

DEPARTMENT OF STATE  
WASHINGTON

PERMIT

NUMBER: 97-01  
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**AUTHORIZING THE BROWNSVILLE NAVIGATION DISTRICT TO  
CONSTRUCT, OPERATE, AND MAINTAIN TWO INTERNATIONAL BRIDGES,  
THEIR APPROACHES AND FACILITIES AT THE INTERNATIONAL  
BOUNDARY BETWEEN THE UNITED STATES AND MEXICO**

By virtue of the authority vested in me as Under Secretary of State for Economic, Business and Agricultural affairs under Executive Order 11423 of August 16, 1968, 33 Fed. Reg. 11741 (1968); as amended by Executive Order 12847 of May 17, 1993, 58 Fed. Reg. 29511 (1993); the International Bridge Act of 1972 (86 Stat. 731; 33 U.S.C. § 535 et seq.); and Department of State Delegation of Authority number 118-1 of April 11, 1973; having considered the environmental effects of the proposed action in accordance with the National Environmental Policy Act of 1969 Stat. 852; 42 U.S.C. § 4321 et seq.) and other statutes related to environmental concerns; having considered the proposed action in accordance with the National Historic Preservation Act (80 Stat. 917, 16 U.S.C. § 470f et seq.), and having requested and received the views of various of the Federal Departments and other interested persons; I hereby grant permission, subject to the conditions herein set forth, to the Brownsville Navigation District (hereinafter referred to as "permittee"), to construct, operate and maintain two new international bridges, one for vehicular traffic and one for railroad traffic, between the City of Brownsville, Cameron County, Texas and Matamoros, Tamaulipas, Mexico, at about Mile 24 on the Rio Grande River.

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The term "facilities" as used in this permit means each bridge, its approaches and any land, structures or installations appurtenant thereto.

The term "United States facilities" as used in this permit means that part of the facilities in the United States.

This permit is subject to the following conditions:

Article 1. The United States facilities herein described, and all aspects of their operation, shall be subject to the conditions, provisions, and requirements of this permit or any amendment thereof; further, that this permit may be terminated at the will of the Secretary of State of the United States or the Secretary's delegate or may be amended by the Secretary of State or the Secretary's delegate at will or upon proper application therefor; further, that the permittee shall make no substantial change in the location of the United States facilities or in the operation authorized by this permit until such change has been approved by the Secretary of State or the Secretary's delegate.

Article 2. (1) Standards for, and manner of, the construction, operation and maintenance of the United States facilities shall be subject to inspection and approval by the representatives of appropriate Federal or state agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

(2) Approval of the Secretary of Transportation shall be obtained prior to initiation of construction, in conformity with the first section of the Act of March 23, 1906 (33 U.S.C. § 491) and Section 5 of the International Bridge Act of 1972 (33 U.S.C. § 535c).

Article 3. The permittee shall comply with all applicable Federal and state laws and regulations regarding the construction, operation and maintenance of the United States facilities, and with all applicable industrial codes.

Article 4. Upon the termination, revocation or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the United States facilities in the immediate vicinity of the international boundary shall be removed by and at the

expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove this portion of the United States facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed at the expense of the permittee; and that the permittee shall have no claim for damages by reason of such possession or removal.

Article 5. If, in the future, it should appear to the Secretary of Transportation that any facilities or operations permitted hereunder cause unreasonable obstructions to the free navigation of any of the navigable waters of the United States, the permittee may be required, upon notice from the Secretary of Transportation, to remove or alter such of the facilities as are owned by it so as to render navigation through such waters free and unobstructed.

Article 6. This permit and the operation of the United States facilities hereunder shall be subject to the limitations, terms and conditions in any regulations or orders issued by any competent agency of the United States Government, including but not limited to the Department of Transportation and the United States Section of the International Boundary and Water Commission (USIBWC). This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in exact accordance with such limitations, terms and conditions.

Article 7. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States Government shall have the right to enter upon and take possession of any of the United States facilities or parts thereof; to retain possession, management or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such United States facilities upon the basis of a reasonable profit in normal conditions, and the cost of restoring said facilities to as

good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 8. Any transfer of ownership or control of the United States facilities or any part thereof shall be immediately notified in writing to the United States Department of State, including the submission of a proper identification by the transferee. This permit shall remain in force subject to all the conditions, permissions and requirements of this permit and any amendments thereof unless terminated or amended by the Secretary of State or the Secretary's delegate.

Article 9. (1) The permittee shall acquire such right-of-way grants, easements, permits and other authorizations as may become necessary and appropriate.

