

PRESIDENTIAL PERMIT

Authorizing the General Services Administration
to Construct, Operate, and Maintain
a Vehicular and Pedestrian Border Crossing
Called "Otay Mesa East"
near San Diego, California,
at the International Boundary between the United States and Mexico

By virtue of the authority vested in me as Deputy Secretary of State under Executive Order 11423, 33 FR 11741 (1963), as amended by Executive Order 12847 of May 17, 1993, 58 FR 29511 (1993), Executive Order 13284 of January 23, 2003, 68 FR 4075 (2003), and Executive Order 13337 of April 30, 2004, 69 FR 25299 (2004) and Department of State Delegation of Authority 245 of April 23, 2001; having considered the environmental effects of the proposed action in accordance with the National Environmental Policy Act of 1969, as amended (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 of 1966, as amended (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 United States General Services Administration (GSA) (hereinafter referred to as the "permittee"), to construct, operate, and maintain a new commercial vehicle, passenger vehicle, and pedestrian land border crossing (hereinafter referred to as "Otay Mesa East"), approximately two miles east of the existing Otay Mesa border crossing near San Diego, California.

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The term "facilities" as used in this permit means the facilities proposed to be constructed at the Otay Mesa East border crossing near San Diego, California. These facilities are likely to consist of the following improvements and structures:

- Inspection and X-Ray Facilities

- Containment Areas and Docks
- Commercial Inspection Building with Import and Export Docks
- Export Inspection
- Main Administrative Building with Pedestrian Facilities
- Entry and Exit Control Booths and related improvements
- Roadways and related Infrastructure, Pathways, Parking Lots, and related Lots
- Landscaping
- Ancillary Support Facilities
- Commercial Cargo and Passenger Vehicle lanes
- Related Improvements and Infrastructure

The term “Tier 1 environmental document” as used in this permit refers to the programmatic or first tier environmental impact statement that establishes the preferred corridor of State Route 11 and the preferred site of the Otay Mesa East border crossing.

The term “Tier 2 environmental document” as used in this permit refers to the second tier environmental impact statement or environmental assessment to be prepared after the issuance of this permit and before any construction may begin that will identify more detailed project-specific effects and mitigation measures.

This permit is subject to the following conditions:

Article 1. The 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 upon a determination of the Executive Branch that the Otay Mesa East border crossing shall be closed. This permit may be amended by the Secretary of State or the Secretary's delegate in consultation with the permittee and, as appropriate, other Executive Branch agencies; the permittee's obligation to implement such an amendment is subject to the availability of funds. The permittee shall make no substantial change in the location of the 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. The permittee shall comply with all applicable federal laws and regulations regarding the construction, operation, and maintenance of the facilities. Further, the permittee shall comply with nationally recognized codes to the extent required under 40 U.S.C. 3312(b). The permittee shall cooperate with state and local officials to the extent required under 40 U.S.C. 3312(d).

Article 3. In the event that the Otay Mesa East border crossing is permanently closed and is no longer used as an international crossing, this permit shall terminate and the permittee may manage, utilize, or dispose of the facilities in accordance with its statutory authorities.

Article 4. As authorized by applicable federal laws and regulations, the permittee is a federal agency that is responsible for managing and operating the existing Otay Mesa border crossing and, upon acceptance of the facilities by the United States of America, the Otay Mesa East border crossing. This permit shall continue in full force and effect for only so long as the permittee shall continue the operations hereby authorized.

Article 5. This Article applies to transfer of the facilities or any part thereof as an operating land border crossing. The permittee shall immediately notify the United States Department of State ("Department") of any decision to transfer custody and control of the facilities or any part thereof to any other agency or department of the United States Government. Said notice shall identify the transferee agency or department and seek the approval of the Department for the transfer of the permit. In the event of approval by the Department of such transfer of custody and control to another agency or department of the United States Government, the permit shall remain in force and effect, and the facilities shall be subject to all the conditions, permissions and requirements of this permit and any amendments thereof. The permittee may transfer ownership or control of the facilities to a non-federal entity or individual only upon the prior express approval of such transfer by the Department, which approval may include such conditions, permissions and requirements that the Department, in its discretion, determines are appropriate and necessary for inclusion in the permit, to be effective on the date of transfer.

Article 6. (1) The permittee or its agent shall acquire such right-of-way grants or easements and permits as may become necessary and appropriate.

(2) The permittee shall maintain the facilities and every part thereof.

Article 7. (1) The permittee shall take, or cause to be taken, 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 facilities, including those mitigation measures identified in both the Tier 1 and Tier 2 environmental documents, but only to the extent

incorporated into either a Record of Decision (ROD) or Finding of No Significant Impact (FONSI) to be issued by the permittee regarding the Otay Mesa East border crossing. In preparing its ROD or FONSI, the permittee shall consult with appropriate officials of the Federal Highway Administration (FHWA) and the permittee shall consider the mitigation measures recommended in the FHWA ROD.

(2) The permittee may make no irreversible change to the physical environment based upon this permit until it has received approval from the Department to proceed with construction, as provided in Article 9.

(3) Before issuing, or causing the issuance of, the notice to proceed for construction, the permittee shall obtain the concurrence of the United States Section of the International Boundary and Water Commission.

Article 8. The permittee shall file any applicable statements and reports that might be required by applicable federal law in connection with this project.

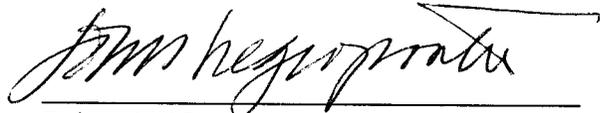
Article 9. The permittee shall not issue, nor cause to be issued, a notice to proceed for construction work until the Department has provided notification to the permittee that: (1) the Department has concluded, based on its review of the Tier 1 and Tier 2 environmental documents and the permittee's ROD or FONSI, that the continuation of this permit is in the U.S. national interest; and (2) the Department has completed its exchange of diplomatic notes with the Government of Mexico regarding authorization of construction. If the Department concludes that the continuation of this permit is not in the national interest of the United States following its review of the environmental documents, including the permittee's ROD or FONSI, the Department shall revoke this permit. The permittee shall provide written notice to the Department at such time as the construction authorized by this permit commences, and again at such time as construction is completed, interrupted for more than ninety days or discontinued.

Article 10. This permit is not intended to, and does not, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, in their individual or official capacities, or any other person. The issuance of this permit does not create any obligation on the part of the permittee or the United States of America to construct, operate, maintain, or accept the donation of all or any portion of the Otay Mesa East border crossing;

provided, however, if the permittee does operate the facilities then it will do so in accordance with the terms and conditions of this permit.

Article 11. This permit shall expire ten years from the date of issuance in the event that the permittee neither has issued nor caused to be issued the notice to proceed for construction activities.

IN WITNESS WHEREOF, I, John D. Negroponte, Deputy Secretary of State, have hereunto set my hand this 20th day of November, 2008, in Washington, District of Columbia.



John D. Negroponte
Deputy Secretary of State