

AIR WAR COLLEGE

AIR UNIVERSITY

**ESTABLISHING AND PROTECTING  
UNITED STATES ARCTIC SOVEREIGNTY**

by

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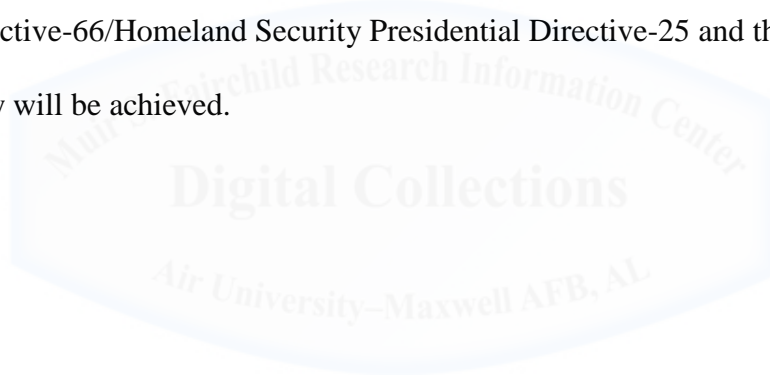
## **BIOGRAPHY**

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## **ABSTRACT**

The United States is an Arctic Nation with vital strategic interests in Arctic region. As the Arctic ice pack recedes additional open water leads to areas of the Arctic Ocean that are increasingly accessible and exploitable. The United States currently lacks the presence in the Arctic to protect the nation's vital interests. The lack of presence calls into question the sovereignty of the United States in the Arctic region. Presence is a fundamental requirement of sovereignty. This paper addresses the basic legal requirement and the resources required to establish and maintain sovereignty in the Arctic. By establishing a permanent military base on the Arctic Ocean the United States will ensure the priorities established in the National Security Presidential Directive-66/Homeland Security Presidential Directive-25 and the current National Security Strategy will be achieved.



## **INTRODUCTION**

The United States is in danger of abdicating its sovereignty in the Arctic. As the Arctic ice pack recedes additional open water has led to areas of the Arctic Ocean that are increasingly accessible and exploitable. These opportunities are prompting other countries to stake claims for maritime transportation, resource extraction and other economic and strategic goals. With increasing claims, legitimate or not from other countries, the United States should clearly and unequivocally demonstrate its sovereignty in the Arctic to ensure all Arctic stakeholders understand the intent of the United States to protect its national interests. The United States can demonstrate a sovereign claim in the Arctic by enforcing the nation's rules and laws, protecting maritime transportation, regulating resource extraction and protecting the environment. Basing military assets on the Arctic Ocean will allow the United States to carry out the activities required to demonstrate this sovereign claim over territory that is vital to United States' national interests and security.

By describing a legal framework and the resources required this paper will provide discussion and analysis to support increased US military activity to protect its sovereignty in the Arctic region, as well as counterarguments. The methodology used to support this thesis will analyze US law enforcement, maritime transportation, resource management, and environmental protection responsibilities. Finally, it will provide a strategy to meet US policy goals and protect US sovereignty in the Arctic.

## **ARGUMENT**

When the United States purchased Alaska from the Russian Empire, on March 30, 1867 it became one of the eight Arctic nations and one of five Arctic Ocean littoral countries. As an Arctic nation the United States has been a member of the Arctic Council since its inception in

1996 and is also an observer of the Conference of Parliamentarians of the Arctic Region. On January 9, 2009, President George W. Bush approved the U.S. Arctic Region Policy in National Security Presidential Directive-66/Homeland Security Presidential Directive-25 (NSPD-66/HSPD-25).<sup>1</sup> The May 2010 National Security Strategy describes the United States as “an Arctic Nation with broad and fundamental interests in the Arctic region.”<sup>2</sup>

As noted in NSPD-66/HSPD-25 the Arctic is primarily a maritime environment.<sup>3</sup> The United States’ Arctic coastline is comprised of the North Slope of Alaska, the west coast of Alaska, and the Aleutian Islands. This is a vast area with little population and few settlements. Civilian infrastructure in the Arctic is limited and existing assets are unlikely to be adequate to respond during a man-made disaster.

