



**Arizona's Global Gateway:
Addressing the Priorities of
Our Border Communities**

February 2003

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Preface

The Arizona-Mexico Commission (AMC) has engaged me to assist Arizona's border communities in making concrete progress on their priority issues. The principal concerns of those communities pertain to the international Ports of Entry (POEs) and the related transportation system. Accordingly, it is in these areas that I have focused my work, holding extensive consultations with local, state and federal officials as well as private-sector stakeholders and Mexican representatives.

My paper is not a definitive study of these issues. Rather, it offers a holistic vision of Arizona's future border crossings and transportation system, one that fully integrates the individual POEs and their related highway system. It also discusses related topics such as Homeland Security, trade and economic development. In a series of annexes, I provide detailed analysis and specific action plans for each of Arizona's three principal border communities.

The release of this paper completes the first phase of this project. In the second phase, the AMC will assist the border communities in executing the action plans.

Funding for this project was provided by the cities of Douglas, Nogales, San Luis and Yuma, as well as by the AMC. I would like to express my deepest appreciation to Mayor Ray Borane, Mayor Marco Lopez, Mayor Joe Harper and Mayor Larry Nelson.

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I also am indebted to the members of the AMC whose strong support made this project a reality: President Jose Cardenas; Executive Director Russell Knocke; Deputy Executive Director Denise Quiroz; and Board Members Harlan Capin, Carol Colombo, Margie Emmermann and Russell Jones.

For additional information please visit the AMC's website www.azmc.org or contact me directly:

David E. Randolph

Border Coordination Officer

Arizona-Mexico Commission

tel: (602) 364-0338 fax: (602) 542-1411 e-mail: drandolph@az.gov

Arizona's Global Gateway: Addressing the Priorities of Our Border Communities

Arizona is the Leader

Arizona stands proudly as the leader among U.S. states on issues involving Mexico. The creation of the Arizona-Mexico Commission more than 40 years ago highlighted the State's innovative thinking. On trade facilitation issues ranging from the CANAMEX Corridor and the CyberPort Project to superbooths and the agricultural pre-inspection program at the Nogales/Mariposa Port of Entry (POE), Arizona has been on the cutting edge both conceptually and in taking concrete actions. At this moment, historic changes—such as the creation of the Department of Homeland Security and the evolution of North American Free Trade Agreement (NAFTA) trading patterns—are converging in a way that creates new challenges and new opportunities for the State. These changes provide Arizona an excellent opportunity to demonstrate its leadership once again by partnering with its border communities to implement a new vision of trade with Mexico. Such a partnership would contribute significantly to the economic growth and the quality of life of those communities while delivering important benefits to all Arizona.

The Border as a Global Gateway

Commerce between the United States and Mexico grew rapidly in the years following the implementation of the North American Free Trade Agreement (NAFTA) in 1994. However, surface trade across the border began to decline in the first half of 2001, and then dropped rapidly after September 11. While the economic situation in the United States and the terrorist attacks bore the principal blame for this decline, important structural changes took place in Mexico that contributed to the decrease in trade. In particular, a profound transformation was occurring within the *maquiladora* industry, Mexico's engine of growth during the 1990s. After expanding rapidly to employ more than one million workers, the maquiladora industry began to contract. Thousands of workers were laid off as firms moved their operations to third countries, such as China, that offered an abundance of cheap labor. Within Mexico, maquiladoras tended to shift from basic assembly operations employing unskilled labor to more capital-intensive operations using semi-skilled workers. This trend was driven by global market forces independent of U.S. business cycles, and thus it will continue even after the U.S. economy recovers. Accordingly, the maquiladora industry will not return to the heady days of the 1990s, and while the volume of trade between the United States and Mexico will grow over the long term, it will not do so at the pace of the early years of NAFTA.

Arizona's trade with Mexico was hit particularly hard in 2001, suffering a 22% reduction, the largest percentage decline among Mexico's principal U.S. state partners. Its relative position as a trading partner with Mexico concurrently slipped significantly. The reasons for this loss of share are complex and varied, but unless the State takes proactive steps to address the problem, it will fall further behind.

One action that Arizona can take to help reverse this decline is to move boldly to improve the efficiency of its POEs and related transportation infrastructure. Such action could lead not only to an increase in the State's trade with Mexico, but serve over the long term to transform Arizona's border into a global gateway.

