

# PERMIT

05-01

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AUTHORIZING THE COUNTY OF EL PASO, TEXAS,  
TO CONSTRUCT, OPERATE AND MAINTAIN AN  
INTERNATIONAL BRIDGE, ITS APPROACHES AND FACILITIES, AT THE  
INTERNATIONAL BOUNDARY BETWEEN  
THE UNITED STATES AND MEXICO

By virtue of the authority vested in me as Assistant Secretary of State for Economic and Business Affairs, pursuant to Department of State Delegation number 340 from the Secretary of State dated March 3, 2005, to exercise, to the extent authorized by law, all authorities vested in the Under Secretary of State for Economic, Business and Agricultural Affairs, including those authorities under Executive Order 11423, 33 Fed. Reg. 11741 (1968); as amended by Executive Order 12847 of May 17, 1993, 58 Fed. Reg. 29511 (1993), Executive Order 13284 of January 23, 2003, 68 Fed. Reg. 4075 (2003) and Executive Order 13337 of April 30, 2004, 69 Fed. Reg. 25299 (2004); 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 (83 Stat. 852; 42 U.S.C. § 4321 et seq.) and other statutes relating 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 County of El Paso, Texas (hereinafter referred to as "permittee"), to construct, operate and maintain an international bridge (the proposed "Tornillo-Guadalupe New International Bridge") southeast of El Paso, Texas, approximately 1,950 feet upstream from the existing Fabens-Caseta Bridge (also known as the Tornillo-Guadalupe Bridge in the International Boundary and Water Commission historic records), near the small community of Caseta that is within the municipality of Guadalupe in the State of Chihuahua, Mexico. The

proposed Tornillo International Bridge will facilitate passenger vehicles, commercial trucks, and pedestrian traffic.

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The term “facilities” as used in this permit means the bridge, its approaches and any land, structure or installations appurtenant thereto, as set forth in Alternative Site No. 3 in the “Discussion Draft Environmental Assessment Document for the Proposed Tornillo-Guadalupe New International Bridge, Border Facilities, and Associated Major Arterial Roadway” dated December 2002, as amended and supplemented by the Department of State (the “EA”). The term “facilities” does not include the Border Station Inspection Facilities, which only the Administrator of the General Services Administration has authority to construct.

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 all the conditions, provisions and requirements of this permit and any amendment thereof; further that this permit may be terminated at the will of the Secretary of State 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 changes have been approved by the Secretary of State or the Secretary’s delegate.

Article 2. (1) Standards for, and the 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 United States Coast Guard in conformity with Section 5 of the International Bridge Act of 1972 (33 U.S.C. § 535C), by virtue of authority delegated to the Commandant, U.S. Coast Guard by Department

of Homeland Security Delegation Number 0170.1, shall be obtained prior to initiation of construction.

Article 3. The permittee shall comply with all 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 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 United States Coast Guard and the Secretary of Homeland Security or the Secretary's delegate 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 Homeland Security or the Secretary's delegate, to remove or alter such 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 issued by any competent agency of the United States Government, including but not limited to the United States Coast Guard, the Department of Homeland Security 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 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. In the event of transfer of ownership of the United States facilities or any part thereof, this permit shall continue in effect temporarily for a reasonable time pending submission of a proper application by the transferee for a new and permanent permit, provided that notice of such transfer is given promptly in writing to the Department of State accompanied by a statement by the transferee under oath that the United States facilities and the operation and maintenance thereof authorized by this permit will remain substantially the same as before the transfer pending issuance to the transferee of a new and permanent permit.

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

(2) The permittee shall save 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. (1) The permittee shall provide fee simple title to a 100-acre tract of land, at no cost to the U.S. Government, that is suitable for location of the border station inspection facilities to be designed, constructed, and owned by the General Services Administration. The tract must be adequate and acceptable to the GSA, environmentally compliant, and construction ready.

(2) The border station inspection facilities used by agencies of the United States Government shall be owned by the GSA.

(3) The permittee shall fully comply with all National Environmental Policy Act and National Historic Preservation Act mitigation provisions and stipulations for transfer of the site to the GSA.

Article 11. (1) The permittee shall take all appropriate measures to prevent or mitigate adverse environmental impacts or disruption of significant archeological resources in connection with the construction, operation and maintenance of the United States facilities, including those measures set forth in the EA and in the Department's Finding of No Significant Impact dated July XX, 2004.

(2) Before beginning construction the permittee shall: conclude satisfactory arrangements with appropriate federal and state agencies that will provide the assurance to the USIBWC that the bridge and associated facilities will not in any way present an obstruction or deflection to the normal flows or flood flows designated by the USIBWC in the reach of the international part of the Rio Grande; acquire the appropriate permits and licenses from the USIBWC for crossing the levee; and, obtain the concurrence of the U.S. Commissioner of the USIBWC that the project is consistent with the terms of boundary and water treaties between the United States and Mexico and other international agreements in force.

Article 12. The permittee shall comply with the conditions of the Programmatic Agreement executed on November 5, 2004 between the Department of State, the Texas State Historic Preservation Officer, and the permittee. In addition, the permittee shall notify the Department of State and the Texas Historical Commission in the event historic or archaeological resources are discovered during the course of construction activity, and the permittee shall cease such construction activity in the immediate vicinity of those resources while preparing 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 that are identified as requiring in situ preservation.

Article 13. The permittee shall comply with all agreed actions and obligations undertaken to be performed in the Application for a Presidential Permit, dated April 2003, and the "Discussion Draft Environmental Assessment Document for the Proposed Tornillo-Guadalupe New International Bridge, Border Facilities, and Associated Major Arterial Roadway" dated December 2002, as amended and supplemented by the Department of State.

Article 14. The permittee, working with appropriate federal, state and local agencies, shall insure that all support infrastructure, including the major arterial

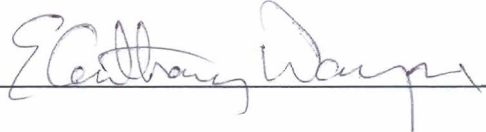
roadway and any required commercial vehicle and driver safety inspection facility and required inspection personnel, are in place before the bridge is opened to commercial truck and bus traffic (as defined in 49 CFR 390.5).

Article 15. The permittee shall pay for the removal of the United States portion of the Fabens-Caseta Bridge, to include any environmental and historic preservation mitigation requirements, said removal to take place 6 months after the Tornillo-Guadalupe New International Bridge is open and in operation.

Article 16. The permittee shall file with the appropriate agencies of the United States Government 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 United States Government or its agencies.

Article 17. The permittee shall provide written 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.

IN WITNESS WHEREOF, I, E. Anthony Wayne, Assistant Secretary of State for Economic and Business Affairs of the United States, have hereunto set my hand this 16<sup>th</sup> day of March, 2005 in the City of Washington, District of Columbia.



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