
AUTHORIZING THE COUNTY OF CAMERON, 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 Under Secretary of State for Economic, Business, and Agricultural Affairs 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 Cameron, Texas (hereinafter referred to as "permittee"), to construct, operate and maintain a new international railroad bridge (the proposed "Brownsville West Rail Bypass International Bridge"), at about mile 70.2 on the Rio Grande, west of Brownsville, Texas and approximately 15 miles from the existing B&M international rail bridge in downtown Brownsville.

* * * * *

The term "facilities" as used in this permit means the bridge, its approaches and any land, structure 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 all the conditions, provisions and requirements of this permit and any amendment thereof. 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 therefore. 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) The 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 from the Secretary of the Department of Homeland Security (DHS) to the Commandant, U.S. Coast Guard in DHS Delegation Number 0170.1, shall be obtained prior to initiation of construction.

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. The permittee shall obtain the requisite permits from the relevant Mexican authorities as well as from the relevant state and local government entities and relevant federal agencies.

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 or 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 United States Coast Guard or 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, the General Services Administration, 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. 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 for approval, including identification of the transferee. In the event of such transfer of ownership or control, the permit shall remain in force and the United States facilities shall be subject to all the conditions, permissions, and requirements of this permit and any amendments thereof.

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 and indemnify 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 fund the removal of the Rail-Vehicle and Cargo Inspection Systems (VACIS) Gamma Ray machine at the existing B&M international rail bridge and its relocation and installation at the new international rail bridge crossing at a site mutually agreed upon by the permittee, the General Services Administration, and U.S. Customs and Border Protection (CBP) of the DHS. The permittee shall provide to CBP, at no cost to the federal government, facilities for the VACIS, to include office space for CBP personnel, restrooms, parking area, utilities, and an access road.

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 mitigation measures set forth in the Final Environmental Assessment and in the Department's Finding of No Significant Impact (FONSI) dated June 18, 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 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 19 August 2004 between the Department of State, the Texas State Historic Preservation Officer, the Advisory Council on

Historic Preservation, 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 June 2003, in the Final Environmental Assessment, and in the FONSI, dated June 18, 2004. The Final Environmental Assessment includes the “Draft Environmental Assessment Document for the Proposed Brownsville-Matamoros West Rail Bypass Plan” dated June 2003, all comments submitted by agencies on that document, the responses to those comments, and all correspondence between agencies and the permittee addressing agencies’ concerns.

Article 14. 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 15. The permittee shall not begin construction until it has obtained authorization for such construction from the Government of the United States and from the Government of Mexico through the exchange of diplomatic notes. 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.

Article 16. The new international rail bridge shall not be opened to rail traffic until the existing B&M international rail bridge in downtown Brownsville has been permanently closed to rail traffic and the VACIS relocated to the new international rail bridge crossing.

IN WITNESS WHEREOF, I, Alan Larson, Under Secretary of State for Economic, Business and Agricultural Affairs of the United States, have hereunto set my hand this 1st day of October, 2004 in the City of Washington, District of Columbia.

Alan Larson