Homeland Security

A New Department with New Thinking

The creation of the federal Department of Homeland Security (DHS) affords an unprecedented opportunity to transform the border. DHS will bring together the principal agencies operating at the border under a single umbrella organization. The potential for enhancing border management is underscored by the fact that the new DHS Secretary, Tom Ridge, led the negotiations with Mexico of the 22-point "Smart Border" initiative concluded at the meeting of Presidents Bush and Fox in March 2002. (The United States subsequently provided Mexico \$25 million to implement Smart Border.) Secretary Ridge has stressed that enhancing security need not make crossing the border more difficult; to the contrary, well thought-out policies that promote proper risk management and that receive adequate resources can both elevate security and make border operations more efficient for legitimate travelers and commerce. With federal agencies entering a time of flux and with progressive views prevailing at the highest levels in Washington, the timing is superb for Arizona to take the initiative and put forward its ideas for improving border operations. As the new DHS takes form in the coming weeks and months, Arizona should seize every opportunity to provide input and promote the maximum collaboration between federal, state and local agencies. DHS's nascent Office of State and Local Coordination will provide one mechanism through which Arizona can convey its views.

Unified Port Management

The absence of a single authority has been a perennial problem at U.S. Ports of Entry. Put simply, no one person is in charge. Multiple federal agencies coexist at POEs, and each enforces its own policies, exercises its own chain of command and jealously guards its own prerogatives. While each agency may seek to make its own operation efficient, no one is responsible for ensuring the efficiency of the POE as a whole. The four southern border states, and many other interested parties, have long advocated some form of unified port management to maximize port efficiency.

The Homeland Security Act of 2002 promises to do just that. Under the Act, on March 1, elements of key border agencies will be incorporated into the DHS's Directorate of Border and Transportation Security headed by Under Secretary Asa Hutchinson. President Bush proposed another major step in January when he submitted to Congress an amendment to the Act to create within the Directorate a new Bureau of Customs and Border Protection. This new Bureau would bring together 30,000 employees—including 17,000 inspectors—of the U.S. Customs Service (USCS), the Immigration and Naturalization Service (INS) and the Animal and Plant Health Inspection Service (APHIS). Secretary Ridge nominated Customs Commissioner Robert Bonner to lead the new Bureau. The result of the merger would be to have all the inspectors reporting to a single port director. Unified port management would become a reality.

How this merger of federal agencies takes form is of great importance to Arizona, particularly given the unequalled level of cooperation at Arizona's commercial POEs among federal and state agencies. It may open a new horizon of possibilities for further strengthening federal-state collaboration and implementing new policies and procedures that would promote the twin goals of security and facilitation.

The creation of a unified port management at U.S. POEs also could achieve major progress toward another important objective: effective coordination between U.S. port directors and their Mexican counterparts. Ideally, Mexico would eventually emulate America's consolidation of agencies and achieve unified port management at its POEs.

If properly executed, unified port management will be an important step in realizing the dream of a Smart Border.

Entry-Exit Controls

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 called for the development of an automated system to collect records of arrival and departure for every alien entering or exiting the United States. The Data Management Improvement Act of 2000 (DMIA) amended Section 110 and provided for the establishment of a private and public membership Task Force to make recommendations concerning the implementation of an entry/exit system and other measures to improve legitimate cross-border traffic, security and coordination. Subsequent legislation—including the Visa Waiver Permanent Program Act of 2000, the USA Patriot Act of 2001, the Enhanced Border Security Act of 2002 and the Homeland Security Act itself—has affected the Task Force's work. The Task Force's *First Annual Report to Congress*, released in January, contains insightful analysis of the situation along the U.S.-Mexico border and offers innovative approaches to the application of entry/exit controls.

The manner in which entry/exit controls are ultimately implemented will be enormously important to Arizona. A poorly designed system could create massive congestion at the border. It could inflict serious damage to the economy and to the quality of life of border communities. DHS is assuming responsibility for this issue, and Arizona could play a large role by approaching the Department's new leadership and strongly advocating the Task Force's recommendations.

Emergency Response

Ports of Entry are the openings in the political line separating the United States from Mexico. As such, they play two distinct roles with respect to emergencies in the border region: as routes for first responders, and as the scenes of emergencies.