There are statutory limits that result in less control further from shore. According to Colvin, the amount of control a nation has is inversely proportional to the distance from shore.<sup>4</sup> State and federal laws and rules apply within the 3-mile state limit. All federal laws and rules apply to the 12-mile territorial limit. From 12 – 200 miles is the exclusive economic zone where a nation has control limited to economic resources. Beyond 200 miles, the United States can assert extended territorial claim to seabed resources out to the limits of the Continental Shelf, as far as 440 miles off the northern coast of Alaska.<sup>5</sup> The United States has formal claims to the Arctic Ocean continental shelf sea beds out to the 200 mile limit of the Exclusive Economic Zone, which in the Arctic Ocean continental shelf extends more than 400 miles off the north coast of Alaska. International law has historically recognized claims of sovereign nations to resources on the sea floor to the limit of the continental shelf. This is an unusually large continental shelf area, so the United States has no precedent for extending influence so far beyond its 200 mile Exclusive Economic Zone.

The primary responsibility of a sovereign is to protect sovereignty. Byers notes that “sovereignty, like property, can usefully be thought of as a bundle of rights.”<sup>6</sup> The definition of sovereignty is the supreme authority within a territory.<sup>7</sup> States are the components of an international system and the principles by which they are ordered is sovereignty.<sup>8</sup> A nation’s sovereignty is protected by demonstrating control through enforcing sovereign state laws and managing resource development. The United States currently lacks assets in the Arctic to demonstrate sovereignty. In his recent congressional testimony, USCG Admiral Papp noted that having surface assets is required for maintaining sovereignty, including emergency response, promoting safety and security, and research.<sup>9</sup> Defending sovereign claims in international courts requires an established claim and the maintenance of sovereign responsibilities. As stated in NSPD-66/HSPD-25, the United States has sovereign interest in the Arctic Ocean.<sup>10</sup> The way to protect US sovereignty is by establishing persistent US presence and operations to include utilization of natural resources, environmental protection, law enforcement, immigration, and search and rescue across all hazards and all threats.<sup>11</sup> Bacon notes that to protect the Arctic we must be in control in the Arctic and to be in control we must be in the Arctic.<sup>12</sup>

The United States’ national interests in the Arctic are delineated in the US Arctic Policy. The stated goals are: meet national security and homeland security needs relevant to the Arctic region; protect the Arctic environment and conserve its biological resources; ensure that natural resource management and economic development in the region are environmentally sustainable; strengthen institutions for cooperation among the eight Arctic nations; involve the Arctic’s indigenous communities in decisions that affect them; and enhance scientific monitoring and research into local, regional, and global environmental issues.<sup>13</sup> The US Arctic policy also states that US resources and assets must be available to meet these goals.<sup>14</sup>

The Arctic nations have clarified their joint goals for the Arctic through the United Nations 1982 Law of the Sea Treaty. This treaty requires that all nations have filed formal claims to continental shelf sea beds by December 2009.<sup>15</sup> This formal claim filing is not the end of the process. Nations must also demonstrate a presence in the region to maintain their claims. According to Colvin, “The Law of the Sea Treaty protects U.S. (sic) interests and provides international stability. International oil companies have come out in favor of the treaty.”<sup>16</sup> All of the combatant commanders and service chiefs are also recommending ratification of the Law of the Sea Treaty.<sup>17</sup> Congress has balked at ratifying the treaty because it would require the United States to join an international organization established to oversee management of the Arctic.<sup>18</sup> Formal acceptance of the treaty will provide the United States representation in international governance of the Arctic. According to Papp:

All other Arctic nations and most other nations worldwide have acceded to the Law of the Sea Treaty. Arctic nations are using the treaty’s provisions in the Article 76 to file extended continental shelf claims with the U.N. Commission on the limits of the Continental Shelf (CLCS) in order to expand the territory over which they have exclusive rights to resources on and beneath the Arctic seabed. If the U.S. made an extended continental shelf claim, we could potentially assert sovereignty over 240 miles of additional seabed territory out to 440 miles from our land base line, far beyond the existing 200 nautical mile Exclusive Economic Zone. This area reportedly contains some of the richest, undiscovered deposits of oil and natural gas in the Arctic. However, until the U.S. accedes to the Law of the Sea Treaty, it is unlikely CLCS will entertain any U.S. submission of an extended continental shelf claim. Acceding to the Law of the Sea Treaty also provides us with standing to work within the Law of the Sea Convention framework with other Arctic Nations on issues such as environmental stewardship.<sup>19</sup>

