 1970 the Committee on the Peaceful Uses of the Seabed was appointed by the United Nations General Assembly. The Seabed Committee called for the Third Conference on the Law of the Sea in 1973. What was unique in history about this Conference was the number of states

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[2]They were also disturbed by what they regarded as the economic colonialization of such states as the U.S.

participating in the negotiation of an international treaty of major significance. The treaties resulting from the 1958 Law of the Sea negotiations were like almost all major international agreements in that they were negotiated before most of the world's states had come into existence. Third World states claimed that existing treaties reflected the viewpoints and priorities of more developed states which were often different than their own viewpoints. They recognized that while preexisting international treaties were open to them for signature they had to accept the agreements as they were. The developing states felt as though they were something akin to international second-class citizens being unable to participate in global decision-making beyond the ratification of agreements arrived at without their input.

The arrival of the Third United Nations Conference on the Law of the Sea was seen as a long overdue opportunity by the developing nations. The Group of 77 made it plain that they had placed their hopes on the Law of the Sea negotiations as a means of shifting the longstanding global inequities in both commercial matters and in full participation by developing states in the determination of international law binding on them.

Through the years of negotiating the Group of 77 held their ground on most of the areas that were most important to them. This chiefly focused on the provisions governing the exploitation of deep seabed hard minerals which were reserved to the Common Heritage of Mankind as Ambassador Pardo had suggested some fifteen years earlier. The Common Heritage of deep seabed minerals, chiefly manganese nodules scattered throughout the

oceans abyssal plains, has been placed by UNCLOS-III under the management of the unique International Seabed Authority. The International Seabed Authority has proven to be the stumbling-block for the U.S. and 16 other developed states in the way of signing the Convention.[3] The International Seabed Authority is an integral part of UNCLOS-III for developing states as it will be the means by which they will receive financial benefit from the mining of minerals on the deep seabed. This would occur if mining ventures were successful and began depositing part of their revenues with the International Seabed Authority as a type of tax payment, as required by the Treaty.[4]

At the present time any revenues from seabed mining are several years away at best. What is certain to accrue to those nations party to the Treaty are the other benefits covered by its provisions. The Treaty includes a comprehensive dispute settlement regime, a new system for governing marine scientific research and a comprehensive approach to worldwide protection of the marine environment. The Treaty also guarantees freedom of navigation and free passage through straits used for international navigation through introduction of the new international legal concept of transit passage, which is not suspendable. These benefits would also accrue to the U.S. were the President to choose to ratify UNCLOS-III.

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[3]All of these nations, except Turkey, signed the Final Act of the Conference.

[4]The International Seabed Authority also has been given the right to induce the transfer of ocean mining technology from private commercial ventures to an international mining Enterprise.

B. The State of Washington

The state of Washington is the northwesternmost state of the forty-eight contiguous states making up the continental U.S. It is a varied state with terrain ranging from the inland deserts of eastern Washington to the temperate rain forest growing on the western slopes of the Olympic mountain range. Most significantly Washington is a coastal state with both a long Pacific coastline and an immense inland waterway system in the presence of Puget Sound.

The 1981 estimate for Washington's population was 4,248,100, which was a 24% increase from the 1970 population.[5] The ten counties extending southward along Puget Sound from Canada to the Columbia River contain over two-thirds of this population. Statewide about 37% of the population is between 15 and 34 years old. The relative youth of Washington's citizens in part accounts for the fact that Washington has the second highest percentage of its population enrolled in institutions of higher education of any state in the U.S.[6] Washington has a highly trained work force in part due to the fact that the state leads the U.S. in the number of students per capita enrolled in vocational education programs.[7] The presence of an educated workforce has been an incentive for high technology businesses to locate their operations in Washington.

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[5]Washington Office of Financial Management, Population Trends for Washington State, August, 1981.

[6]State of Washington Council for Postscondary Education, Public Information Sheet.

[7]Washington Department of Commerce and Economic Development, Washington State Facts: Higher Education, 1983.

The large coastal evergreen forests of the Olympic range and the western slopes of the Cascades are the dominant natural resource of the state of Washington and its primary land-use feature. The state is one of the world's largest producers of wood products. The U.S. Department of Agriculture has estimated that the forests of Washington contain sixty-eight billion cubic feet of timber reserves.[8] What is especially valuable about the timber resource is the fact that it is a renewable resource. As advanced silvicultural techniques are employed, the state can expect continuing large yields of high-grade timber for domestic use as well as for the thriving export market.

The state's forest industries, including plywood, pulp and assorted wood and forest products are a major employer of the state's manufacturing work force. More than half of the wood products leaving the state are shipped to foreign countries, chiefly in Asia. The other major forest export from Washington are unprocessed logs, nearly all of which are shipped to Japan. A common sight at any major Washington seaport are large vessels specially designed to carry a shipment of unprocessed logs to Asian processing mills. Everett, Tacoma, Port Angeles and Grays Harbor are all deepwater ports equipped to load timber-carrying vessels with logs from the large supply in each of their respective regions. While the lumber industry has recently suffered from poor market conditions it retains good longterm potential for bringing export dollars into Washington.

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[8]U.S. Department of Agriculture, Snoqualmie National Forest General Information Sheet, 1983.

Washington is particularly fortunate to have a large number of mineral resources within its territory.[9] Over the past one hundred years it has been estimated by economists that Washington mines have produced $3,500,000,000 worth of minerals. In 1981 Washington produced $146,000,000 worth of minerals. The surprising fact is that Washington leads the U.S. in the production of aluminum. This is not a result of any bauxite deposits within the state, but because there is a vast amount of relatively inexpensive hydroelectric power available within the state for use in electricity-intensive refining industries such as aluminum smelting. The processing of aluminum is labor-intensive, contributing a high number of jobs to the state. The production of primary metals is the fourth largest Washington industrial activity.

The state has a number of major untapped mineral deposits which remain unworked in large part due to the less expensive labor costs of producing equivalent mineral products overseas. As a strategic resource the deposits of minerals in Washington are a valuable reserve for the U.S. By far the largest mineral resource known to exist in Washington is the huge untapped coal deposit in Lewis County. Geological estimates suggest that there are at least six billion short tons of untapped coal in the state. There are significant lead and zinc deposits in northeastern Washington that are currently unworked. In addition to these minerals the state has large untouched deposits of nickel,

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[9]All information on minerals and energy in Washington is derived from facts presented in Washington Department of Commerce and Economic Development, Washington State Facts: Natural Resources, 1983.

manganese, cobalt, silver, gold and iron. As a result of the glaciation during the last ice age there are large deposits of sand and gravel found in the flat lowlands at the base of the state's mountains. The ready accessibility of these deposits has the effect of preserving the large coastal deposits of the same resource.

Washington has the unique distinction of being the only state that is a net exporter of non-hydrocarbon produced energy. There is only limited oil reserves in the state and the large coal reserves are unworked. However both hydroelectric and nuclear power are produced in such large quantities that they can be exported, chiefly to the southwestern states. The Snake River, the Columbia River and other tributaries provide Washington with a huge supply of hydroelectric energy. Combined with a number of smaller river systems in western Washington, an area with plentiful rainfall, the state's rivers power fifty-eight hydroelectric dams. The total hydroelectric generating capacity of these dams exceeds seventeen million kilowatts, which is roughly equivalent to the power produced by fifteen nuclear power plants. In the Hanford Federal Energy Reserve of eastern Washington there are a number of national nuclear energy projects attracted by the group of nuclear reactors located on the Columbia River. One problem stemming from the presence of these reactors is the fact that heated water is returned to the Columbia after use in cooling the reactor. This heated water can be traced to the reactors from locations along the coast of Washington where it has been found to retain its distinctive characteristics.

Agriculture is one of Washington's primary industries with 16,500,000 acres of land under cultivation.[10] Ranking first among the states in the production of apples, sweet cherries, hops and dry peas, the state has a diversified agricultural sector that is increasingly taking advantage of its location to compete in the large Asian markets for foodstuffs. Compared to many U.S. producers, Washington is favorably located relative to several high income and increasingly affluent markets on the east rim of Asia. Thus, for example, Northwest wheat has found much of its market abroad, and grain farmers and marketing interests in the state were fully oriented toward international marketing many years before their counterparts across the U.S. developed such a viewpoint. The Seattle grain terminal joins with its counterparts along the Columbia River in shipping more grain to Asia than any other range of ports in the U.S.

Commercial fishing has always been a major industry in Washington state. With the establishment of the 200-mile fishing limit, Washington is in a strategic location for additional bottomfish harvesting and processing activities. The state has potential for great expansion of this industry through more intensive utilization of Puget Sound, Pacific Coast, and Columbia fishing grounds. Part of the reason for the underutilization of the state's fishery resources is the active presence of Washington fishermen in the lucrative fisheries of Alaska. With a great deal of the state's fishery capital going to the

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[10] Washington State Office of Financial Management, Economic and Revenue Forecast for Washington State, 1982, p.24.