Dangerous situations such as spills of hazardous chemicals do not respect the international boundary, and it clearly is in the interest of communities on both sides of the line to pool their resources in responding to incidents along the border. To do so, emergency responders from one nation must pass through the POEs to reach the scene of an emergency in the other. Historically the U.S. Environmental Protection Agency (EPA) has played the leading role in coordinating cross-border emergency response activity, with the Arizona Department of Environmental Quality coordinating at the state level. In 1999, pursuant to Annex II to the 1983 La Paz environmental agreement, the *Joint United States-Mexico Contingency Plan* was concluded. In the

succeeding years, all four of Arizona's and Sonora's sister cities developed Binational Prevention and Emergency Response Plans. (As Naco is an unincorporated community, Cochise County actually signed the plan with Naco, Sonora, last November.) EPA contributed funds to the initial preparations of these plans; it may be able to fund an effort to update the plans taking into account new homeland security issues and the new DHS organization at POEs.

POEs can also become the scenes of emergencies, as all hazardous material crossing the border must be channeled through them. Arizona's three major border communities all find themselves highly vulnerable to such dangers. In Nogales, trucks are routed to the Mariposa POE, but trains transporting hazardous materials pass through the Grand Avenue POE in the heart of downtown. At both San Luis and Douglas, large numbers of trucks bearing dangerous chemicals transit the POEs routinely. Arizona should adopt as a high priority a policy of ensuring that all hazardous materials cross the border through properly equipped facilities outside of urban areas. Specifically, this would entail moving the Nogales rail line outside of town, expediting the construction of the new San Luis II commercial crossing, and initiating the process to construct a new commercial POE at Douglas. (The border communities would derive a double benefit from such actions: the new crossings would not only enhance safety, but would also facilitate trade and economic growth.)

Refining the Vision

CANAMEX and Beyond

The CANAMEX Corridor embraces the dream of a trade and tourism corridor that extends from the interior of Mexico through Arizona and four other U.S. states into Canada. In recent years, the Governor's CANAMEX Task Force has been at the forefront of the State's efforts to integrate transportation and telecommunications issues with economic development. Arizona has assumed leadership in the multi-state CANAMEX Corridor Coalition and plays a particularly important role coordinating with Mexican states. The Task Force also has helped secure nearly \$100 million in federal and state funding for the Hoover Dam Bypass and port infrastructure projects in Arizona.

The Task Force has sought to tailor the CANAMEX concept to better fit Arizona's needs. For example, the Federal Highway Designation Act of 1995 defined the CANAMEX Corridor at the border as only Nogales. The Task Force and the State have adopted a broader definition that encompasses Arizona's border region, specifically the POEs in Douglas and San Luis.

The federal focus on the north-south axis of CANAMEX is similarly too narrow for Arizona. The Nogales/Tucson/Phoenix corridor that forms the base of CANAMEX within the United States performs another important function; it serves as the link that connects markets across the United States with western Mexico, and in particular with Mexico's agricultural breadbasket. The volume of commercial traffic using this corridor to access Interstate-8 and Interstate-10, and to a lesser extent Interstate-40, will forever dwarf the traffic flowing over it between Mexico and Canada. While the Task Force continues its efforts to promote CANAMEX, Arizona should develop a complementary strategy that takes full advantage of the State's geographical location at the heart of the route connecting western Mexico with some of the main east-west routes of the U.S. transportation network.

Three Corridors Instead of One

Arizona could take maximize advantage of its geographical location by developing three strong pillars for trade with Mexico:

- a central corridor through Nogales;
- an eastern corridor through Douglas; and
- a western corridor through San Luis/Yuma.

Fortunately, there exists a solid base on which to build.

Nogales: Nogales, Arizona's gateway to Mexico, would be the center pillar. The Interstate-19 corridor linking Nogales to Tucson is the main artery through which the lifeblood of Arizona's border commerce flows, some \$10 billion annually. A decade ago, a milestone was achieved with the opening of the new Mariposa Port of Entry. Mariposa became a model of efficiency for commercial traffic, introducing new concepts such as "superbooths" in which federal and state officials work side by side. Nevertheless, the rapid growth of trade following the enactment of NAFTA has resulted in heavy congestion at the port during the peak agricultural season, when up to 1,400 trucks a day pass through Mariposa.

