

of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2009-99 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2009-99. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File

Number SR-ISE-2009-99 and should be submitted on or before December 30, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. E9-29241 Filed 12-8-09; 8:45 am]

**BILLING CODE 8011-01-P**

#### DEPARTMENT OF STATE

##### [Delegation of Authority No. 328 ]

##### **Re-Delegation From the Deputy Secretary of State for Management and Resources of the Authorities of the Inspector General and the Assistant Secretary for International Security and Nonproliferation**

By virtue of the authority vested in the Secretary of State by the laws of the United States, including 22 U.S.C. 2651a, and delegated to me by Delegation of Authority 245-1, dated February 13, 2009, I hereby delegate to the following officials, to the extent authorized by law, all authorities vested in the specified positions, including all authorities vested in the Secretary of State that may have been or may be delegated or re-delegated to those positions:

- To Principal Deputy Assistant Secretary Vann Van Diepen, the authorities of the Assistant Secretary for International Security and Nonproliferation.
- To Deputy Inspector General Harold W. Geisel, the authorities of the Inspector General.

Any authorities covered by this delegation may also be exercised by the Secretary, the Deputy Secretary, and the Deputy Secretary for Management and Resources. Nothing in this delegation of authority shall be deemed to supersede any existing delegation of authority, which shall remain in full force and effect.

This delegation shall expire upon the appointment and entry upon duty in each specific case of an individual to serve in the respective position.

This memorandum shall be published in the **Federal Register**.

Dated: November 24, 2009.

**Jacob J. Lew,**

*Deputy Secretary of State for Management and Resources, Department of State.*

[FR Doc. E9-29340 Filed 12-8-09; 8:45 am]

**BILLING CODE 4710-10-P**

<sup>11</sup> 17 CFR 200.30-3(a)(12).

#### DEPARTMENT OF STATE

##### [Public Notice 6834]

##### **Review of Unused Presidential Permit: Port of Brownsville (Texas) International Bridges**

**SUMMARY:** More than 12 years ago, the Department of State issued to the Brownsville Navigation District, a Presidential permit for two new international bridges, one for vehicular traffic and one for railroad traffic, between Brownsville, Texas, and Matamoros, Tamaulipas, Mexico. To date, the permit remains unused. The Department and other federal agencies are currently evaluating whether to revoke, modify, or retain as written this long-unused permit given the change of circumstances in the project area, development of nearby projects, inaction by the permittee, and apparent lack of interest in pursuing the corresponding projects in Mexico. The review is not a judgment regarding either the need for a new bridge or the merits of the Brownsville Navigation District's plan, but rather represents a recognition that the project for which this permit was issued has gone unimplemented longer than similar projects and, due to the passage of time, may no longer be viable. The Brownsville Navigation District provided a project status update, which is included in the Supplementary Information section below.

**DATES:** Interested members of the public are invited to submit written comments regarding this permit review on or before February 8, 2010 to Mr. Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator, via e-mail at [WHA-BorderAffairs@state.gov](mailto:WHA-BorderAffairs@state.gov), or by mail at WHA/MEX—Room 3909, Department of State, 2201 C St., NW., Washington, DC 20520.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator, via e-mail at [WHA-BorderAffairs@state.gov](mailto:WHA-BorderAffairs@state.gov); by phone at 202-647-9894; or by mail at Office of Mexican Affairs—Room 3909, Department of State, 2201 C St., NW, Washington, DC 20520. Information about Presidential permits is available at <http://www.state.gov/p/wha/rt/permit/>.

**SUPPLEMENTARY INFORMATION:** Executive Order 11423 of August 16, 1968, as amended, authorizes the Secretary of State to issue Presidential permits for the construction, connection, operation, and maintenance of facilities crossing the international borders of the United States, including, but not limited to, bridges and pipelines connecting the United States with Canada or Mexico. In

order to issue a Presidential permit, the Secretary or her delegate must find that a border crossing is in the U.S. national interest. Within the context of appropriate border security, safety, health, and environmental requirements, it is in the U.S. national interest to facilitate the efficient movement of legitimate goods and travelers across U.S. borders.