North Pacific salmon and crab fisheries it remains difficult for full development to occur in the less financially attractive coastal and Puget Sound fisheries.

Salmon are a major factor in the fishery economy of the state of Washington. Twenty-six Washington State hatcheries produce 150,000,000 young salmon each year. From this pool of baby salmon it is estimated that thirty million pounds of salmon are produced, of which nearly half are harvested commercially.[11] A recent development in Washington aquaculture is the development of private firms that raise salmon to edible size in rearing pens without ever releasing them. This endeavor, which could change the focus of the Washington fishing industry, is projected to yield 136,000,000 pounds of salmon by 1985.[12]

Oysters have been farmed in Puget Sound since the turn of the century. There are approximately two hundred such firms with an average annual production of over six million pounds per year. Leases were issued for harvesting geoduck[13] clams with the hopes that markets could be developed for this under-utilized species. Several other types of marine life such as sea urchins, octopus, squid, kelp and others are available off Washington's coast and are considered delicacies in Pacific Rim

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[11]Washington Department of Commerce and Economic Development, Washington State Facts: Natural Resources, 1983.

[12]Ibid.

[13]This Native American word is pronounced 'gooey-duck'. It is a very large clam with an immense meaty foot that protrudes from the shell, enabling the geoduck to burrow deeply into the coastal sands in which it lives.

nations where a potential market exists for them.

Washington state is well located for trade with not only other Pacific states and provinces but also for foreign trade. The state has markets in the adjacent major metropolitan areas of Vancouver and Victoria, British Columbia and Portland, Oregon. More significantly the state's deepwater ports are closer to overseas Pacific Rim destinations, saving days of travel time relative to other U.S. shipping points. Waterborne trade occurs through 159 deepwater berths throughout the state of Washington, with 111 of these berths owned and operated by public port districts.[14] Over the last five years, Washington ports increased their share of total U.S. foreign trade at a rate faster than other Pacific Northwest and Pacific coast ports, and much faster than the U.S. average. Over fifty percent of the foreign exports of the state of Washington currently involve forest resources, compared to only about ten percent of overall U.S. foreign exports.[15]

There are large shipyards handling U.S. Navy contracts in both Seattle and Bremerton. The Bremerton Puget Sound Naval Shipyard is the largest shipyard on the Pacific coast. On Hood Canal at the small community of Bangor is located the Pacific home port for the nation's Trident submarine fleet. There are complete docking and overhaul facilities available at Bangor.[16]

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[14]Washington Public Ports Association, 1980 Port System Study for the Public Ports of Washington State, 1980, pp. 4-5.

[15]Ibid.

[16]Commander, Naval Base Seattle, personal communication, April 7, 1983.

Just north of the Olympic peninsula lies the one hundred mile body of water called the Strait of Juan de Fuca. This strait averages eighteen miles in width. It is heavily used for international navigation as trade going to both Washington and British Columbia ports must pass through its length to reach the inland waters on which the ports are located. Considerable traffic that is headed for coastal Alaska also passes through the strait on the way to the sheltered Inside Passage to southeastern Alaska. There is significant naval traffic on the strait as U.S. Navy ships sail into Puget Sound ports, Canadian Navy ships sail into Canadian ports and British Navy vessels sail into their North Pacific base at Nanaimo, British Columbia.

The length of the coastline of the state of Washington, when following the low tide levels around ever possible convolution of the rocks and shoreline is 3,026 miles.[17] While nearly half of this length is contained in Puget Sound, a great portion of it is accounted for by the large bays and coastline of the Pacific coast and the Strait of Juan de Fuca. Only Alaska has more miles of coastline than Washington. This surprising fact is attributable to the many twistings and turnings of the Puget Sound coast, the San Juan islands and the coastline of the Olympic peninsula.

One intriguing feature that is not located in Washington but is nearby are the extensive polymetallic sulfide chimneys of the Juan de Fuca Ridge, some 230 to 180 miles off of the coast.[18]

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[17]Washington Secretary of State's Office, personal communication, March 16, 1983.

[18]Eric Pryne, "Sea mining: Plan for state coast dropped," Seattle Times, February 20, 1983, p.1.

These sulfides are the products of mineral-laden hot water that gushes forth from the seabed along undersea ridges where the earth's crust is forming by way of seafloor spreading. The polymetallic sulfides off of Washington's coast are especially rich in zinc, copper and silver. At the present time there is no ready technology available for the mining of this seabed mineral deposits. However with time their attractiveness to mining consortia is bound to increase. The polymetallic sulfides are a renewable resource in that when the metal bearing rock is removed there is ample evidence that within a matter of months the flow of hot mineral-laden water leaves a new deposit of minerals.[19] The configuration of the Juan de Fuca Ridge is such that some of these polymetallic sulfides are within the new two hundred mile exclusive economic zone proclaimed by President Ronald Reagan on March 11, 1983.[20]

No overview of the state of Washington is complete without mention of the Boeing Company. This industrial mainstay of the Puget Sound region employs around 65,000 employees in the manufacture of aerospace technology, including the well-known commercial passenger liners for which the firm is justifiably famous. It should be noted that the jet liners are not the only products that Boeing exports. It has also been the developer of a new class of hydrofoil that can skim over the ocean surface with minimal concern for the presence of floating objects.

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[19]William R. Normark et al., "Polymetallic Sulfide Deposits and Water-Column of Active Vents on the Southern Juan de Fuca Ridge" Marine Technology Society Journal, Vol. 16 No. 3, 1982, pp. 46-53.

[20]"Reagan Proclaims EEZ", Seattle Times, March 11, 1983, p.1.

II. COMMERCIAL

A. Maritime

Aside from the impact upon the fishing industry the most direct impact of the implementation of UNCLOS-III would be on the shipping industry. With the majority of Washington's exports leaving the state by the water routes through either the Strait of Juan de Fuca or the Columbia River[1] there would be a measurable impact on the state's economy if any new regulation impacted the shipment of goods to and from the state via ship.

1. Sea Lanes

In Article 22 of UNCLOS-III[2] coastal nations[3] are given the right to prescribe sea lanes for vessel traffic passing through the territorial sea of the coastal nation. The Article notes that "in the designation of sea lanes and the presciption of traffic separation schemes under this article, the coastal nation shall take into account: (a) the recommendations of the competent international organization...(d) the density of traffic."

This passage has an immediate effect on the shipping lanes leading into the Strait of Juan de Fuca. Many of these shipping tracks converge in the waters immediately west of Cape

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[1] Less than 5% of the state's export cargo leaves from the Port of Grays Harbor on the Pacific coast.

[2] All subsequent references to Articles from UNCLOS-III will be refered to solely by the term 'Article'.

[3] To avoid confusion with the state of Washington, all subsequent references to states in the context of quoting UNCLOS-III will by changed to the synonymous term nations, for clarity.

Flattery before entering the Strait of Juan de Fuca for ports in both Washington and British Columbia. One of the problems in this area is the presence of dense fogs[4] and difficult, changing surface currents. It is certainly in the best interest of both the U.S. and Canada to have a well-defined approach to their mutual outlet to the shipping routes of the North Pacific. The impact of UNCLOS-III lies in the fact that the present navigation agreement for entry into the Strait of Juan de Fuca was not promulgated subject to "recommendations of the competent international organization" as required by the treaty. The agreement was between the U.S. and Canada over ninety years ago[5] long before the competent international organization, i.e. IMO, was founded. Presumably the long accepted sea lanes into the Strait of Juan de Fuca through the U.S. territorial sea will remain in force due to its long usage.

Sea lanes are also covered in Article 41 relative to the straits used for international navigation. This article requires ships passing through straits used for international navigation to comply with any traffic schemes that are in force. This is a change from the present situation where such traffic separation schemes are only recommendatory. This would apply to all shipping passing through the Strait of Juan de Fuca as long as the U.S. did not exercise its rights under the Treaty to declare a twelve mile territorial sea. Were it to adopt a twelve mile

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[4]Sir Francis Drake sailed by the entrance to the Strait of Juan de Fuca in 1581 during his Pacific voyage in the Golden Hind. When at the coordinates for the Strait he noted in his journal the presence of heavy fog and assumed it to be coastline.

[5]Commander, Naval Base Seattle, personal communication, April 7, 1983.

territorial sea the U.S. would lose the added force of Article 41 in requiring international ships to observe the sea lanes in the Strait of Juan de Fuca. The reason for this is the presence of an anomaly in the legal geography of the coastline of Washington in the area of the Strait of Juan de Fuca.