(2) The permittee shall hold harmless the United States from any claimed or adjudged liability arising out of the construction, operation or maintenance of the facilities.

(3) The permittee shall maintain the United States facilities and every part thereof in a condition of good repair for their safe operation.

Article 10. The permittee shall construct and donate to the General Services Administration, at no cost to the Federal Government, permanent inspection facilities that are adequate and acceptable to the General Services Administration and the Federal Inspection Agencies. The permittee shall also donate a minimum of 40 acres of land to the General Services Administration to accommodate these facilities. It is understood that the facilities and acreage are not fully defined at this time. The permanent inspection facilities shall be made available to the Federal Inspection Agencies coincident with the opening of the international crossings. It is understood that temporary facilities will not be used. In providing the inspection facilities, the permittee shall fully comply with all National Environmental Policy Act and National Historic Preservation Act mitigation provisions and stipulations.

Article 11. The permittee shall take all appropriate measures to prevent or mitigate adverse environmental impacts or disruption of significant archaeological or historical resources in connection with the construction, operation and maintenance of the United States facilities. The permittee shall submit to the United States Section of the International Boundary and Water Commission the plans approved by the Texas Natural Resource Conservation Commission for sewage collection and treatment facilities, and their discharge limitations, along with any plans approved by the Texas Natural Resource Conservation Commission regarding water rights for water diversion facilities in the Rio Grande.

Article 12. The permittee shall submit to the United States Section of the International Boundary and Water Commission for review by that Commission any conceptual and final levee relocation plan which may form a part of the international bridge proposal. The permittee shall comply with any appropriate changes required by the USIBWC and also arrange for transfers of lands, rights-of-way and other works proposed as part of the new bridge construction and levee relocation plan.

Article 13. The Permittee shall designate the United States facilities as a commercial-cargo crossing only. Pedestrian traffic is not allowed without the express advance permission of the Federal Inspection Agencies and the Department of State.

Article 14. The Permittee acknowledges that the United States facilities shall constitute a designated hazardous materials crossing for the Brownsville area.

Article 15. The Permittee shall comply with the conditions of the Programmatic Agreement executed on April 30, 1992 between the Department of State, the Texas State Historic Preservation Officer (SHPO), the Texas Department of Transportation, the Advisory Council on Historic Preservation and the Permittee. In addition, the Permittee shall notify the United States Coast Guard and the Texas Historical Commission in the event historic or archaeological resources are uncovered during the course of construction activity and such construction activity

shall cease in the immediate vicinity of those resources while the Navigation District prepares documentation required by Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, and Section 303 [formerly 4(f)] of the Department of Transportation Act, 49 U.S.C. 303 to address particular sites directly impacted by the project which as a result of archeological excavation are identified as requiring in situ preservation.

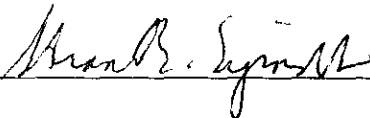
Article 16. The permittee shall comply with all agreed actions and obligations undertaken to be performed by it in the Presidential Permit application and Environmental Assessment dated October 10, 1991, and in the August, 1995, and March, 1997, addenda to the 1991 application and Environmental Assessment. The Environmental Assessment includes the draft Environmental Assessment dated October 10, 1991, all comments submitted by agencies, the response to those comments, and all correspondence between agencies and the permittee addressing agencies' concerns, and the Department of State's summary prepared on October 9, 1997. Construction of the United States facilities shall be performed in conformity with the proposal contained in the application dated August, 1995, the final Environmental Assessment, and other conditions as established in this Permit.

Article 17. The permittee shall file with the appropriate agencies of the Government of the United States such statements or reports under oath with respect to the United States facilities, and/or permittee's actions in connection therewith, as are now or may hereafter be required under any laws or regulations of the Government of the United States or its agencies.

Article 18. The permittee shall not begin construction until obtaining authorization from the Governments of the United States and of Mexico through the exchange of diplomatic notes. The permittee shall send notice to the Department of State at such time as the construction authorized by this Permit is begun, and again at such time as construction is completed, interrupted, or discontinued.

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IN WITNESS THEREOF, I, Stuart E. Eizenstat, Under Secretary of State for Economic, Business and Agricultural Affairs, have hereunto set my hand this 12<sup>th</sup> day of October, 1997, in the City of Washington, District of Columbia.

  
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In accordance with Section 1 (f) of Executive Order 11423, as amended, this permit is effective on November 3, 1997, as no notifications of disagreement were received within the prescribed fifteen-day period.