# Inland Waterways Neg Strat

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## Topicality

## Counterplan

### 1NC Courts/States/Private Counterplan

#### Text: The United States Supreme Court should narrowly overrule Gibbons v. Ogden as it applies to inland waterways in the United States and state that the 50 states and territories of the United States have the authority and obligation to upgrade dams and locks for all inland waterways that fall inside their respective territories, but also require the United States Congress to finance the upgrading. The United States Supreme Court should uphold the ruling as it relates to inland waterways. The United States Congress should reauthorize the “Build America Bonds” program for the purpose of generating financing for states to meet their obligations, and should distribute subsidies for the bonds according to state-by-state distribution of inland waterways in need of upgrades.

#### **Previous precedent proves the counterplan is feasible- the counterplan overrules the**

Stern 12 (Congressional Research Service, Anaylst in Natural Resources Policy, April 12, “Inland waterways: recent proposals and issues for congress”, <http://www.fas.org/sgp/crs/misc/R41430.pdf>, pg. 1)

Through the early 1800s, inland waterway development was left to the states, until the Supreme Court gave the United States authority over interstate commerce in 1824. 4 Shortly thereafter, the federal government began to provide funding and support to these waterways to improve interstate and international commerce. Improvements in other forms of transportation, including rail and highway, have decreased reliance on inland waterways as a means of commercial freight transportation, but these waterways remain a significant component in the nation’s transportation mix for many bulk commodities.

#### **Build America Bonds are effective at attracting private investment**

CEA ‘12

Council of Economic Advisers, “A new economic analysis of infrastructure investment,” March 23, 2012, Department of the Treasury

Build America Bonds (BABs) were another highly successful tool to attract additional private capital to finance infrastructure projects. These bonds were used to fund over $180 billion for new public infrastructure such as bridges, transit systems, and hospitals from 2009 through 2010 in all 50 states and the District of Columbia. Reinstatement of the BABs program is proposed in the President’s Budget.

#### **BAB’s are massively popular- they’re used to finance investments in infrastructure**

Johnson ‘11

By [**Fawn Johnson**](http://transportation.nationaljournal.com/contributors/fawn-johnson.php)**,** Correspondent, National Journal, March 7, 2011, “[Build America Bonds for Transportation](http://transportation.nationaljournal.com/2011/03/build-america-bonds-for-transp.php),” http://transportation.nationaljournal.com/2011/03/build-america-bonds-for-transp.php

You've got to give Sen. **Ron** Wyden, D-Ore., credit for trying. He wants to revive the administration's popular Build America Bonds program, which gave bond issuers generous tax credits and federal subsidies for infrastructure investments before it expired last year. Wyden has proposed limiting the bonds to transportation investments, thinking that a narrowly tailored program would garner bipartisan support and ease the pain of paying for a six-year surface transportation bill. He's gotten some interest from Sen. **John Thune**, R-S.D. Transportation Secretary Ray LaHood has said he will advocate for such a program with the administration.

### 2NC Solvency O/V

#### The counterplan has the Supreme Court rule that states have the responsibility to upgrade inland waterway infrastructure within their territory, but the federal government has to finance it. It then has the Congress finance the counterplan using Build America Bonds, which are taxable bonds that attract private investment to the project.

#### This solves the case-

A.) Resolves federal key warrant- reinterpreting the commerce clause to require state maintenance of waterways pushes them to do the maintenance- consistently upholding the ruling means they’ll have no choice but to comply and the promise of federal funding means they’ll have no incentive not to

B.) **The only reason states haven’t acted if because of Gibbons v. Ogden- that case interpreted the Commerce Clause to eliminate state jurisdiction over waterways- the counterplan reverses the signal and solves the case**

Gibbs, 12

Bob Gibbs 4/13/2012, Subcommittee Chairman RE: Hearing on "How Reliability of the Inland Waterway System Impacts Economic Competitiveness." http://republicans.transportation.house.gov/Media/file/112th/Water/Water%20Briefing%20Memo%20%204-18-12.pdf

Federal interest in navigation in the United States stems from the Commerce Clause of the Constitution. The history of federal improvements to inland navigation in the United States dates back to the 1820's when Congress authorized construction of a canal connecting Lake Michigan to the Illinois River and authorized the United States Army Corps of Engineers to remove snags, debris, and other obstructions from the Mississippi and Ohio Rivers. These rivers and coastal ports were the primary routes of commerce for the new nation.