At the present time the U.S. claims a three mile territorial sea while Canada claims a twelve mile territorial sea. The Canadian government views all of the waters out to the mutual international boundary as being under their full jurisdiction as part of their territorial sea. The U.S. views all waters out to three miles as part of its territorial sea, with the waters out to the international boundary being part of both the contiguous zone and the EEZ. However, the fact remains that the U.S. does not claim the waters beyond three miles as its own, preferring to think of them as high seas waters that are subject to the restrictions imposed by an EEZ and the rights gained under the contiguous zone provisions of the 1958 Convention on the Continental Shelf and the Contiguous Zone. This creates the anomaly of a strip of U.S. high seas that averages from five to six miles in width running up the middle of the Strait of Juan de Fuca and terminating at the mouth of Admiralty Inlet, itself the entrance to Puget Sound. If the U.S. were ever to proclaim a twelve mile territorial sea it would effectively eliminate this strange band of high seas from the Strait of Juan de Fuca to Whidbey Island.

The importance of this swath of high seas is that its existence qualifies the Strait of Juan de Fuca as a strait used

for international navigation within the definition found in Article 37, which reads "This section applies to straits which are used for international navigation between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone". As the waters of Puget Sound are internal waters, it is this small patch of the high seas which brings into play the entire regime of Part III of UNCLOS-III on the shipping of the Strait of Juan de Fuca. In its absence the vessel traffic separation schemes would resume the recommended but voluntary character that they had prior to the adoption of UNCLOS-III.

2. Other

The rights of innocent passage that are outlined in Articles 17 through 24 are not such that there would be any significant impact on the state of Washington. From the point of view of the limited state and local involvement with shipping trade on the state's coastal waters there would be no impact. In Chapter VI the impacts on the port's ability to enforce vessel pollution standards will be considered.

B. Industrial

There are virtually no impacts on the industrial capacity of the state of Washington that could be imagined as stemming from U.S. adoption of UNCLOS-III. There is always the possibility that a state firm might become involved in the manufacture of complex marine technology for undersea mining that would fall within the scope of Article 144. At the present time the Washington State Department of Commerce and Economic Development lists no Washington state firms manufacturing undersea mining technology, although it could develop in the future.

With the proximity of the polymetallic sulfides to the coast of the state of Washington and an already thriving minerals processing industry, it is well within the realm of possibility that a firm might begin the work necessary to retrieve the metal ore from the seabed. In this case the provisions of Article 144 would take on added importance. The Article requires states with advanced seabed mining technology to share such technology with developing states "under reasonable terms and conditions" and requires that personnel from the Enterprise and from developing nations be provided opportunities for training in marine science and technology. While this provision is not spelled out as to its exact meaning in practice, it is reasonable to conjecture that firms taking the leadership in developing undersea mining capabilities would be called upon to allow foreign nationals to learn some of their techniques. In a hypothetical situation of this kind it is impossible to know if the benefits of promoting international understanding would be outweighed by the value of lost revenues from the transfer of technology in the estimation of the leders of Washington businesses.

As President Reagan has unilaterally declared an exclusive economic zone for the U.S., the only advantage that would accrue to businessmen and entrepreneurs in Washington from the adoption of UNCLOS-III would be the intangible benefit of international recognition of any site within the EEZ where recovery of natural resources was taking place. To a small degree the adoption of the Treaty might also free up venture capital in response to the existence of a more stable international regime for working within the EEZ.

III. CONSERVATION

A. Fish

The state of Washington has been endowed by nature with abundant animal life off of its coasts as well as a veritable jungle of plant life. In part this is due to the nutrient-rich waters of the North Pacific, the seasonal appearance of the nutrient-rich Davidson Current heading northward along the coast from upwelled waters off of California[1], and the mix of waters brought across the Pacific by the Kuroshio/North Pacific Current. When these sources are added to the rich waters flowing out of the Columbia River and the mouth of the Strait of Juan de Fuca a favorable climate for the growth of marine flora and fauna is created. The protection of these many species is essential in order to guarantee their survival in the face of pollution and fishing. Any effort by the Law of the Sea Treaty to address the conservation requirements of these living resources will have an impact upon the state of Washington provided that it is not already covered by the provisions of U.S. domestic law as found in the Magnuson Act, the Reagan Proclamation of an EEZ, or the Marine Mammal Protection Act. However, it is entirely possible that where UNCLOS-III duplicates existing statutes it will only have limited direct impact upon the state of Washington.

1. Anadromous

The chief concern of Washington fishermen is the protection of the several different salmon species that are endemic

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[1]M. Grant Gross, Oceanography (Englewood Cliffs: Prentice-Hall, 1982), p. 283.

to the waters flowing from the mountains of Washington. These species include the chum, coho, humpback and pink salmon. They follow an anadromous life cycle wherein they are born in the upstream areas of the rivers, swim to the sea and begin a four-year growing-period and finally return to the exact river where they were born to swim upstream, spawn and die. During the last year of their four-year life cycle the salmon are the target of intensive human fishing effort. It is this high level of fishing activity which triggers the need to do all that is possible to conserve the existing stocks.

Washington already has an extensive program to promote salmon growth through salmon hatcheries spread throughout the state. When Senator Warren G. Magnuson represented Washington in the U.S. Senate, the state was the yearly recipient of federal funds for the construction and operation of fish hatcheries, thanks in large measure to the skillful legislative action of Senator Magnuson. The Washington state management plan for salmon has been complicated by the impact of a 1979 ruling in which U.S. District Judge George Boldt ruled that the treaty Indians of the state of Washington are entitled to fully fifty percent of the salmon returning to the waters of Washington rivers. This decision, which remains extremely unpopular with both Washington fishermen and a segment of the public, has put the officials of the Washington State Department of Fish and Game in a position where they must plan their actions around the yearly salmon fishing activities of the treaty Indians. Any action taken with regard to the salmon fishery must address

the concerns of the leadership of the tribes of treaty Indians.

The EEZ proclaimed by President Reagan had no new effect on the U.S. fishery jurisdiction out to two hundred miles from the baselines used to delimit the territorial sea. This had already been accomplished through the 1976 Magnuson Act, also known as the Fishery Conservation and Management Act. While that statute contained many different provisions relating to the conservation of fishery resources, the one fact most widely known about the Act is the exclusion of unauthorized foreign fishing vessels from within two hundred miles of the U.S. coastline through the declaration of a two hundred mile fishery conservation zone.

The reality of the two hundred mile fishery conservation zone was that the U.S. had full authority to engage in the necessary regulation to protect the fishery resources of its waters as it saw fit. There was no need for any international treaty to confer these rights which were accepted as having begun when the Magnuson Act took effect. While the UNCLOS-III Treaty adds international sanction to what was already taking place, there was nothing new that was added as a result of the treaty negotiations that was not already covered by the terms of the Magnuson Act.

However, with regard to anadromous species the impact of signing the Treaty would be profound. Article 66 provides new directions for the treatment of anadromous stocks that are living beyond the two hundred mile exclusive economic zone of individual nations, e.g. in the high seas. Before considering the impact of UNCLOS-III on anadromous species from Washington rivers living

in the high seas it should be noted that as far as these same anadromous species living within the U.S. EEZ are concerned, there is no change in management with the coming into force of the Treaty.

The major U.S. effort at managing the anadromous species[2] beyond the waters over which it has jurisdiction has been the International North Pacific Fisheries Commission. This international body counts as its members Canada, Japan and the U.S. The Commission has worked since 1952 on problems related to the conservation and protection of fisheries in the high seas of the North Pacific. The fish which most frequently concern the members of the Commission is the salmon, which spend from two to three years of their lives living in the high seas of the North Pacific.

With the advent of the Magnuson Act the U.S. acquired the first potentially effective means of protecting what were regarded as U.S. salmon stocks on the high seas. In what would amount to a quid pro quo action, the U.S. had the option of denying a GIFA[3] to any nation that it suspected had taken U.S. salmon in the area of the high seas. While this was a theoretical option, the U.S. did not choose to pursue it, recognizing the implicit difficulty of enforcement and the questionable practice under international law of attempting to enforce national jurisdiction over resources found swimming on the high seas.

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[2]In the Pacific Northwest the only species of marine life that is entirely anadromous is the several different types of salmon.

[3]A GIFA is a Governing International Fishery Agreement. This is a permit negotiated with the U.S. to allow foreign access to U.S. fishery stocks.

The problem that has persisted for U.S. salmon fishermen has been that there has been no internationally recognized agreement for conservation and protection of anadromous species on the high seas. Except for those few nations party to special fishing agreements with the U.S., such as the International North Pacific Fisheries Commission, there has been no standard by which the U.S. could reasonably expect that the high seas anadromous species would be accorded suitable protection as a U.S. resource. In a very real sense the salmon in the high seas phase of their life cycle are fair game for any nation skilled enough to take them.