Since 1968, the Department has issued 21 Presidential permits for non-pipeline border crossings on the U.S.-Mexico border and one for the U.S.-Canada border. Of the 21 U.S.-Mexican border projects that have received permits, most began construction within two to five years. The Presidential permit process, which emphasizes interagency and binational coordination, is designed to ensure that border crossings are built if, and only if, there is clear local, binational, and interagency support for the project and construction is in the U.S. national interest. It is not in the U.S. national interest to commit scarce government resources (*e.g.*, Customs and Border Protection inspectors, highway improvement funds, etc.) as well as private resources (*e.g.*, land, capital, etc.) for border crossing projects that cannot be successfully implemented within a reasonable time period. While the Department may find a project to be in the U.S. national interest under a certain set of circumstances, those circumstances may change over time so that, five or ten years later, the Department may conclude that the project is no longer in the national interest or the relevant agencies may reconsider their recommendations on the Department's initial grant of the permit. The border region is dynamic and fast-changing and it is important that an outdated permit not be used to build a border crossing on a site that is no longer appropriate due to the passage of time (*e.g.*, due to changes in transportation patterns, development patterns, etc.). At the same time, the Department recognizes that, by their nature, border crossing projects are complex, time consuming, and subject to political, financial, regulatory, and logistical setbacks.

In this review, the Department of State seeks public input on whether to revoke, modify, or retain as written the Presidential permit that it issued in 1997 to the Brownsville Navigation District for an international rail and vehicular bridge. Interested members of the public are invited to submit written comments, as set forth above.

The following is the text of a statement that the Brownsville Navigation District submitted on

September 1, 2009, to the Department, providing its initial input to this review process.

Begin text.

The Brownsville Navigation District submits to the United States Department of State this statement in support of the Port of Brownsville International Bridges project in response to the August 7, 2009, request by U.S.-Mexico Border Affairs Coordinator Daniel D. Darrach. The Brownsville Navigation District welcomes this opportunity to reaffirm its commitment to the construction and operation of these international bridges. This statement will review the reasons that initially led the Brownsville Navigation District to seek a Presidential permit for the project and it will explain why the need for the bridges remains unchanged. It will recount the steps that the Brownsville Navigation District has taken and will take to implement this project, which is vital to the region.

#### Background

The Brownsville Navigation District is a political subdivision of the State of Texas. It is guided by a Board of Commissioners whose members are elected by the local citizenry. The Brownsville Navigation District governs the Port of Brownsville.

The Port of Brownsville has been in operation since 1936. The Port is located at the western terminus of the Brownsville Ship Channel, a 1,200-foot-wide waterway that extends 17 miles to the Gulf of Mexico [map omitted]. The Port is both a deep-water seaport, serving world-wide shipping and also the western terminus of the U.S. Inland Waterway System. The Port owns more than 40,000 acres of property, with infrastructure already in place on 5,000 acres. It owns and operates ten transit warehouses totaling more than 720,000 square feet of storage space. In addition, there are 80 acres of surfaced open storage available. The Port has 12 cargo docks, four oil docks and one liquid dock. For 25 years, it has operated the Brownsville & Rio Grande International Railroad, with 48 miles of track. In addition, the Port operates a Free Trade Zone (FTZ #62) that encompasses 2,000 acres of Port property and also has sites at local airports and industrial parks.

The Port of Brownsville provides excellent rail, truck and maritime infrastructure to facilitate the intermodal movement of goods between Mexico and the United States. It is the principal economic engine of the region. It is utilized by more than 270 companies with more than 8,000 employees, making it the region's leading employer. In 2008, it handled

more than 1,100 vessels carrying 6.3 million metric tons of cargo. On land, it handled more than 30,000 rail cars, 29,000 overweight trucks and 200,000 other trucks. Its overall economic value was estimated at \$2.8 billion, and it generated \$130 million in federal taxes and \$44 million in state and local taxes. Its importance in an economically distressed area (the second poorest county in the United States) cannot be overstated.

A large percentage of the products passing through the Port of Brownsville either originate in or are destined for Mexico. For example, one of the main commodities is steel that arrives by ship and is then transported across the border to Mexico's industrial heart in Monterrey, Nuevo Leon. In effect, the Port of Brownsville serves as the deep water port for both southern Texas and northeast Mexico; it helps integrate the binational regional economy as far inland as San Antonio and Monterrey, and even beyond.