#### Counterplan is key to an integrated approach to waterways that solve the case- the only necessary federal role is funding, and private funding solves

Jackson ‘7

Colonel Donald E. Jackson, Jr. United States Army, 2007, LEVERAGING THE STRATEGIC VALUE OF THE U.S. INLAND WATERWAY SYSTEM, www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA469583

The inland waterway system of the United States stands as a minimally exploited system that, if optimized, could help eliminate the congestion of overland transport, pollution, and provide a low cost alternative to long haul passages. The USDOT should aggressively promote inland waterways as an effective alternative to overland transportation. U.S. Inland Waterway System stakeholders must embrace emerging technologies that more efficiently manage traffic on inland waterways to mitigate lock-imposed delays. An intra-governmental approach to managing national water resources must be better integrated at the local, state, and federal level, eliminating political impediments to system efficiency. Integrated planning to effectively link the national transportation network with state and local intermodal infrastructure must be encouraged and managed strategically. The federal government must lead efforts to develop adequate funding strategies, seeking public-private collaboration, to maintain the investment streams that support new construction, operations, and maintenance of the inland waterway system, making it a reliable and affordable means of transportation in the future. Inland waterway infrastructure must be prioritized and resources focused on the most value- added gateways supporting objectives of the national freight transportation system. Overall the system should be repaired and modernized and, in certain cases, enlarged to meet the industry standard requirement for locks of 1200 feet. The federal government and the USDOT, using an interagency approach, must continue to develop transportation strategies that encourage the balanced growth of each industry sector, leading leads to more effective integration of inland waterway transportation. The USTRANSCOM deployment and distribution model should be commercially replicated at the national level to highlight alternative freight transportation planning opportunities that leverage the capabilities of each transport mode. The USDOT must provide shippers incentives for increased use of inland waterways, expanding container-on- barge opportunities to alleviate congestion and increase capacity of the freight transportation system at the national level.

### 2NC Yes Question of Precedent

#### Overruling Gibbons vs. Ogden solves the case- it overturns relevant precedent that gives states jurisdiction to do the case

CRS 12

Inland Waterways: Recent Proposals and Issues for Congress Charles V. Stern Analyst in Natural Resources Policy April 12, 2012, Congressional Research Report

The Inland Waterway System predates the founding of the nation itself. Before the onset of rail and highway transport, inland waterways were a primary means of transporting bulk goods. Through the early 1800s, inland waterway development was left to the states, until the Supreme Court gave the United States authority over interstate commerce in 1824.4 Shortly thereafter, the federal government began to provide funding and support to these waterways to improve interstate and international commerce. Improvements in other forms of transportation, including rail and highway, have decreased reliance on inland waterways as a means of commercial freight transportation, but these waterways remain a significant component in the nation’s transportation mix for many bulk commodities.

### 2NC Politics Yes NB

#### **A.) Tax credits are uncontroversial and limit government intervention**

-Pass costs to hidden areas

-Remove pork fights

-Less veto points

Rigby ‘9 (Elizabeth, Professor of Political Science – University of Houston, “[Tax Credits vs. Spending: Why Progressives Should Care How the Stimulus is Delivered](http://www.huffingtonpost.com/elizabeth-rigby/tax-credits-vs-spending-w_b_155389.html)”, Huffington Post, 1-5, http://www.huffingtonpost.com/elizabeth-rigby/tax-credits-vs-spending-w\_b\_155389.html)

Considering these features, it is likely that Obama's use of tax expenditures for nearly half of the stimulus package is likely to ease enactment of the program by making bipartisan agreement easier due to the hidden costs (#1), the potential for quick and efficient implementation due to the automatic nature of program (#4), the lack of government administration (#5), and the ability to enact a tax expenditure package without opening up the door to earmarks and pork that would raise the overall price tag (#3). In essence, this is as "small" as "big government" can be. As a result, the part of the stimulus delivered this way is likely to be less controversial and more efficiently administered.