Article 66 holds real promise for bringing order to the protection of anadromous species. The first section notes that "nations in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks." This makes it clear that salmon originating in Washington streams are primarily to be regarded as a Washington resource[4], even when encountered upon the high seas.

Paragraph (a) of the third section of Article 66 states that "Fisheries for anadromous stocks shall be conducted only in waters landwards of the outer limits of EEZs, except in cases where this provision would result in economic dislocation for a nation other than the nation of origin. With respect to such fishing beyond the outer limits of the EEZ, nations concerned shall maintain consultations with a view to achieving agreement on terms and conditions of such fishing giving due regard to

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[4]While refering to the salmon as a Washington state resource within the context of this work, it is recognized that under international law it is a U.S. resource.

the conservation requirements and the needs of the nation of origin in respect of these stocks." The critical phrase here is "economic dislocation", permitting a broad range of possible interpretations for the phrase. Even if a very liberal meaning is attributed to the phrase economic dislocation, there remains a real benefit in having an international treaty spelling out the obligations of an economically dislocated to the nation where the anadromous stocks originated. This gives a stronger hand to the U.S. if it finds itself making use of the conflict resolution mechanisms within UNCLOS-III.

A hypothetical situation that could very conceivably occur to the salmon stocks originating in Washington rivers is that a foreign vessel could be identified as having caught salmon on the high seas which would ultimately return to rivers in the state of Washington. Of course, the process of identifying such a vessel and the salmon as being from Washington rivers would be very difficult, but it remains within the realm of possibility in the future. The state of Washington could ask the U.S. State Department to contact the government of the fishing vessel to seek cooperation with regard to the salmon living in the high seas. In the event that the foreign government proved totally uncooperative, the State Department would have the option of making use of the dispute settlement machinery of the Treaty with an emphasis on the responsibilities to the nation of origin of anadromous species that are included in Article 66. This is a long and tedious process that nonetheless remains an improvement over the present lack of international standards with regard to anadromous species. Washington would benefit by such a change.

2. Other

For other species of fish there are existing protection provisions in the Magnuson Act. The creation of a two hundred mile fishery conservation zone along the coast of Washington allowed the U.S. to effectively limit access to the fishery stocks off of its coasts. In the case of Washington there are extensive schools of underutilized groundfish which inhabit the waters above the continental shelf of Washington. There can be little doubt that the Magnuson Act was specifically designed with the idea that its provisions might someday have to mesh with those of a Law of the Sea Treaty. Section 401 of the Magnuson Act states that "If the U.S. ratifies a comprehensive treaty, which includes provisions with respect to fishery conservation and management jurisdiction, resulting from any United Nations Conference on the Law of the Sea, the Secretary, after consultation with the Secretary of State, may promulgate any amendment to the regulations promulgated under this Act if such amendment is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the U.S."[5] As it stands now, the coming into force of the Treaty with respect to the U.S. would have no impact on Washington's non-anadromous fisheries beyond the impact already occasioned by the terms of the Magnuson Act.

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[5]The Magnuson Act, U.S. Public Law 94-265, April 13, 1976, Section 401.

B. Non-Fish

The Treaty explicitly recognizes the right of the coastal state to manage not only creatures in its EEZ but also grants the same rights to manage the creatures living on the continental shelf. Article 77 states that "The coastal nation exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources." Presumably the right to exploit these resources carries with it the parallel right to conserve them. Washington has a number of mollusks and crustaceans inhabiting its waters which have high commercial value, particularly in Pacific Rim nations. As these creatures are already covered by the terms of either the Magnuson Act or the 1958 Convention on the Continental Shelf, there would be no change experienced by Washington with the coming into force of the Treaty with respect to crustaceans and mollusks.

The marine mammals that inhabit Washington waters are presently protected by U.S. Federal law and Washington State law. The Treaty would hold no change for the lives of the seals, sea otters, dolphins, killer whales, and gray whales which can be found within the inland waters and the territorial sea of Washington.

At this time there are no distant-water shrimp boats in Washington, nor are there any distant-water tuna fishermen. Consequently the provisions of UNCLOS-III that address the situation of highly migratory species or that cover fishing in the EEZ of another nation would have no effect upon the fishing fleet of the state of Washington. As has been shown, the largest effect of the Treaty would be upon salmon caught in the high seas.

IV. GOVERNMENT

A. Federal

The immediate impact of the ratification of UNCLOS-III on the Federal offices in Washington would be slight. The chief change for the U.S. officials charged with overseeing the waters surrounding Washington would be the strengthening of powers which they already had through both domestic legislation and international treaties. While the exact provisions that an agency like the Coast Guard was required to enforce would have no change, there would be enhanced incentive for them to enforce laws against international violators which might now receive more limited attention.

An example of what might take place off of the coast of Washington is that a Soviet vessel might decide to put out fishing lines while sailing 150 miles off of the coast of the state. Although this is clearly a violation of the U.S. domestic law declaring a two hundred mile fishery conservation zone[1], the Coast Guard would have an even stronger motivation to investigate the Soviet vessel's actions with the added incentive of enforcing the international treaty to which the Soviets might then be party.

In the long run it is very possible that the Federal District Courts in Washington might find that they have a higher case load resulting from suits filed against vessels that are polluting U.S. waters in violation of the Treaty or against

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[1]Not to mention a violation of the EEZ that President Reagan proclaimed on March 11, 1983.

foreign fishermen who attempt to ply their trade within the limits approved for the U.S. by the Treaty.

There is one very special class of Federal activity that would be dramatically increased by the coming into force of the Treaty. The permit process for exploration of the offshore polymetallic sulfides would very likely increase within a few decades from its present state of inertia. For prospective seabed miners on the Juan de Fuca Ridge there would be the need to obtain a Federal permit under the provisions of the Deep Seabed Hard Mineral Act for those deposits within the EEZ and make proper arrangements with the International Seabed Authority under the terms of the Treaty for those deposits lying just outside of the U.S. EEZ. While such a development remains entirely hypothetical it can be foreseen as a dramatic development that may highlight the future of Washington's relationship with the offshore deep seabed minerals of the Juan de Fuca Ridge.

B. State

The state of Washington would have only the most limited involvement with the changes that would be brought about by the advent of UNCLOS-III to the state of Washington. What effects that would take place would tend to either impact on the most local jurisdiction or involve foreign policy considerations necessitating Federal involvement.

The one area that would most affect the state of Washington would be the need to ensure that its state laws were in full accord with the provisions of the Treaty. It would be inconsistent to retain laws on the statute books which had been

superceded by the terms of a U.S. ratified international treaty. The law which would bear the most careful scrutiny by Washington legislators is the 1981 Puget Sound Oil Tanker Act[2]. This law bans the entry of any oil tankers into Puget Sound south of the entrance to Admiralty Inlet. While it is generally accepted that the waters of Puget Sound are internal waters of the U.S., it is still conceivable that a ship might wish to test this ban. However remote that this possibility might seem, it remains as a possibility as long as the status of Puget Sound as internal waters of the U.S. is untested. Aside from this unlikely possible challenge to a Washington state law, it is unlikely that there will be any impact on state offices as a result of the ratification of UNCLOS-III.

C. Local

The strongest impact upon government offices within the state of Washington would be on the local port offices. There are two specific references in the Treaty which would affect the conduct of business in the ports of Washington. For the larger ports, such as Seattle, Tacoma, Vancouver and Everett, the effect of the changes would be very minimal as they are already in force to a large degree. For the smaller ports, such as Port Angeles, Grays Harbor or Longview, these regulations may have some impact, albeit a relatively minor one at that.

The more minor of the two new requirements effecting public ports is the provision included in Article 131. This states that "Ships flying the flag of land-locked nations shall

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[2]The 1981 Puget Sound Oil Tanker Act.

enjoy treatment equal to that accorded to other foreign ships in maritime ports." This should present little difficulty to ports in the event that UNCLOS-III comes into force as there are very few ships flying flags of land-locked states. In any case the treatment of ships is the same regardless of the flag that they are flying.

A much more significant challenge is presented by the requirements for enforcement of vessel-caused pollution standards that are placed on the port state by the terms of Article 218. This Article makes clear that when a vessel is in port the port-nation has a responsibility to see that the vessel is fairly treated while proceedings are occuring against it for its violation of pollution standards. This duty belongs to the U.S. Coast Guard, which has been given the main responsibility for enforcement of vessel pollution standards.

The problem for ports stems from the fact that the Coast Guard contingent is unable to be in all places at all times. To some degree the port must assume responsibility for noting an environmental problem related to the visit of a foreign-flag ship, letting the Coast Guard know about it soon enough so that proper enforcement procedures can take place. While this is routinely done in the larger ports, the smaller ports are somewhat understaffed and must take special steps to train all of their harbor employees in the appropriate steps for identifying the marine pollution from a foreign-flag vessel. Aside from this minor step, there should be little, if any, impact on local governments in Washington from the Treaty's ratification.