The Arizona Department of Transportation (ADOT) has collaborated with federal, state and local agencies to invest in major improvements to relieve congestion and expedite the flow of traffic. Further changes in the brick and mortar infrastructure, technology and policy are needed for Mariposa to increase its capacity and accommodate current and future demand.

Moving parallel to these brick and mortar improvements is the CyberPort Project administered by ADOT and conducted by the University of Arizona. CyberPort seeks to transform Mariposa into a state-of-the-art commercial facility. It employs a system-wide approach to the development of the entire trade-flow process—from the point of origin to the point of destination.

The reconfiguration of Mariposa will be a major engineering and construction project that will cost millions of dollars and will take many years. There are other steps to improve the efficiency of the facility that could be taken in the short term and at modest expense. Among these is the creation of a Motor Vehicle Department (MVD) truck pre-inspection operation in Nogales, Sonora. (The Arizona Department of Agriculture has been inspecting produce at sites in Mexico for years.) The MVD could open a test program by mid-2003. This initiative could set the example for other states, and possibly even federal agencies, to follow.

A large volume of commerce, more than \$2.5 billion per year, also passes through Nogales by rail. The location of the track in the downtown area poses serious safety and congestion problems. Relocation of the rail line outside of the urban area would benefit the communities on both sides of the border and permit more efficient processing of the trains at a new rail POE.

Douglas: Douglas would be the eastern pillar. The Douglas POE currently services mostly the local market, and it does not process a large volume of commercial traffic passing between the interior of Mexico and distant locations in the United States.

However, important improvements are being made to the highway from Agua Prieta, Sonora, south to the interior of Mexico. Ultimately, this highway could become a significant trade corridor that would offer truckers a shorter, viable alternative to Nogales for shipments to and from points east in the United States. As the volume of cargo through Douglas increases, it will be necessary to expand/relocate the commercial portion of the POE and to improve the highway connection to Interstate-10. Douglas also has an interest in opening a short rail spur that would connect with a Mexican line running just south of the border. This would give the city direct access to the Mexican railroad system and allow indirect access to the U.S. rail system through Nogales. There is open land west of Douglas that would be suitable for a new commercial port and for the rail spur.

San Luis: San Luis would be the western pillar. The existing POE services the local market and also processes a significant number of commercial vehicles operating in Baja California. Plans are well advanced for a new commercial POE at San Luis that will have direct access to Interstate-8 via the 26-mile Area Service Highway that ADOT is funding. Coupled with actions in Sonora to improve Highway 2 from San Luis Rio Colorado east to Santa Ana along the Guaymas/Hermosillo/Nogales corridor, San Luis would offer truckers an alternative to Nogales for shipments moving between Western Arizona/Southern California and the interior of Mexico. It could also feed into the CANAMEX Corridor through State Route 95. Opening the new commercial port would allow the existing POE to be reconfigured to handle only passenger vehicles and pedestrians. This would ease the extreme safety and congestion problems at the port and reduce the long delays now occurring.

The development of these three corridors would result in a State-wide system for the border that encourages trade growth. Nogales, Douglas and San Luis would not be competitors, as each port would meet a different need. Nogales would continue to see its trade-flow increase, but at a rate more manageable for Mariposa; this would make efforts to relieve congestion by expanding the POE's capacity more successful. Douglas and San Luis would be viable options for some trucks that otherwise might be stuck in long lines at Mariposa. All across the border, Arizona's POEs would be able to process commercial vehicles more efficiently. At the same time, the relocation of the railroad in Nogales and the opening of a spur in Douglas would make shipping by rail more efficient. As these efficiencies lower the cost of doing business, the State would make itself more competitive and better able to take advantage of the changing pattern of trade with Mexico. These improvements would also fit nicely with efforts at the federal level to implement a rational, long-range plan to facilitate trade movement in the Southwestern United States, utilizing all modes of transportation for greater efficiency and competitiveness. Thus, developing three trade corridors would not be a question of "cutting the pie into smaller slices" but rather of "making a bigger pie" that stimulates economic growth and investment in all three border communities. [The soon-to-be-released CyberPort Project Study contains detailed information on commodity flows and trade flow logistics that underscore the potential for growth.]