#### B.) Tax incentives bypass appropriations- eliminates waste and budget battles

Rigby ‘9 (Elizabeth, Professor of Political Science – University of Houston, “[Tax Credits vs. Spending: Why Progressives Should Care How the Stimulus is Delivered](http://www.huffingtonpost.com/elizabeth-rigby/tax-credits-vs-spending-w_b_155389.html)”, Huffington Post, 1-5, http://www.huffingtonpost.com/elizabeth-rigby/tax-credits-vs-spending-w\_b\_155389.html)

Unlike spending programs which must be first authorized and then go through appropriations to receive actual funding, tax expenditures are created and funded by the same committee in each chamber of Congress. This cuts in half the number of veto points (times that an organized opposition can kill a proposed bill) and makes tax expenditures easier to pass. Further, the absence of an annual appropriations requirement produces a virtual entitlement program in which all eligible tax filers who claim the credit receive the benefit without the waiting lists or capped spending seen in most spending programs. And finally, by avoiding the appropriations stage, tax expenditure proposals pass through the Congressional process avoiding most of the earmarking that produces the "legislative pork" abhorred by most Americans. Since tax expenditures are typically legislated by formula rather than earmark, they remain "cleaner" with less waste.

#### **The tax credits just offset other existing tax credits**

Geman 10

Ben Geman. 07/21/10 http://thehill.com/blogs/e2-wire/677-e2-wire/110003-senate-looks-to-debate-something-on-energy-

“The Senate bill could include more than $20B in tax credits for renewable energy and efficiency. Because Congressional rules require tax incentives to be ‘paid for’ with increases in revenue, Democrats expect to rescind existing incentives for the oil and gas industry to offset the cost,” FBR notes.

### 2NC A2: Perm Do CP

#### **Perm do the counterplan is severance-**

#### **A.) ASPEC- the aff’s failure to specify the branch that enacts the plan in the plan makes any agent cp competitive- any alternative is aff conditionality which eliminates critical counterplan and politics DA ground**

#### B.) “Capital investment”- that means directly adding to the stock of investment- the plan cannot allow the uncertain financing of the counterplan

**Anderson 6** (Edward, Lecturer in Development Studies – University of East Anglia, et al., “The Role of Public Investment in Poverty Reduction: Theories, Evidence and Methods”, Overseas Development Institute Working Paper 263, March, http://www.odi.org.uk/resources/docs/1786.pdf)

1.3 Definitions

**We define** (net) public **investment as** public **expenditure that adds to the** public **physical capital stock. This would include** the **building** of **roads, ports, schools, hospitals etc. This corresponds to the definition of** public **investment in national accounts data, namely, capital expenditure**. It is not within the scope of this paper to include public expenditure on health and education, despite the fact that many regard such expenditure as investment. Methods for assessing the poverty impact of public expenditure on social sectors such as health and education have been well covered elsewhere in recent years (see for example, van de Walle and Nead, 1995; Sahn and Younger, 2000; and World Bank, 2002).

And, that also means topical plans must **add new** infrastructure- if the plan is only repairs it’s not topical

**Law Depot 8** (“Capital Expenditure”, 2-6, http://wiki.lawdepot.com/wiki/Capital\_Expenditure)

Definition of "Capital Expenditure"

**Capital expenditure is money spent to acquire or upgrade** (improve) **long term assets** such as property, buildings and machinery. **Capital expenditure does not include the cost to merely repair such assets**.

#### **Independent reason to vote neg- new infrastructure is key to unique disadvantages. Repairs allow the Aff to spend to maintain the squo**

#### **C.) Federal government- the plan has the federal government initiate the upgrades to the locks, the counterplan requires the states to do the upgrades**

**The neg gets to define the scope of the plan’s mandates- it’s critical to deter vague plan writing that eliminates all competitive counterplan ground**

### **2NC A2: Perm Do Both**

#### Perm do both links to the net benefit or its severance- it still requires the federal government to do capital investment in waterways, which means that the government will actually do the upgrades themselves- the counterplan doesn’t have that requirement- it’s the reason the aff links to the net benefit