V. MILITARY

A. Naval

The signing of the Treaty would register a strong reaction in the U.S. Navy. There are enough provisions treating the rights that are given to warships traveling through international straits, through archipelagic nations, or through the territorial seas of coastal nations that Naval analysts concerned with strategic policy would have an opportunity to employ their skills in interpreting the Treaty's provisions in such a way as to render them intelligible to the captains of U.S. Navy vessels stationed around the world.

The reaction that UNCLOS-III would bring strictly among Navy personnel stationed in the state of Washington would be considerably less pronounced than it would be for those officers concerned with operations outside of U.S. waters. At the close of 1982 there were 15,983 total active duty U.S. Navy personnel stationed in the state of Washington. An additional 18,456 civilian personnel supplemented the workforce of active duty personnel.[1] The impact of the Navy's workforce on the state's economy is large. The payroll alone of the civilian and enlisted personnel was $724,395,479 and major supply or service contracts for Navy work in the state amounted to $638,244,300.[2] Any action that would affect the U.S. Navy presence in the state of Wash-

[1] Commander, Naval Base Seattle, personal communication, April 7, 1983.

[2] Ibid.

ington would have an impact on the nearly one and a half billion dollar contribution to the state economy that results from the presence of the Navy.

The two provisions of the Treaty which might have a very limited impact on the Navy are related to the possible actions of foreign naval vessels in the waters of the state. As all maneuvers carried out within the waters of the state of Washington by the Navy are fully protected by the very fact that they are within the internal waters of the U.S. or within the territorial sea, there would be no impact upon the Navy as far as its operations within the waters of the state are concerned. It is not likely but within the realm of possibility that a foreign submarine might attempt to test certain freedoms guaranteed by the Treaty and sail into U.S. waters. In such an unusual circumstance the Coast Guard would more than likely seek the assistance of the Navy in monitoring the progress of the foreign vessel.

One of the provisions is Article 20, which requires that "submarines and other underwater vehicles are required to navigate on the surface and to show their flag" when exercising the right of innocent passage through another nation's territorial sea. This is a slight enlargement on the provisions of the 1958 Convention on the Territorial Sea and the Contiguous Zone which only requires submarines to follow this regimen.[3] Should a foreign navy ever develop the capacity to bring "other underwater vehicles" within the waters of the U.S. it is conceivable that the Navy might be asked to cooperate in the effort at enforcing the requirement that such vessels navigate on the surface.

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[3]Convention on the Territorial Sea and the Contiguous Zone, Article XIV, Section 6.

The other area of the Treaty which could involve the Navy within the waters surrounding Washington is Part III, Section 2 addressing the requirements for transit passage in the straits used for international navigation. There are two conditions which would have to take place before there would be any possibility of Navy involvement. The first condition is that the U.S. would have to retain the three mile territorial sea instead of exercising its right under the Treaty to declare a twelve mile territorial sea. As discussed earlier with regard to sea lanes, the retention of a three mile territorial sea would cause a small portion of the waters west of Whidbey Island to remain as high seas given the fact that they are beyond the three mile limit of the territorial sea. Their retention as high seas would give rise to the second condition that would be necessary prior to any thought of U.S. Navy involvement in Washington's coastal waters. The condition that would be required is that the presence of the patch of high seas waters would be regarded as being sufficient to cause the Strait of Juan de Fuca to be recognized as a strait used for international navigation under the definition given in Article 37. When all of these conditions had been fulfilled the Navy might assist in the surveillance of foreign naval vessels exercising their right of transit passage to the tiny patch of high seas in the midst of Washington coastal waters.

1. Surface Ships

The large fleet of surface vessels stationed at Bremerton would remain unimpacted by the treaty as far as their operations in Washington waters is concerned. While the Treaty provisions would affect their behavior in international waters, there are

no aspects of the Treaty which would somehow alter their present activities when within their home waters.

2. Submarines

The U.S. Navy has positioned its force of Trident submarines in a base located deep into the long reach of glacier-hewn Hood Canal. For strategic purposes the Naval base at Bangor is well situated. It is very difficult to reach, requiring a long passage through the narrow and deep waters of Hood Canal. The relatively isolated location is ideal for intensive monitoring of all incoming and outgoing vessel traffic.

The signing of UNCLOS-III would have no impact upon the operation of the Trident submarines stationed at Bangor, as far as their own operations within Washington waters are concerned. Even if the Strait of Juan de Fuca were to come under the regime for straits used for international navigation, the Navy would have the option of taking the submarines in and out of Bangor on the U.S. side of the Strait of Juan de Fuca, thus avoiding any limitation on their behavior as a result of an international agreement.

What could have an impact upon the operation of the Bangor submarine base would be the previously discussed section of high seas located west of Whidbey Island. Unfortunately this small area of water happens to include the small area of the narrow approach into Admiralty Inlet begins. Except for a shallow and very dangerous channel that is prohibitively narrow for all but the smallest vessels to pass through[4], any vessel

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[4]Deception Pass.

sailing to any point on Puget Sound or to any point on Hood Canal, must pass through a portion of what the U.S. regards as high seas at the mouth of Admiralty Inlet. There is nothing within the Treaty to prevent a vessel from exercising its high seas freedoms by sailing the length of the Strait of Juan de Fuca, all the while remaining within the stretch of high seas water that terminates three miles west of Whidbey Island. As close as such an approach would be to Bangor's fleet of Trident submarines, it is certain that the Navy would be very interested in ascertaining that the passage of the vessel in question was indeed within the scope of the respective definitions of innocent passage and transit passage as found in the Treaty.

B. Air Force

The Treaty is an agreement addressing issues in connection with the world's oceans. That does not keep it from having implications both as to land affairs and air activities. The state of Washington contains a large U.S. Air Force base just south of Tacoma. McChord Air Force Base is the home base for Strategic Air Command bombers that fly along the Olympic Peninsula before turning down the Pacific coast. As it stands now, these flights take place over waters that are within the U.S. territorial sea, giving them the full right to carry out any maneuvers that they choose without fear of contravening an international agreement relating to overflight rights. While UNCLOS-III does address the matter of overflight rights over international straits, none of these provisions would have any effect on U.S. Air Force operations within the state of Washington.

VI. POLLUTION

A. Vessel

The Treaty incorporates an extensive regime for the protection of the marine environment from damages caused by seabed mining, land-based dumping or navigation through coastal waters. Articles 192 through 237 explicitly treat the issues that might arise regarding pollution in the marine environment. For the state of Washington there would be two different implications stemming from this section of the Treaty. Assuming the Strait of Juan de Fuca to be considered as a strait used for international navigation, there would be one distinct approach used for it, as noted in Article 233. The remainder of the coast of Washington is either part of the inland waters of Puget Sound or it is along the Pacific Ocean.

1. Coastal

The coastal waters of Washington state are a heavily traveled navigation route as a result of their being the path into the Strait of Juan de Fuca. At various times of the year, chiefly during the winter[1], the swiftly moving Davidson Current flows northward along the coast toward Vancouver Island. When it is so flowing it is almost always well within the territorial sea of Washington. Even to the west of the current, several miles outside of the territorial sea,[2] there are surface currents

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[1]M. Grant Gross, Oceanography, (Englewood Cliffs: Prentice-Hall, 1982), pp. 282-283.

[2]Ibid.

which are steadily moving northwards along the coast from as far south as San Francisco, California. Captains of commercial vessels have found through the years that if they ride along with these currents their vessel can gain several hours in sailing time. Consequently there is often a steady stream of vessels coming along the coast of Washington within ten miles of the coast.[3] The problem is that traveling such a long distance parallel to the coast increases the risk that there might be any one of a number of pollution causing accidents. This is an especially sensitive area of the North Pacific as a result of the nutrient rich waters along the coast which have created the proper conditions for the complex ecosystem that thrives there. Unlike the ecologically fragile waters of Puget Sound, where the state has banned oil tankers and has continually maintained a close watch on all commercial vessels entering its ports, the Pacific coastal waters do not have a secure system of observation and enforcement for pollution damages that might occur there.

As if the Davidson Current did not make pollution control along the Pacific coast complicated enough for Washington officials, there is yet another major ocean current which has a direct effect on the coast of the state of Washington. The large boundary current off of Japan known as the Kuroshio turns northeastward and becomes the North Pacific Current in the same latitude as the state of Washington.[4] This large current crosses

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[3]An observer standing on the tip of Cape Flattery, the northwesternmost point in the continental U.S., can see what appears to be a line of ships stretching far to the south along the coast.