A Mexican Seaport

For many years, Arizonans have gazed at the map and dreamed of a major commercial seaport in Guaymas, Sonora. Such a seaport would tie in well with the CANAMEX concept and would provide easy and direct access to the United States through Arizona. Combined with actions in Arizona to streamline operations at ports of entry—such as building new or expanded commercial compounds and relocating

the rail line in Nogales—and to develop the “Puerto Nuevo” intermodal facility in Tucson, Guaymas might offer international shippers an attractive alternative to West Coast ports. Guaymas could open an important new route through Arizona for commerce between the United States and the world.

A number of factors have prevented this potential from being realized. One is the high cost of the investment in infrastructure. Guaymas has a shallow port that would need extensive dredging in order to dock the deep-draft vessels that carry much of today's sea-borne cargo. Improvements and upgrades also would be needed in the entire transportation chain, from cargo-handling equipment on the docks to the highway and rail networks. The port would need to generate considerable economic activity to justify these sizeable investments, and to do so Guaymas must offer the private sector a comparative advantage over existing trade routes. Previous studies have shown that there would not be a large volume of outbound trade shipped from the United States through Guaymas, and without adequate back-haul traffic, there would not be the level of two-way trade necessary to make the use of Guaymas profitable for shippers. The situation is not static, however; developments such as the increasing saturation of the existing ports in Long Beach and Los Angeles, the contemplated creation of the Free Trade Area of the Americas in 2005 and the steady growth of Arizona's economy could alter the equation and render a Guaymas seaport financially viable.

When and whether to develop the Guaymas seaport is a decision for Mexico to make. Given the financial resources needed, the project would require the firm commitment of Mexico's federal government as well as the energetic support of the Sonoran and municipal governments. At this time, Mexico City does not regard a commercial seaport in Guaymas as a priority. For this to change, the private sector—the businesses that stand to profit from a commercial port—would need to play a leading role in convincing Mexican officials of the value of the project to the economic growth to Sonora and to Mexico overall.

At best, transforming Guaymas into a major commercial seaport servicing Arizona would be an expensive and long-term proposition. Arizona's ability to influence the development of the project is limited, but it can actively convey to Mexico its continuing interest. Arizona also could dialogue with private sector shippers to better define their concerns and collaborate with them in a joint advocacy effort. At the same time, the State could move forward with the necessary steps to improve the movement of cargo across the border outlined above, as these would also serve to facilitate the flow of trade through a port at Guaymas.

Growing the Economies of the Border Communities

Economic growth and improved quality of life should be the paramount objectives of any plan for the border. The United States has benefited from the steep growth in trade with Mexico under NAFTA. However, in large measure Arizona's border communities have benefited only indirectly. These benefits derive mostly from the growth in the economies of the larger sister cities in Sonora. As their income has risen, Mexicans eager to shop in Arizona have flocked across the border in ever-larger numbers. In Arizona's border communities, many retailers have come to depend heavily on sales to Mexicans, and the sales taxes paid by Mexicans are vital to the budgets of the local governments. Delays at the border discourage Mexicans from crossing and depress sales and tax revenue.

Each of Arizona's border communities has unique opportunities for reaping the benefits of NAFTA more fully. In referring to the increasing importance of improving the State's port facilities and transportation infrastructure, the University of Arizona's 2000 report *An Evaluation of Arizona's Competitiveness* noted that: "...it will be vital for Arizona's communities to ensure that the flow of goods generates value-added opportunities for regional producers and service providers." The State—particularly through agencies such as the Departments of Commerce, Economic Security, Education, Tourism and Transportation— can provide invaluable assistance to local communities and the private sector as they seek to identify and capitalize on these opportunities. Programs such as the Greater Arizona Development Authority and the Arizona International Development Authority offer great potential. Federal programs and grants targeted for the border region can also make a valuable contribution. Put simply, Arizona's border communities need to have actions to facilitate the flow of traffic at their ports of entry matched with robust programs to stimulate their economies and to create new jobs.

Gateway to the Future

Much is said of the burdens that the international border imposes on Arizona, and too little is said of the vastly greater opportunities that the border offers to the state. Perhaps this is because these opportunities are not easily quantified, and we do not see the concrete benefits every day. Building a future requires the vision to see the spires even as the foundation is being laid.

The international border is Arizona's gateway to the global economy, and as such it is the foundation of the state's economic future. Governor Janet Napolitano's top priorities for building the new Arizona—supporting education, building the new Arizona economy and ensuring homeland security—all are linked to the successful modernization of the state's border crossings and to the development of its border communities. That success begins with building the basic infrastructure needed to fulfill the larger vision.