Other nations also have vital interest in the Arctic. Of the “Arctic 5” nations; the U.S., Canada, Russia, Norway and Iceland, all have made claims to areas of the Arctic Ocean sea bed. The “Arctic 8” (the United States, Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, and Sweden) are nations with territory north of the Arctic Circle and are members of



the Arctic Council. The Arctic Council is a multinational council primarily intended to resolve issues regarding sustainable resource development and environmental protection in the Arctic. The Arctic Council's charter specifically prohibits the council from addressing issues of national security.<sup>20</sup> Although the Arctic Council has produced positive results for the United States it is inadequate to address all of the US national interests in the Arctic.

Non-Arctic nations also have an interest in the Arctic. China has purchased the world's largest non-nuclear ice breaker from Finland and is currently constructing another ice breaker even though they have no territorial ocean waters that are ice covered at any time during the year.<sup>21</sup> The rich resources of the Arctic and the ability to reduce shipping time and costs by transiting the Arctic are significant incentives for other nations to increase their presence and influence in the Arctic. This can raise challenges of US claims of sovereignty in the region.

Law enforcement within its borders is one of the primary responsibilities of a sovereign nation.<sup>22</sup> The primary law enforcement requirements in the Arctic include immigration, illicit shipping and trafficking, customs enforcement and enforcement of environmental protection laws. Law enforcement efforts in the US maritime environment have primarily been a responsibility of the United States Coast Guard (USCG).<sup>23</sup> The closest USCG facility to the Arctic Ocean is in Kodiak, Alaska more than 1,000 miles away. This distance is too great to provide an effective the level of law enforcement and the regional presence required to adequately demonstrate the US national interest in the Arctic region.

The USCG is typically responsible for maritime transportation safety and emergency response.<sup>24</sup> However, the United States has no assets permanently based on the Arctic Ocean to assert influence in the region. Without significant commercial vessel traffic in the Arctic, the USCG also lacks non-agency emergency response assets on which they typically rely, including

signatory emergency response vessels and pre-positioned spill-response vessels. The Alaskan North Slope Borough emergency services have a helicopter and small boat stationed at Barrow for search and rescue and life-saving efforts; however, these assets are severely limited in the range of their capabilities. This lack of presence and capabilities is counter to the goals set out in NSPD-66/HSPD-25.<sup>25</sup> Additionally, Ostebo states that “the expectation of the American people is for a US presence on all of the country’s coasts.”<sup>26</sup> The level of vessel traffic and resource development will ultimately drive emergency response and law enforcement capability requirements, but the United States is currently lagging behind other countries in balancing its law enforcement assets with the growing need in the Arctic

The United States ice breaker fleet currently consists of three vessels under the control of the USCG. Only one of the vessels, the medium icebreaker Healy, is in active service. Of the other two, one is in need of significant overhaul to return to service and one is scheduled for decommissioning.<sup>27</sup> In his Senate subcommittee testimony Dr. Lawson Brigham stated that “today the U.S. Coast Guard does not have adequate icebreaking ships to meet the future, multiple maritime needs in the shallow sub-arctic seas of the Bering Sea region and north into the coastal seas in the U.S. Arctic Maritime. It is important to note that deep draft polar class icebreakers cannot operate in many shallow Arctic areas.”<sup>28</sup> This shortfall in icebreaker capabilities limits the United States’ ability to protect and assert influence over its national interests in the Arctic. According to Papp, surface capabilities in the Arctic are critical to meeting US responsibilities and icebreakers must be part of the US Arctic emergency response assets.<sup>29</sup> As the ice recedes Canada, Russia and other Arctic nations are pursuing national goals and developing assets to support maritime shipping and transportation in the Arctic.