[4]The North Pacific Current brings flotsam across the Pacific. Washington beaches are littered with Japanese and Russian waste that has traveled across the ocean with the current.

the Pacific to the general vicinity of the state of Washington, just south of the entrance to the Strait of Juan de Fuca. Not only does the North Pacific Current bring with its passage any pollution that it might have picked up in its route around Japan, but it also can bring what floating pollutants it encounters in its long journey across the Pacific.

It is clear that the coast of Washington is the subject of two possible sources of pollution that are addressed by provisions within UNCLOS-III. Firstly, there are foreign-flag vessels sailing along the coast of the state adjacent to the territorial sea that are potential polluters of state coastal waters. Secondly there are two large currents which flow past the coast of Washington that have a very real potential for bringing pollution to Washington waters from distant sources, including foreign sources in the case of the North Pacific Current. At the present time the only protection that Washington has for pollution into its waters is the limited possibility that the U.S. Coast Guard might intercept a vessel within the territorial waters that was violating U.S. national pollution standards. What has been needed is a comprehensive framework within which vessels can be investigated which pollute waters within the two hundred mile EEZ along the coast.

The Treaty makes clear the rights of nations to enforce strict coastal pollution standards with respect to vessels that have traveled through the territorial sea or EEZ. In Article 218 the rights of the U.S. are made clear, as they would affect pollution in the state of Washington after the U.S. had signed

the Treaty. It states that "When a vessel is voluntarily within a port or at an off-shore terminal of a nation, that nation may undertake investigations and, where the evidence so warrants, institute proceedings in respect of any discharge from that vessel outside the internal waters, territorial sea or EEZ of that nation in violation of applicable international rules and standards established through the competent international organization or general diplomatic conference." What this important Article accomplishes is that it makes possible the enforcement of pollution standards against vessels that have polluted on the high seas, whether or not that pollution has yet reached the land area of the nation enforcing the regulation or not.

The U.S. has full authority to enforce pollution regulations within its territorial sea and EEZ. In signing the Treaty the state of Washington would gain nothing that does not already exist with regard to pollution enforcement within two hundred miles of its coastline. There would be a marked change with regard to enforcement of pollution violations occuring beyond the outer boundary of the EEZ. With the increasing sophistication of U.S. Coast Guard equipment for "fingerprinting" oil and chemical spills, this provision could prove very practical in the future. The very fact that it is part of the Treaty may prove to be of some deterrent value in preventing ships from polluting at sea. With regard to the extensive yearly flow of waterborne pollutants brought across the Pacific to the Washington coast by the North Pacific Current there should be some decline in the total amount of pollutants carried as a result of the new international standard for enforcing high seas pollution laws.

2. Strait of Juan de Fuca

There is little difference between the rights to enforce marine pollution laws that are contained in the Treaty with regard straits used for international navigation and those rights already in place as a result of the two hundred mile EEZ that the U.S. possesses. If the Strait of Juan de Fuca is to be regarded as an international strait, then there are additional provisions which are given in Article 233 with regard to safeguards against marine pollution in such straits. What it states is that in the event that there is a violation of pollution standards within a strait used for international navigation, the nations surrounding the strait will have the responsibility to do everything needed to enforce the pollution standards against the offending vessel as suggested by Article 42. However, the main point that Article 233 makes is that in the course of pollution regulation enforcement a nation should not suspend the inalienable transit passage rights enjoyed by a vessel that is passing through such a strait. Had this not been stated it would be possible for a nation bordering a strait used for international navigation to employ the framework given in Part XII of the treaty to impede the progress of the vessel by conducting an extended investigation of the pollution violation. Article 233 suggests that any necessary enforcement of pollution standards against vessels that may have been utilizing transit passage rights should be as timely as is possible, without undue harrassment.

As far as the Strait of Juan de Fuca is concerned, this Article plainly states that all pollution enforcement against vessels transiting the Strait must be accomplished with dispatch.

B. Non-Vessel

With the presence of polymetallic sulfide deposits near the coast of Washington, it is probable that at some time in the future some efforts may be undertaken to explore and exploit these resources. There are some polymetallic sulfide "smokers" that are within the two hundred mile EEZ of the U.S., while others occur immediately outside and parallel to the EEZ along the crest and slopes of the Juan de Fuca Ridge. A commercially viable effort to mine these mineral deposits would be of sufficiently large scale to cause some direct impacts on the immediate area that could be taken by currents to the coast, there resulting in a second set of impacts.

Article 206 states that when "Nations have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in Article 205". Article 205 states that "Nations shall publish reports of the results obtained...or provide such reports at appropriate intervals to the competent international organizations, which should make them available to all nations."

The combined effect of these two Articles is to require international notification of any activities off of the coast of the state of Washington which might have the effect of damaging or unduly degrading the marine environment. This is one of the

most significant aspects of UNCLOS-III as far as the state of Washington is concerned. Without the signing of the Treaty there is nothing compelling the U.S. to reveal the nature and location of any of its activities that might adversely impact the ocean. When coastal activities are undertaken off of the Washington coast, they must presently comply with both Federal and state laws, retaining the right to privacy with respect to notifying the international community of their actions. With the coming into force of Treaty Articles 205 and 206 there is a new requirement that domestic enterprises comply with the requirement to notify international organizations of their activities.

This requirement contains some leeway in that there is room for interpretation as to what constitutes "substantial pollution of or significant and harmful changes to the marine environment". Nevertheless it remains possible that there will be various situations which will cause damage to the marine environment that would fall within the scope of these Articles.

This could have a doubly hard impact on the state of Washington because not only is there a real possibility that some future year might see mining of the offshore minerals along the Juan de Fuca Ridge, thus causing environmental damage, but there is also a problem with respect to the radioactive waters that are sometimes discharged into the waters of the Columbia River as a consequence of the operation of the nuclear reactors in the Federal Nuclear Reservation at Hanford.[5] These waters

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[5]M. Grant Gross, Oceanography, (Englewood Cliffs: Prentice-Hall, 1982), p. 283.

enter the Pacific Ocean just past Ilwaco, carrying with them a relatively high level of radioactive material which will be dispersed throughout the oceans with the passage of years. It is not only probable but likely that with time these radioactive pollutants will spread throughout the Pacific basin, even entering into the human food chain when they have been incorporated into fish eaten by people. Grant Gross notes the serious nature of these pollutants by saying "These radionuclides came primarily through corrosion in the pipes used to cool the reactors. The warm and radioactive cooling waters were discharged to the river. In 1957 these waste discharges accounted for more than 95% of all radioactivity released to the environment by the Western world, excluding fallout from nuclear weapons testing in the atmosphere. These radioactive substances were used to trace the movement of the Columbia River plume and the sediment from the river."[6]

This pollution from the Hanford nuclear reactors has not been abated, other than a partial reduction in the total level of radionuclides released into the Columbia River. The really delicate problem that faces the state of Washington is that any reporting of the pollution from Hanford might have serious strategic implications. Much of the nuclear weapons research carried out in the U.S. takes place at Hanford. The Federal government is unlikely to want to publicize the pollution from Hanford no matter what level it may reach. For this reason there will likely be some reluctance to fully comply with the intent of these two articles with regard to Hanford-based marine pollution.

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[6]Ibid.

VII. RESEARCH

A. University

The primary focus in any discussion of marine scientific research conducted by universities in Washington is on the University of Washington. It is not only one of the largest universities in the nation, but its Graduate School of Oceanography is one of the most noted institutions of advanced marine research in the world. There are other, smaller institutions in Washington which conduct limited programs of marine scientific research. Nevertheless it is the University of Washington which has in place a major depository of Sea Grant materials, several large oceanographic research ships, a major school of fisheries, and a well-financed school of oceanography. Any impact on marine scientific research will likely be primarily experienced by the University of Washington.

The regime outlined in UNCLOS-III regarding marine scientific research is fairly clear on the point that a host nation has the full say over whether or not the oceanographic vessels of other nations may conduct research in their EEZ. This does not change with the signing of the Treaty. Like all other U.S. oceanographic institutions, the University of Washington must currently comply with any requirements placed upon them by the foreign states in whose EEZ they may wish to conduct research. They are, of course, not limited with respect to what research they might want to conduct within the waters of the U.S.

What the Treaty does bring into effect is a new approach to the conduct of marine scientific research within the area beyond the outer boundaries of national EEZs. This area has always been regarded as high seas and has accordingly been subject to no guidelines whatsoever as to the type and scope of marine scientific research that might be carried out within it. Article 143 specifically addresses the topic of marine scientific research within the the high seas area of the oceans. What it says is that the International Seabed Authority has the right to carry out as extensive a program of marine scientific research within high seas areas as it wishes. Individual nations are granted the right to carry out marine scientific research if they show full cooperation with the International Seabed Aythority in the carrying out of its high seas research programs.