The Brownsville Navigation District has long believed that the future growth of the Port of Brownsville—and the economic development of the region overall—could be enhanced significantly by creating direct truck and rail connections with Mexico. At the time of the submission of the application for a Presidential permit in 1991, there were serious issues that constrained both modes of transportation.

- Trucks traveling between the Port and the border crossing to Mexico at the Gateway Bridge were obligated to traverse congested urban sectors of Brownsville. Large numbers of loaded trucks were routinely moving through sensitive areas such as school zones, creating worrisome safety issues. Weight freight payload compliance with transportation regulations made the shipment of some products uneconomical. The border crossing and federal inspection facilities at the bridge were also heavily congested.

- Rail traffic between the Port and the railroad crossing at the B&M Bridge was compelled to use a 6-mile stretch of track owned by the Union Pacific Railroad Company. This left all traffic subject to whatever rates UP charged for the use of the line and whatever additional fees it charged for actually crossing the bridge. Port rail traffic also had an issue with access to the UP line; rail cars had to wait until UP worked them into the flow of its traffic to and from other destinations. The UP's disparate rates and fees and the uncertainty of access negatively affected the competitiveness of the Port.

The solution to these problems was to construct new commercial and rail bridges that would link the Port directly with the Mexican market.

### Current Situation

Mr. Darrach noted in his letter that the Department's current evaluation process considered "the change in circumstances in each of the project areas, including the development of nearby projects, inaction on the proposed projects, and lack of interest in pursuing the corresponding projects in Mexico." The Brownsville Navigation District would like to respond to each of these points.

In the 12 years since the Department issued the Presidential permit for the Port of Brownsville International Bridges, circumstances in the project area have changed considerably; HOWEVER, NONE OF THESE CHANGES DETRACT FROM THE ORIGINAL RATIONALE FOR BUILDING THE BRIDGES.

- For trucks, the principal development has been the opening of the Veterans International Bridge at Los Tomates. This provided a much-improved crossing with modern new facilities for the federal inspection agencies. Nevertheless, trucks traveling between the Port and Los Tomates are still obliged to traverse congested urban sectors of Brownsville. A significant number of these trucks are overweight, carrying products such as steel coils. If anything, the growth that has occurred in these areas makes them even more congested than they were when the permit was issued, raising the safety concerns still further. The local community is developing plans for an "East Loop" that would circle to the south and east of much of the urban area. If constructed, this would provide some temporary relief to the congestion and would improve safety. Any relief would be short-lived, however, as the urban area is already spreading in this direction, and in a decade or two, the congestion problem would arise again. The only long-term solution for trucks is a dedicated route from the Port directly south into Mexico that would totally remove Port truck traffic from heavily traveled and populated areas. It is worth noting that the Los Tomates Bridge was opened just a decade ago, and it already is in need of a second span to accommodate the much-faster-than-anticipated growth in commercial traffic. The Port truck bridge is a logical solution to a situation that is likely to occur in the foreseeable future when the traffic demand may exceed even the capacity of the new span at Los Tomates. It is worth noting that in

addition to alleviating roadway congestion and improving transportation safety and security, the truck bridge would also substantially lower emissions and reduce highway infrastructure repair costs.

- The West Rail Project has been the principal development for rail traffic. This project will be beneficial to the Brownsville community because it will relocate the UP line out of the downtown area to where it will connect to a new bridge to the west of the city. However, the West Rail Project will yield little benefit to Port rail traffic. Rail cars to and from the Port still will be subject to whatever disparate rates and noncompetitive fees UP may establish. They will also continue to face uncertain access to the UP line. Again, the solution remains a new dedicated rail bridge owned by the public linking the Port directly with Mexico.

Clearly the justification for the Port bridges remains as strong and valid as it was when the permit was issued in 1997.

The Port bridges will not negatively affect other nearby projects. They obviously are not an obstacle either to the expansion of the Los Tomates Bridge or to the building of the West Rail Project, as is demonstrated by the fact that both projects are moving forward quickly and will soon be under construction. Since the Port bridges will handle only commercial traffic, they will not hinder any new non-commercial crossing project that the local community might propose in the future. Finally, the geography of the area does not lend itself to any new border crossing projects being developed to the east of the Port bridges.