Canada has set forth ambitious goals in their Arctic Strategy that includes preparing for commercial use of the Northwest Passage. In 2009 and 2010 the Northwest Passage was open for maritime shipping; however the Northwest Passage remains very difficult to navigate.<sup>30</sup> Canada has identified maritime shipping through the Northwest Passage as a key component of its Arctic strategy. Yet, Canada does not currently have the necessary national assets to actively oversee the use of the Northwest Passage. Other issues may not be as straightforward for Canada. According to Canadian Prime Minister Stephan Harper:

I'm less concerned with the U.S., who, while not formally acknowledging our claim (over disputed parts of the Arctic), at least acknowledges that we make the claim and cooperates with us for the defense of North America. I think the greater worry is some of the other nations that we believe have been paddling around up there not necessarily acknowledging their obligations to communicate with the government of Canada.<sup>31</sup>

The Russian Federation is actively promoting the Russian Federation's North Sea shipping route. Russia is providing ice breaker support to guarantee safe passage of commercial ships.<sup>32</sup> All of the ships using the Russian Federation's North Sea route must traverse the Bering Straits. "The USCG is trying to work out a safe passage plan for the Bering Straits."<sup>33</sup> The USCG intends to put out a notice of proposed rule-making, develop bilateral agreements with other nations, then go to the international maritime organization to put the vessel traffic separation scheme on maritime shipping charts.<sup>34</sup> As the level of shipping continues to increase via the Russian Federation's North Sea route the potential for accidents, environmental damage and conflict increases. The United States is not currently positioned to adequately respond to a significant incident off of the Arctic coast.

Resource development in the Arctic offers the United States economic opportunities, as well as well as law enforcement, and safety challenges, that it is currently ill-equipped to meet.

Offshore petroleum exploitation, particularly seabed oil drilling may develop rapidly and on a large scale as additional open water areas become accessible in the Arctic. According to Colvin, eventually oil will be extracted in the Arctic.<sup>35</sup> Unregulated petroleum extraction cannot be left to occur in US territorial waters due to economic, safety and environmental protection concerns. The US littoral interests and the interests of outside parties seeking to extract resources are likely to be very different. These interests, while focused on economics, may also include concerns regarding public safety, security and national defense.

Biological resource extraction is already increasing with the extended open water season in the productive fishing waters of the Arctic. Additional open water has led to fishing vessels moving farther north which could lead to increased foreign incursion into the US Exclusive Economic Zone.<sup>36</sup> The increased fishing activity and the increased potential for foreign fishing vessel incursions will require not only increase fisheries monitoring requirements to protect US resources, but also additional search and rescue, spill response, and customs and immigration efforts.

Conservation of the Arctic Ocean environment is another requirement of the United States as a sovereign nation. The United States has a stated interest in the environmental health of the oceans.<sup>37</sup> The USCG has environmental protection responsibility under Oil Pollution Act 90, which is primarily focused on oil spill clean-up. In cases where the USCG cannot determine the responsible party, it must contract a third party for oil spill clean-up.<sup>38</sup> The United States' national interest is much larger than oil spill response and clean-up. As human activity increase the level of impact on the environment will also increase. This will require the assets and resources to enforce pollution laws and rules, respond to pollution incidents and follow-up after the initial response to limit the damage caused.

Finally, the United States has treaty responsibility for protection of the indigenous peoples of Alaska as a sovereign, dependent nation. These responsibilities include all aspects of safety, security, and the protection of their way of life to the greatest extent possible.<sup>39</sup> These responsibilities are composed of all of the issues previous discussed to protect people, property, and the environment, all of which require resources and assets based in the Arctic.

## **COUNTERARGUMENTS**

One counter argument is that the Arctic sea ice will not continue to recede. Although the timelines vary, there is significant agreement in the scientific community that the permanent sea ice will continue to recede. Global competitors are acting upon this belief. China's purchase of the largest non-nuclear ice breaker and the construction of another ice breaker for use in the Arctic demonstrates its national investment in Arctic exploitation. The Canada and the Russian Federation's development of Arctic maritime navigation routes also demonstrates their perception that ice free navigation will continue to be possible. The scientific evidence and investment in Arctic commerce indicate that there is a strong belief that the permanent sea ice will continue to recede.