An institution like the University of Washington is strongly encouraged by the provisions of Article 143 to offer training to personnel from developing states and from the Seabed Authority. It is also required to publish all of its findings from research conducted on the high seas for the benefit of all nations. These new requirements will limit but not restrict the international research activities of the University of Washington.

B. Other

The Pacific coast base of the NOAA fleet is in Seattle. These research ships will not be affected any differently than those of the University of Washington. They conduct most of their work within U.S. waters. Any research voyage undertaken in international waters will be affected by the advent of UNCLOS-III in the same manner as comparable University of Washington voyages.

VIII. RESOURCES

A. Living

The primary means by which the Treaty addresses the issue of resource management is through the articles in Part V which are in reference to the Exclusive Economic Zone to which each nation party to the Treaty is entitled. Through examining the potential impacts of these articles on the different types of living resources of the state of Washington it becomes possible to consider the overall impact of UNCLOS-III on its wealth of living resources.

1. Fish

Articles 61 and 62 are straightforward in granting to a nation full authority over the fishery stocks living within its territorial sea and within its EEZ. This does not differ from the provisions of the Magnuson Act which has already given the same protections to U.S. fishermen. As has been mentioned in the discussion of fishery conservation, the Magnuson Act has been written in anticipation that there might someday be a treaty concluded addressing the Law of the Sea issues, including the management and conservation of fishery resources.[1] The chief difference between the Magnuson Act and UNCLOS-III is that the latter contains express provisions relating to the allocation of fishery stock surpluses while the former leaves any guidelines

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[1] The Magnuson Act of 1976, Public Law 94-265, April 13, 1976, Section 401.

for the allocation of these resources to the discretion of the U.S. State Department negotiating team that arrives at an agreement for a GIFA with an individual nation. The Treaty urges that factors aside from purely economic considerations be used in the allocation of any catch that the coastal state will have determined to be surplus in any given year. Article 62, paragraph 3 states that when allocating the surplus fishery stock a coastal nation should take into consideration "the requirements of developing nations in the region or subregion in harvesting part of the surplus and the need to minimize economic dislocation in nations whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks."

The state of Washington would be affected by this Article in the allocation of the largely underutilized groundfish stock that inhabits the waters along the Pacific coast. In staying strictly within the intentions of the framers of the Treaty the groundfish would be allocated to those foreign fishing fleets which have exhibited the longest active interest in the stock, both through fishing and research, as well as to the developing nations that have expressed an interest in participating in the harvest of the groundfish. Such an approach would moderately limit the flexibility of the State Department in negotiating foreign fishery agreements with extraneous factors having an influence on the negotiated terms.

2. Invertebrates

For Washington the importance of marine invertebrates cannot be overlooked. This importance is not due exclusively

to the important niche which invertebrates occupy within the food web of the oceans. There is a growing economic market for the small creatures that are found primarily within the territorial sea and that section of Washington's EEZ that occurs on the continental shelf. Such creatures as crab, squid, octopus, clams, oysters, sea urchins, rock shrimp, mussels and sea cucumbers are esteemed as a delicacy in most Asian Pacific Rim nations. The seafood product from marine invertebrates brings a high price when exported to these nations. With increasing demands for high quality fresh seafood products from Japan, Taiwan, Korea and the Philippines it is important to Washington state that an unquestioned property right exist with regard to the marine invertebrates found within its coastal waters.

The Treaty provisions addressing the EEZ do not mention invertebrate species by name. It does refer specifically to the fact that all species living in the EEZ are subject to the jurisdiction and control of the coastal nation. Therefore with regard to marine invertebrates living within the waters of Washington's EEZ there is accorded to them the same protection by the Treaty that they now enjoy as a consequence of President Reagan's EEZ proclamation.

3. Kelp

Within the coastal waters of Washington are found several different species of kelp. What is especially noteworthy about the kelp is the quantity of it available at many points along the coast. Presently there is almost no utilization of this plant resource. Kelp is fast-growing, efficiently converting light energy into plant mass. For use in conversion of plant biomass

into hydrocarbon fuel kelp has been proposed as an inexpensive source of biomass. Its value in pharmaceutical and food processing uses has been known for years. Similarly, kelp is recognized as a possible export to the Far East where it is widely used as a food.

The same as with marine invertebrates, kelp is not explicitly mentioned within the series of Articles delineating the nature of an EEZ. However, kelp also is accorded the protection given to other living resources for the same reason that marine invertebrates are included within the EEZ provisions, i.e. the fact that all living resources within the EEZ are subject to the exclusive control of the coastal nation. The implementation of the Treaty would not impact Washington's kelp resources because they are already included within the scope of the EEZ of the U.S.

B. Non-Living

At present there are no significant non-living resources within the waters of the state of Washington that are being mined or otherwise exploited. Given the relatively recent discovery of polymetallic sulfide minerals directly off of the coast of Washington, it is altogether likely that the day may dawn when there will be commercial exploitation of these valuable resources beneath the sea.

What is presently known about polymetallic sulfides is that they are a byproduct of the global process of seafloor spreading. Those polymetallic sulfides that have been discovered have been located along the midocean ridges which are the sites where seafloor spreading takes place. Running roughly parallel to the

Pacific coast of the state of Washington is the Juan de Fuca Ridge. Through employment of deep towing widebeam cameras and later use of deepsea submersibles, the Juan de Fuca Ridge has been found to have extensive deposits of polmetallic sulfides along its central rift valley.[2] These deposits are especially rich in zinc, copper and silver. The steady depositing of the minerals along the Juan de Fuca Ridge is reason to regard them as renewable resorces. They are much more concentrated than similar land-mined minerals, having considerably less matter that must be separated from the ore before it can be effectively processed.

While there is no present technology for bringing polymetallic sulfides to the surface, their high concentration along the Juan de Fuca Ridge combined with rising metal prices may someday prove to be sufficient incentive for entrepreneurs to risk borrowed venture capital on their exploitation and refinement. On December 8, 1982 the Minerals Management Service published a notice in the Federal Register stating that the Juan de Fuca Ridge was "clearly within the regulatory jurisdiction of the Department of the Interior for purposes of mineral exploitation."[3] While the Department of the Interior's efforts to begin leasing of the offshore polymetallic sulfides was withdrawn after protests were received from the Canadian government[4] and from the U.S. State

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[2]William R. Normark et al., "Polymetallic Sulfide Deposits and Water-Column of Active Vents on the Southern Juan de Fuca Ridge" Marine Technology Society Journal, Vol. 16 No. 3, 1982, pp. 46-53.

[3]Eric Pryne, "Sea mining: Plan for state coast dropped," Seattle Times, February 20, 1983, p.1.

[4]The Canadian government has more than a casual interest in these deposits as a part of the Juan de Fuca Ridge is within two hundred miles of the coast of British Columbia's Vancouver Island.

Department. Nevertheless there remains a question as to how resources that are within the EEZ are to be allocated.

As far as the Treaty is concerned, it is clear that the polymetallic sulfides found outside of the U.S. EEZ are part of the 'Common Heritage of Mankind' that is fully covered by the provisions relative to deep seabed mining. Article 136 states very plainly that "The Area and its resources are the common heritage of mankind." In this definition the term 'Area' has reference to all areas of the world's oceans which are outside of the individual EEZs of nations. Therefore the implementation of the Treaty would clarify the status of those minerals beyond the U.S. EEZ as being subject to the complex mechanism provided for the management of the resources of the deep seabed by the International Seabed Authority.

This is one area where implementation of the Treaty would have a very marked impact upon the state of Washington. At the present time the only agreement touching upon the resources of the seabed is the 1958 Convention on the Continental Shelf, which has in turn been supplemented by the provisions of the 1980 Deep Seabed Hard Minerals Act. The main feature of the Convention on the Continental Shelf which applies to the offshore polymetallic sulfides is the 'exploitability clause'. Article 1 of the Continental Shelf Convention defines a nation's continental shelf as existing as far out as the water depth is no more than two hundred meters "or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas."[5] This means that under the present

[5] Convention on the Continental Shelf, Article 1.

legal regime the polymetallic sulfides could be regarded as a part of a deepwater continuation of the Washington continental shelf if they proved to be exploitable. The major change that UNCLOS-III would bring about is the elimination of the exploitability concept of the 1958 Convention on the Continental Shelf, substituting for its 'creeping jurisdiction' an absolute standard of all seabed beyond the EEZs of nations belonging to the common heritage of mankind, subject to international management by the International Seabed Authority. Such a large change would directly affect the distance to which Washington could have its offshore minerals exploited without involvement of an international agency.