Arizona has achieved recognition as a leader in cross-border innovation because the state's leaders committed to globalization well before the term even existed. Current domestic and international trends present the state with the choice to step aside and follow, or remain an innovator by laying the foundation of its vision.

Annexes

Attached to this report are annexes on the Ports of Entry for each of Arizona's three principal border communities. Each annex is written as a stand-alone document that analyzes the issues in detail and concludes with a specific action plan that the communities can implement to achieve rapid, tangible progress toward their goals of enhancing the existing POEs and opening new border crossings.

ANNEX I

SAN LUIS PORTS OF ENTRY

Goal

To have the San Luis II commercial Port of Entry (POE) and the connecting transportation network ready to open in Calendar Year (CY) 2007, and to have work begin immediately thereafter to reconfigure the San Luis I POE into a pedestrian- and passenger-vehicle-only facility.

Discussion

The opening of the San Luis II POE will be a major economic boon to the San Luis/Somerton/Yuma area. It will allow all commercial vehicles crossing the border to be routed off of city streets—a step that has proven greatly beneficial in other urban centers such as San Diego, Nogales, Laredo and Brownsville. It will allow the existing San Luis POE to be reconfigured so as to relieve congestion by improving the flow of passenger vehicles and pedestrians. The new POE also will accommodate the anticipated increase in commercial traffic and stimulate private investment, thereby contributing to the economic growth of the region. The combined cost of the two projects is estimated at \$23 million.

Under the stewardship of the Greater Yuma Port Authority (GYPA), the San Luis II project has already passed a number of milestones. In September 2001, the United States and Mexico exchanged diplomatic notes agreeing to the new commercial border crossing. In August 2002, the GYPA purchased approximately 347 acres of land along the border from the Bureau of Reclamation. The GYPA contemplates deeding 80 acres to the General Services Administration (GSA) for the POE facilities.

Critical to the operation of San Luis II is the transportation network that will connect the POE with the U.S. highway system.

- The principal component is the Area Service Highway (ASH), State Route 195, a 26-mile, limited-access, four-lane divided highway that will link the new POE with Interstate-8 just east of Yuma. The Arizona Department of Transportation (ADOT) is allocating the necessary funds to construct the first two lanes of the ASH by 2007. ADOT will then begin constructing immediately the remaining two lanes, and the entire highway will be completed by 2010.
- The second component is the short stretch of road that will join the POE with the ASH. Funding for this will be provided through the Safety Enforcement and Transportation Infrastructure Fund (SETIF). This project also is scheduled to be completed in 2007.

The immediate objective is to secure funding that makes possible: 1) the opening of San Luis II concurrent with the completion of the first phase of the ASH in CY-2007, and 2) the construction of the reconfiguration of San Luis I as soon as the new POE becomes operational.

Federal Funding

The traditional method of financing construction of POE projects is federal funding under GSA's annual Federal Building Funds appropriation. The Border Station Partnership Council (BSPC)—comprised of GSA, the Immigration and Naturalization Service (INS), the U.S. Customs Service (USCS), the Federal Highway Administration (FHWA), the Animal and Plant Health Inspection Service (APHIS) and the Food and Drug Administration (FDA)—oversees this process and determines the priority for financing POE projects. It produces a five-year rolling priority list of all projects on the northern and southern borders. It updates this list annually.

GSA normally seeks appropriations to design a project in one fiscal year (FY), and then funds the actual construction through a subsequent appropriation, typically two years later. The BSPC does have the option of compressing the timeline on a specific project by combining the design phase and the construction phase, designating it as a "design-build" project to be funded in a single fiscal year.

The BSPC currently lists the San Luis I and San Luis II projects for design in FY-2006. Under the standard process, this could lead to funding for construction of San Luis II in FY-2008. GSA estimates construction would take 18 months, resulting in the new POE opening in mid-to-late FY-2009. If the San Luis I project also received funding for construction in FY-2008 or received it in the FY-2009 appropriation, the reconfiguration could commence as soon as San Luis II became operational. GSA estimates reconfiguration could take up to two years, resulting in the San Luis I project being completed in mid-to-late FY-2011.