Since receiving the Presidential permit in 1997, the Brownsville Navigation District has taken numerous steps to advance the project. The District has expended \$4 million for engineering documents for the roadway and railway. It has also performed annual updates for the extensive environmental work originally performed for the project. Because of the political sensitivities surrounding the project, much of the progress the District has accomplished has been evolutionary in the form of steady but quiet, behind-the-scenes efforts to build the necessary alliances on both sides of the border.

The current Board of Commissioners of the Brownsville Navigation District is now redoubling its effort to advance the Port bridges project, beginning with a dialogue with officials from the City of Brownsville and Cameron County, including the Cameron County Mobility

Authority. [Exhibits omitted.] In these conversations, the Board makes clear that is prepared to be quite flexible in the search for ways in which the project can be beneficial for all involved. The Board has also expanded its contacts with officials from the State of Texas, including particularly Gus de la Rosa of TxDOT. These discussions include the need to have the Port bridges incorporated into the various State planning processes, including the new effort to develop a master plan for border transportation that will be done under the auspices of the U.S.-Mexico Joint Working Committee.

The Board has reached out in a new effort to engage Mexican officials, and the initial response has been encouraging. For example, the Municipality of Matamoros sees considerable merit in having a bridge to the east of the city that could handle commercial traffic, particularly overweight trucks, operating between the Port and Mexico. This would allow the Los Tomates Bridge to handle an increasing volume of traffic not connected to the Port, such as trucks servicing Mexican maquiladoras. The Municipality is already constructing a loop around the western side of Matamoros, and it could include the Port truck bridge in the future planning of the eastern segment of the loop. The Board also plans to work with the local Consuls on both sides of the border to have the Port bridges taken up by the regional Border Liaison Mechanism. The Board has renewed its longstanding contacts with the State of Tamaulipas and will further intensify that dialogue when a new Administration takes office there. The Board has initiated a new round of contacts with the Mexican Federal Government, and it contemplates having representatives travel to Mexico City in the fall. In all these efforts, the Board is exploring strategies that may broaden the benefits for stakeholders in Mexico as well as the United States. For example, it is examining innovative ways to use geography to create a "port alliance" with the emerging Mexican port at El Mezquital, such as developing a "rail canal" between the two ports.

### Conclusion

The Brownsville Navigation District remains strongly committed to the implementation of the Port bridges project. One quantifiable manifestation of its commitment is the more than \$20 million that it has invested to date and the many tens of millions of dollars more it is prepared to spend to construct and operate the bridges. It seeks to work with the local community and Mexico

to define mutual interests, shape a consensus and build the political will to implement a new regional plan for commerce and economic development that includes the Port bridges.

The Brownsville Navigation District calls upon the Department to refrain from revoking or modifying the 1997 Presidential permit. It believes that such action would not serve U.S. national interests; to the contrary, this would be harmful to U.S. interest.

A revocation would not benefit any current or future border-crossing project, as explained above. Nor would such action benefit the United States Government by relieving it of a commitment to provide the financial resources to build new federal facilities at the bridges as the Port has committed to constructing those facilities, and this is stipulated in the permit. Put simply, there is nothing to be gained by revoking the permit.

Conversely, a revocation would result in grave consequences. Its immediate effect would be to erase the very sizable investment that the Port, a public asset, has made in the project over nearly 20 years. This action could well result in killing the project, as securing the resources to submit a new application may well be problematic in the wake of a revocation.

The Brownsville Navigation District believes that if the Department sustains the permit and allows the project to go forward, the Port of Brownsville bridges will facilitate the efficient movement of legitimate goods across the U.S.-Mexico border. The bridges promise to enhance the economic competitiveness of our nation by improving the connectivity of the Port, increasing its rail-served market access potential, lowering costs and ensuring greater reliability. The South Texas region will gain from increased tax revenue, more reliable freight service and improved highway safety. The region will benefit from new, higher value jobs, the diversion of heavy trucks from the roadways and reduced emissions and fuel usage. Shippers will benefit from lower costs, improved service reliability, reduced transport times, and expanded access to rail services. The Port will benefit from increased throughput and an enhanced competitive position that results from additional transportation options. Given all these benefits, the Brownsville Navigation District is confident that the project clearly will serve U.S. national interests.

