

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 the Secretary of State by Executive Order 11423, [33 FR 11741](#) (1968); 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 delegated to the Under Secretary of State for Political Affairs pursuant to Department of State Delegation of Authority 118-2 of January 26, 2006; having considered the environmental effects of the proposed action consistent 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 consistent with the National Historic Preservation Act of 1966, as amended (80 Stat. 917, [16 U.S.C. 470f et seq.](#)); taking into account the Existing Permit issued to the General Services Administration on November 20, 2008 (“Existing Permit”); 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 General Services Administration (hereinafter referred to as “permittee”), to construct, operate, and maintain a new commercial vehicle, passenger vehicle, and pedestrian land border crossing (hereinafter referred to as Otay Mesa East POE) approximately two miles east of the existing Otay Mesa border crossing near San Diego, California.

The term “facilities” as used in this permit means the facilities proposed to be constructed at the Otay Mesa East POE near San Diego, California. These facilities are likely to consist of the following improvements and structures, as described in the California Department of Transportation's (Caltrans) November 22, 2017 application for a Presidential permit (the “Application”).

- 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
- Fiber Optic Cables
- Related Improvements and Infrastructure

This permit is subject to the following conditions:

Article 1. (1) The U.S. 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 U.S. 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.

(2) The construction, operation, and maintenance of the facilities shall be in all material respects as described in the Application and, to the extent not inconsistent with that Application, the application for Existing Permit.

Article 2. The standards for, and the manner of, the construction, operation, and maintenance of the U.S. facilities shall be subject to inspection and approval by the representatives of appropriate federal, state, and local 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.

Article 3. The permittee shall comply with all applicable federal, state, and local laws and regulations regarding the construction, operation, and maintenance of the U.S. facilities and with all applicable industrial codes. The permittee shall obtain all requisite permits from the relevant Mexican authorities as well as from the relevant state and local government entities and relevant federal agencies.

Article 4. In the event that the Otay Mesa East POE 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 5. 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 POE. This permit shall continue in full force and effect for only so long as the permittee shall continue the operations hereby authorized.

Article 6. 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 Secretary, in his discretion, determines are appropriate and necessary for inclusion in the permit, to be effective on the date of transfer.

Article 7. (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 U.S. facilities and every part.

(3) Before issuing, or causing the issuance of, the notice to proceed for construction, the permittee or its agent shall obtain the concurrence of the U.S. 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 take all appropriate measures to prevent or mitigate adverse environmental impacts or disruption of significant archeological resources in connection with the operation and maintenance of the U.S. facilities, including those mitigation measures set forth in the 2007 Programmatic Environmental Tier I EIR/EIS and the 2012 Tier II Final EIR/EIS.

Article 10. The permittee shall not begin construction until it has been informed that the Government of the United States and the Government of Mexico have exchanged diplomatic notes confirming that both governments authorized the commencement of construction of the new POE.

Article 11. The permittee shall provide written notice to the Department at such time as the construction authorized by this permit has begun and again at such time as construction is completed, interrupted for more than 90 days, or discontinued.

Article 12. 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, fund, or accept the donation of all or any portion of the Otay Mesa East POE; 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 13. This permit shall expire 10 years from the date of issuance in the event that the permittee has neither issued nor caused to be issued the notice to proceed for construction activities.

In witness whereof, I, Under Secretary of State for Political Affairs, have hereunto set my hand this 19 day of November 2018, in the City of Washington, District of Columbia.

David Hale,

Under Secretary of State for Political Affairs