GSA will begin preparing its budget request for FY-2006 in early FY-2004—in less than one year. For it to include the San Luis projects, the feasibility studies and preliminary designs must be completed and the prospectus must be prepared for each project. \$300,000 of SETIF funds have been made available for the San Luis II project, and the Consolidated Appropriations Resolution signed into law February 20 provides \$500,000 to the GYPA. In January 2003, the GYPA convened a meeting with GSA and ADOT to consider how the SETIF funds could be used for the feasibility study and preliminary design work. The GYPA and the agencies are now considering how best to utilize the federal funds that have been appropriated. It should be possible for the three entities to prepare a scope of work and conclude an agreement by the spring of 2003. Within a month of this agreement, it should be possible to identify a contractor and begin the feasibility study. GSA estimates the study will take four to six months; accordingly the study should be completed in early FY-2004. GSA will seek to use its own funds for the parallel feasibility study and design work for San Luis I, which should also be completed in early FY-2004. This timing would satisfy the GSA's requirement that the feasibility studies and preliminary designs be available so that San Luis projects could be incorporated into the FY-2006 budget request.

Since San Luis II will be a commercial-vehicle facility built on essentially open land, the design can draw extensively on existing GSA POE models. The design and subsequent construction of the new facilities at San Luis I may well prove more difficult. This is because the design will be constrained by the landlocked nature of the current POE, and the construction must be performed in a manner that permits the continued flow of traffic.

There are two leading options for obtaining federal funding that would allow San Luis II to open in 2007.

Funding Option 1: The BSPC could designate San Luis II as a design-build project for funding in FY-2006. GSA estimates that the design and construction of San Luis II would take two years. Thus, the project could be completed by the end of FY-2007 (the third quarter of CY-2007), or roughly the same timeframe as the completion of the ASH and the connector highway. The BSPC could also designate the reconfiguration of San Luis I as a design-build project in FY-2006, thus ensuring funds are available for construction immediately upon San Luis II becoming operational. Alternatively, the BSPC could simply maintain the reconfiguration of San Luis I as a design project for FY-2006 with construction in FY-2008, in accordance with its standard two-year spread between design and construction. Even this latter approach would allow the reconfiguration of San Luis I more or less to coincide with the opening of San Luis II, given the projected completion of San Luis II at the end of FY-2007. Accordingly, the reconfiguration of San Luis I would be completed in late FY-2009 or early FY-2010.

It is worth noting that the provision of SETIF funds for the feasibility study could help influence the BSPC to designate San Luis II as a design-build project, as it will be a powerful demonstration of the State of Arizona's commitment to the project. ("Money talks")

Funding Option 2: An alternative approach would be to obtain special legislative authority for one or both projects. This could be accomplished by designating the project or projects as a special line item ("earmark") in the GSA appropriations bill or some other funding vehicle, such as the upcoming reauthorization of the Transportation Equity Act for the 21st Century (TEA-21). This could be done in the FY-2004, FY-2005 or FY-2006 budgets and still achieve the objective of having San Luis II open in CY-2007. Such an approach would have the advantage of securing the funding and separating the San Luis projects from the normal BSPC priority procedure. However, given the steps that are needed—feasibility study and preliminary design, final design and construction—and GSA's commitments to already-approved projects, it would be unlikely that the San Luis II POE could be completed before CY-2007 regardless of the source or timing of the funding.

In pursuing either of these options, the value of the active and coordinated support of the Arizona State Government and Arizona's Congressional delegation cannot be overstated. Such support would be vital to any effort to persuade the BSPC to fund San Luis II as a design-build project in FY-2006. An effort to seek earmarked funds would be absolutely dependent on Arizona's Congressional delegation. Many of the companies operating in the greater Yuma area have lobbyists that could play an important role in a coordinated campaign in either scenario.

Alternative Sources of Funding

In theory, there are alternative sources of funding for San Luis II, such as the private sector or some form of local government bonds. In the past, GSA has entered into arrangements at a POE that allowed the debt incurred by such non-federal funding to be retired through rent payments.