End Text.

Dated: December 4, 2009.

**Alex Lee,**

*Director, Office of Mexican Affairs,  
Department of State.*

[FR Doc. E9-29342 Filed 12-8-09; 8:45 am]

**BILLING CODE 4710-29-P**

## DEPARTMENT OF STATE

### [Public Notice 6833]

#### Review of Unused Presidential Permit: Mission (Texas) International Bridge

**SUMMARY:** More than 30 years ago, the Department of State issued to the City of Mission, Texas, a Presidential permit for an international rail and vehicular bridge. To date, the permit remains unused. The Department and other federal agencies are currently evaluating whether to revoke, modify, or retain as written this long-unused permit given the change of circumstances in the project area, development of nearby projects, inaction by the permittee, and apparent lack of interest in pursuing the corresponding projects in Mexico. The review is not a judgment regarding either the need for a new bridge or the merits of Mission's plan, but rather represents a recognition that the project for which this permit was issued has gone unimplemented longer than similar projects and, due to the passage of time, may no longer be viable. The City of Mission provided a project status update, which is included in the **SUPPLEMENTARY INFORMATION** section below.

**DATES:** Interested members of the public are invited to submit written comments regarding this permit review on or before February 8, 2010 to Mr. Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator, via e-mail at *WHA-BorderAffairs@state.gov*, or by mail at WHA/MEX—Room 3909, Department of State, 2201 C St., NW., Washington, DC 20520.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator, via e-mail at *WHA-BorderAffairs@state.gov*; by phone at 202-647-9894; or by mail at Office of Mexican Affairs—Room 3909, Department of State, 2201 C St., NW., Washington, DC 20520. Information about Presidential permits is available at <http://www.state.gov/p/wha/rt/permit/>.

**SUPPLEMENTARY INFORMATION:** Executive Order 11423 of August 16, 1968, as amended, authorizes the Secretary of State to issue Presidential permits for the construction, connection, operation, and maintenance of facilities crossing the international borders of the United States, including, but not limited to,

bridges and pipelines connecting the United States with Canada or Mexico. In order to issue a Presidential permit, the Secretary or her delegate must find that a border crossing is in the U.S. national interest. Within the context of appropriate border security, safety, health, and environmental requirements, it is in the U.S. national interest to facilitate the efficient movement of legitimate goods and travelers across U.S. borders.

Since 1968, the Department has issued 21 Presidential permits for non-pipeline border crossings on the U.S.-Mexico border and one for the U.S.-Canada border. Of the 21 U.S.-Mexican border projects that have received permits, most began construction within two to five years. The Presidential permit process, which emphasizes interagency and binational coordination, is designed to ensure that border crossings are built if, and only if, there is clear local, binational, and interagency support for the project and construction is in the U.S. national interest. It is not in the U.S. national interest to commit scarce government resources (e.g., Customs and Border Protection inspectors, highway improvement funds, etc.) as well as private resources (e.g., land, capital, etc.) for border crossing projects that cannot be successfully implemented within a reasonable time period. While the Department may find a project to be in the U.S. national interest under a certain set of circumstances, those circumstances may change over time so that, five or ten years later, the Department may conclude that the project is no longer in the national interest or the relevant agencies may reconsider their recommendations on the Department's initial grant of the permit. The border region is dynamic and fast-changing and it is important that an outdated permit not be used to build a border crossing on a site that is no longer appropriate due to the passage of time (e.g., due to changes in transportation patterns, development patterns, etc.). At the same time, the Department recognizes that, by their nature, border crossing projects are complex, time consuming, and subject to political, financial, regulatory, and logistical setbacks.

In this review, the Department of State seeks public input on whether to revoke, modify, or retain as written the Presidential permit that it issued in 1978 to the City of Mission, Texas, for an international rail and vehicular bridge. Interested members of the public are invited to submit written comments, as set forth above.