There remains one final resource consideration which might be triggered by the ratification of UNCLOS-III by the U.S. At present the seaward boundary of the state of Washington is the same as that for the U.S. territorial sea. In the event that the U.S. became party to the Treaty it would be entitled to declare a twelve mile territorial sea in place of the present three mile territorial sea. Were the Federal government to so exercise its option to expand the territorial sea there would be a question as to whether the jurisdiction of coastal states would be enlarged along with the territorial sea. Although the state of Washington does not presently have offshore oil deposits which would shift to its control and jurisdiction with a twelve mile wide territorial sea, as some states do, it is certain that the recent discovery of offshore minerals has sufficiently aroused the hopes of state leaders that they would very actively join other coastal states in pressing the Federal government for recognition of twelve mile state claims.

IX. CONCLUSIONS

After having considered the various ramifications upon the state of Washington that the ratification of UNCLOS-III would have, there remains the question as to whether or not the net impact of the Treaty's implementation would be beneficial, as far as the state's economy and quality of life are concerned. Washington rightly prides itself on having a quality of 'live-ability' that sets it apart from nearly all other states. The abundant natural beauty of the state is just one aspect of the quality of life that Washington's citizens prize. If the net impact of UNCLOS-III would lessen the quality of life in Washington it would not be received favorably. If, however, its overall impact is such that it heightens the state's quality of life through bringing into a more stable international order for the world's oceans, then its coming will be welcome.

There are many different impacts that have been considered. The most significant ones have stood out as having the potential for far broader impact on Washington than the lesser ones. There seems to have been no middle ground. Either an impact was very strong in its probable effect or it was rather unlikely to have much of an impact even under the most unusual of conditions.

The question as to whether the Strait of Juan de Fuca would be considered to be a strait used for international navigation, as outlined in Article 37, would be a major factor in

deciding whether or not there was a major impact on both shipping law enforcement and in security for the Bangor submarine base. If the U.S. declared a twelve mile territorial sea this question would be obviated. Otherwise, the state would find itself with a maritime anomaly which would have the potential for awkward situations as foreign flag vessels exercised their right of transit passage within the waters of the Strait of Juan de Fuca.

The requirement of providing publicity of any activity which might harm the marine environment, as required by Articles 205 and 206, has the potential for causing serious problems in the case of Hanford nuclear reactor cooling waters. In the event that the treaty came into force the Federal government would have ample cause to weigh very carefully their actions under this Article before releasing information regarding the pollution originating in the Hanford nuclear reactors.

The coming into force of UNCLOS-III with regard to the U.S. would have an immediate effect on the possible exploitation of the offshore polymetallic sulfides of the Juan de Fuca Ridge. The exploitability clause of the Convention on the Continental Shelf, which would permit mining of Washington's offshore polymetallic sulfides by virtue of their exploitability, would be repealed and replaced by the provisions of Article 136, giving control of the deepsea minerals beyond the U.S. EEZ to the management of the International Seabed Authority. This would be a strong limitation of current seabed mining freedom.

The newly sanctioned authority to apprehend vessels which have committed violations of international pollution standards while on the high seas, as permitted in Article 218, would help

reduce the number of pollutants carried to Washington's shore by currents coming from the open ocean. This provision offers international sanction for the work of U.S. authorities in the state of Washington charged with bringing to justice high seas polluters whose ultimate victim will be the coast of Washington.

The greatest single beneficial impact to be received upon U.S. ratification of UNCLOS-III is the international recognition of high seas salmon stocks that have originated in Washington waters as being subject to the primary jurisdiction of the U.S. With this provision, contained in Article 66, the uncertainty that presently surrounds Washington's salmon resource when they are in the high seas phase of their life cycle will be ended, as far as the legal questions are concerned. While enforcement will remain difficult, the advantage of having clearly stated international recognition of Washington's jurisdiction over the fish will be an improvement over the present situation.

As in any action that is as broadly comprehensive as UNCLOS-III there are both positive and nagative impacts that would be experienced within Washington. Clearly it depends entirely upon one's point of view as to whether or not the net impact of U.S. ratification of UNCLOS-III would be beneficial for the state of Washington. One can conclude that as in almost any issue, there are mixed results if the Treaty comes into effect or if it does not. "For the oceans, I submit we must begin to take the long view--for political, economic and social well-being of a planet where the oceans that divide nations may also unite them."[1]

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[1]Edward Wenk, "Overview," Local Impacts of the Law of the Sea, University of Washington Sea Grant Program, August, 1973, p.141.

BIBLIOGRAPHY

Ahern, Timothy Michael. Impact of UNCLOS-III on U.S. Naval Operations. Kingston: Master of Marine Affairs Program, 1981.

Alexander, Lewis and Norton, Virgil. "Maritime Problems Between the U.S. and Canada." Oceanus. Vol. 20, No. 3, 1977. pp. 24-34.

Ballard, Robert D. "Notes on a Major Find." Oceanus. Vol. 20, No. 3, 1977. pp. 35-44.

Borgese, Elisabeth Mann. "The Law of the Sea" Scientific American. March, 1983 pp. 42-49.

Charney, Jonathan I. "The Offshore Jurisdiction of the States of the U.S. and the Provinces of Canada-A Comparison." Ocean Development and International Law. Vol. 12, Nos. 3-4, 1983. pp. 301-336.

Edmond, John M. and Von Damm, Karen. "Hot Springs on the Ocean Floor" Scientific American. April, 1983 pp. 78-93.

Gross, M. Grant. Oceanography, A View of the Earth. Englewood Cliffs: Prentice-Hall, 1982.

Hitchman, James H. The Waterborne Commerce of British Columbia and Washington 1850-1970. Bellingham: Center for Pacific Northwest Studies, 1976.

Jones, William B. "The International Seabed Authority Without the U.S. Participation." Ocean Development and International Law. Vol. 12, Nos. 3-4, 1983. pp. 151-172.

Kimball, Lee. State Profiles Draft. Washington, D.C.: Citizens for Ocean Law, 1982.

Kirk, Ruth. Exploring the Olympic Peninsula. Seattle: University of Washington Press, 1976.

Larkin, Peter. "Pacific Salmon: Scenarios for the Future." Marine Technology Society Journal. Vol. 15, No. 1, 1981. pp. 6-15.

Magnuson Act, U.S. Public Law 94-265, 1976.

McKelvey, Vincent E. Letter to the Editor. Ocean Development and International Law. Vol. 12, Nos. 3-4, 1983. p. 345.

McNees, Richard P. "Freedom of Transit Through International Straits." Journal of Maritime Law and Commerce 6 (January 1975): pp. 175-211.

Moore, John Norton. "The Regime of Straits and the Third United Nations Conference on the Law of the Sea." American Journal of International Law 74 (January 1980): pp. 77-121.

Normark, William R.; Lupton, John E.; Murray, James W.; Koski, Randolph A.; Clague, David A.; Morton, Janet L.; Delaney, John R. and Johnson, H. Paul. "Polymetallic Sulfide Deposits and Water-Column Tracers of Active Hydrothermal Vents on the Southern Juan de Fuca Ridge." Marine Technology Society Journal. Vol. 16, No. 3, 1982. pp. 46-53.

Pryne, Eric. "Sea mining: Plan for state coast dropped." Seattle Times. February 20, 1983.

Seattle Times. "Reagan Proclaims EEZ." March 11, 1983.

State of Washington Council for Postsecondary Education, Public Information Sheet. Olympia, 1983.

United Nations. Convention on the Continental Shelf. Geneva: Convention on the Law of the Sea, 1958.

_____. Convention on the High Seas. Geneva: Convention on the Law of the Sea, 1958.

_____. Convention on the Law of the Sea. Geneva: UNCLOS-III Drafting Committee, 1982.

_____. Convention on the Territorial Sea and the Contiguous Zone. Convention on the Law of the Sea, 1958.

U.S. Department of Agriculture, Snoqualmie National Forest General Information Sheet. North Bend: 1983.

U.S. Department of Commerce. U.S. Ocean Policy in the 1970s: Status and Issues. Washington, D.C.: Government Printing Office, 1978.

U.S. Navy. Naval Personnel in Washington State. Seattle: Commander, Naval Base Seattle, 1983.

U.S. Department of State. United States Contributions to International Organizations, 30th Annual Report. Washington, D.C.: Government Printing Office, 1982.

Washington Public Ports Association. 1980 Port System Study For the Public Ports of Washington State. Olympia: 1982.

Washington Sea Grant Program. Local Impacts of the Law of the Sea. Seattle: Division of Marine Resources, University of Washington, 1973.

Washington State Department of Commerce and Economic Development, Washington State Facts: General Information on Washington State. Olympia: 1983.

_____. Washington State Facts: Higher Education. Olympia, 1983.

_____. Washington State Facts: Natural Resources. Olympia, 1983.

Washington State Office of Financial Manangement. Economic and Revenue Forecast for Washington State. Olympia, 1982.

_____. Population Trends for Washington State. Olympia, 1981.