Canada and the Russian Federation's development of Arctic maritime navigation routes also refute the counterargument that open water in the Arctic will not lead to an increase in human activity. Increased activity in the Arctic is already a reality. According to Colvin, with the increased amount of open water the extent of navigable water increases, which leads to increased human activity.<sup>40</sup> Maritime shipping has increased to the point that the USCG is preparing a maritime traffic separation and vessel traffic management scheme for the Bering Straits to avoid vessel conflicts in this restricted marine passage.<sup>41</sup> While Arctic maritime

shipping has not yet increased dramatically, adventure travel and cruise ship visits in the Arctic are already increasing rapidly.<sup>42</sup> Adventure travelers in small boats are moving into the region with greater frequency and the USCG predicts additional cruise ship travel into the Arctic Ocean into the foreseeable future.<sup>43</sup>

Another counterargument is that the United States can mobilize assets from other locations to adequately respond to man-made disasters in the Arctic. The nearest overland access to the Arctic Ocean from a United States military facility is more than 440 miles over the largely gravel Dalton Highway through the Brooks Range from Fairbanks, Alaska. The nearest USCG base, in Kodiak, Alaska, is several days away for a marine response if a ship is available. Assets could be flown into one of the larger State of Alaska Airports at Prudhoe Bay, Barrow, Point Hope, Kotzebue or Nome. However, all of these options have response time limitations that could lead to significant loss of life, impacts on resources, or environmental damage due to the required mobilization and transportation time. Military assets based on the Arctic Ocean could provide immediate response to limit injury and damage and provide command, control, and reception functions for additional assets that are brought in to deal with a disaster that overwhelms immediate response capabilities. Adequate assets do not currently exist in the US Arctic to provide the critical first response to address a large rescue effort, a significant petroleum release or other large man-made disaster.<sup>44</sup> As history has demonstrated when human activity increases it is not a matter of if a significant man-made disaster will occur, but when.

An additional counterargument is that competition for resources will not become an issue in the Arctic. The Arctic Council was established to provide a forum for Arctic states to address conflicts.<sup>45</sup> However, the issues that can be addressed within the Arctic Council are limited and non-Arctic nations that may compete for Arctic resources are not included in the Arctic Council.

Additionally, non-state actors involved in resource extraction conflicts in the Arctic would not address their issues through the Arctic Council. The Arctic Council, while beneficial for addressing many resource development issues between Arctic Nations, is not adequate to address all foreseeable resource extraction issues confronting the United States.

Another counterargument is that the United States cannot afford to base military assets in the Arctic. Other tough military basing choices have been made to meet national strategic priorities. Guam was selected as the basing location for military assets being relocated in the western Pacific largely because it is the western most U.S. territory.<sup>46</sup> Many of the same arguments used for selecting Guam as the western Pacific location for US forward presence and posture applies to the north coast of Alaska. As the northern most US territory the Arctic coast of Alaska is a vital location for basing military assets in the Arctic.

Finally, the counterargument could be made that, like the Antarctic Continent, the Arctic should not be militarized by basing military personnel and assets on the Arctic Ocean. The United States would not be alone among the Arctic Nations if US military assets were based on the Arctic Ocean. Russia has already based military assets in the Arctic to support maritime transportation and national security interests. Norway and Canada also have military assets in the Arctic. These assets are based in the Arctic for a variety of reasons in each country's national interest. As human activity increases in the Arctic the United States needs forward based military assets to address search and rescue, emergency response, law enforcement, environmental clean-up and other safety and security issues, including protection of the indigenous peoples of Alaska. The United States has shown as a nation that during a calamity it will turn to the Department of Defense for support.<sup>47</sup> When the United States military is called to provide support in the Arctic it must be ready to adequately respond.

## RECOMMENDATIONS

There are no permanently based national assets north of the Arctic Circle on United States soil. This lack of US assets in the Arctic is counter to the US Arctic Region Strategy spelled out in NSPD-66/HSPD-25. Enforcing sovereign state laws and demonstrating control is required to defend claims in international courts and with the international community. One way to do this is to use military presence to protect United States sovereignty claims.

The United States should base military assets in particular on the Arctic Ocean to establish sovereignty in the Arctic and solidify United States' territorial claims. According to Colvin, "it is a matter of projecting presence up there. It is a matter of United States sovereignty. It is a matter of being able to achieve the effects that are expected."<sup>48</sup> The basing of United States military assets on the Arctic Ocean will allow the United States to meet the internationally accepted responsibilities of a sovereign nation.

Lacking the assets to enforce the nation's rules and laws, support safe and efficient maritime transportation, support public safety and protect the Arctic environment, the United States strains its credibility of international legitimacy for sovereignty. An operating base that can provide immediate response, command and control, and reception of mobilized military assets throughout the US territorial area in the Arctic is sufficient. In other regions marine vessels and aircraft of the USCG are used to support these responsibilities throughout the US littorals. Alaska National Guard personnel and aircraft are used for search and rescue efforts and law enforcement support as far north as they can reach from the current basing in Bethel and Nome, Alaska. To ensure the capabilities to protect US sovereignty military aircraft should be based at a permanent location on the United States coast of the Arctic Ocean. As the Continental Shelf is relatively shallow, and there is no suitable deep water port location north of the Bering



Straits, a hangar and housing facilities should be built at Point Barrow, Kotzebue, or Prudhoe Bay. Each of these locations has an existing runway longer than 5000 feet with an instrument landing systems for all-weather operations. These runway facilities are maintained and operated by the State of Alaska Department of Transportation and Public Facilities and would be suitable locations for contingency operations.

Barrow is the best choice for a land-based facility on the north coast of Alaska. Barrow is the farthest north point on the US Arctic Ocean coast and has public land available adjacent to the existing runway on the Barrow Airport. It also has city services and community support assets, such as a hospital, schools, stores and other civil and commercial services, available for based personnel. While Barrow lacks road access, ocean-going barge service and aviation services are available to provide logistical support, as is the case for the many island based US military assets. Kotzebue lacks sufficient available land on the airport for a suitable basing facility, but it otherwise offers many of the advantages of Barrow. Prudhoe Bay, while road accessible and with available public land on the airport, lacks city services and has virtually no community support for based personnel.

The United States Arctic presence does not require a deep water port, but access to ocean going icebreakers and resupply vessels is vital.<sup>49</sup> The USCG should permanently base an icebreaking cutter at a deep water US port that is within patrol range of the Arctic Ocean. A medium icebreaker could serve as a command and control vessel during emergency operations, in addition to maintaining a constant presence in the Arctic Ocean during open water periods. Expansion of the existing US icebreaker fleet, which is currently only one operational vessel, is necessary to meet this requirement.

## CONCLUSION

The time has come for the United States to base military assets on the Arctic Ocean to solidify US territorial claims in the Arctic as ice-free areas expand and global competition for Arctic resources increases. Competing territorial claims for the Arctic Ocean sea bed and navigable waterways already exist, like the long-standing overlapping claim for a portion of the Arctic sea bed in the Beaufort Sea between Canada and the United States.<sup>50</sup> Howard postulates that competition for resources in the Arctic could lead to international conflict and the Arctic could be the setting for a future resource war.<sup>51</sup> The harvest of biological resources, drilling for petroleum on the outer continental shelf, and mineral extraction are a few of the resource issues that could lead to conflict in the Arctic. Even if the competition for resources in the Arctic did not lead to a military conflict, military assets are likely to be needed to deal with other issues vital to the United States' national interests.

Economic, political, and strategic issues, in addition to the significant resources becoming ever more accessible, make the Arctic important to the national security interests of the United States. It is in the national interests of the United States to protect and maintain access to natural resources, maritime transportation, environmental protection and law enforcement capabilities. The increase in open water due to the decline in sea ice increases the opportunities for conflict, the potential for man-made disasters, and the competition for newly accessible resources. Due to the lack of assets based in the Arctic, the United States could be perceived to be abdicating national sovereignty over this vitally important area. Establishing a physical presence in the Arctic will also signal the intention to protect the United States' vital interests to all international parties and to its own citizens. Basing military assets on the north coast of Alaska will allow the United States to display the importance of the Arctic to the nation

and to provide the presence needed to carry out its sovereign responsibilities, therefore the United States needs to demonstrate care for these strategic interests in the Arctic by basing military assets on the ever-expanding ice-free waters of the Arctic Ocean.



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