In practice, however, recent changes in federal policies make these approaches problematic. In particular, the Office of Management and Budget (OMB) has issued

guidelines for scoring lease-purchases and leases of capital assets (Appendix B of Circular A-11) that effectively preclude these options. Under OMB's guidelines, any leasing arrangement for San Luis II could be considered only as a lease-purchase or a capital lease. In either case, budget authority equal to the total cost of the asset would have to be recorded up front. Thus, from a federal budgetary perspective, it would be as costly to fund a lease as it would be to fund the actual construction of the project. Given the amount of lease, it would require OMB's approval, and if the BSPC—the federal entity empowered to set priorities for POEs—did not consider the San Luis II project to be of sufficiently high priority to merit funding in a particular fiscal year, it would be exceedingly difficult to convince OMB to approve a lease that would effectively sequester an equivalent amount of funds.

OMB guidelines specifically preclude the possibility of an operating lease for the San Luis II POE. (Criteria for an operating lease include: "The asset is a general purpose asset rather than being for a special purpose of the Government and is not built to unique specification of the Government"; and "There is a private sector market for the asset.") Even if an operating lease were possible, OMB would limit the value of the lease payments over the life of the lease to 90% of the fair market value of the asset.

An exception to policy is always a possibility, but given OMB's position on scoring leases for buildings (including POEs), any such exception would likely require substantial political-level intervention.

GSA is authorized to accept gifts to the federal government, and it can enter into leases for nominal amounts (e.g., \$1.00 per year). Thus, if an entity such as the GYPA or a private sector company were willing to fund the San Luis II project with the understanding that the only source of revenue to repay the debt incurred would be the rent or other income generated by the remaining 267 acres of land at the port of entry, and not from rent from the federal government for the POE facilities themselves, that would be possibility. This approach would entail substantial risk, even if the remaining land has the potential to generate the needed revenue stream.

Other Considerations

Following are a number of issues that should be kept in mind:

- The creation of the Department of Homeland Security may well affect the process. Three of the members of the BSPC that are now in different federal departments—INS, USCS and APHIS—will be moved into the new Department beginning March 1. How this could affect the operation of the BSPC, or whether the BSPC will even continue to exist in anything like its current form, is uncertain at this time. Also, the Department of Homeland Security might impose new policies regarding POEs that would affect the San Luis I and II projects. It is possible that new funding might become available for Homeland Security (and related matters such as Entry-Exit Controls) that could be tapped for the projects. Clearly, it will be important to monitor closely the evolution of the new Department and react quickly to new opportunities and challenges.
- San Luis has become Arizona's busiest POE in terms of non-commercial traffic, with some 300,000 passenger vehicles crossing each month. The heavy congestion that now plagues the POE could be greatly eased by the creation of a dedicated commuter lane (INS's Secure Electronic Network for Travelers' Rapid

Inspection program—SENTRI). The configuration of the existing San Luis POE does not lend itself to SENTRI. The GYPA should consider whether it wishes to establish a SENTRI lane at San Luis I when it is reconfigured, at San Luis II, or at both POEs. It should discuss this with INS and GSA early on.

- Building on the point above, the GYPA should consider whether it will want San Luis II expanded to become a full-service POE at some point in the future. At present, the new POE is approved as a commercial-only facility. If it is the GYPA's intent that San Luis II ultimately handle passenger vehicles, it is imperative that it seek federal approval and incorporate this into the design of the POE, even if the passenger-vehicle portion might not be built for many years. If San Luis II is designed and constructed as a commercial-only facility, it will be exceedingly difficult and costly to reconfigure it later. Even a SENTRI lane would greatly affect the POEs design and operation, and if one is to be placed there, it should be included in the design from the outset.
- Since developments on the U.S. side of the border must be matched by parallel events on the Mexican side, the GYPA and the State of Arizona should maintain regular contact with relevant Mexican authorities. At this time, Mexican officials at the federal, state and local levels indicate their interest in the new POE. The project in Mexico is subject to the same financing constraints as is the project in the United States, and Mexico's budgetary problems are far more acute than those of the United States. It is a reality that many priority projects in Mexico are delayed because of a lack of resources. Monitoring events in Mexico should include those actions that could affect traffic through San Luis, such as improvements of Highway 2 that connect San Luis Rio Colorado with the Guaymas-Hermosillo-Nogales corridor and the interior of Mexico.
- The CyberPort Project administered by ADOT and conducted by the University of Arizona can be drawn upon to make San Luis II a truly state-of-the-art commercial facility. CyberPort looks beyond technology and beyond the port-of-entry compound to consider a holistic, system-wide approach to the development of the entire trade-flow process—from the point of origin to the point of destination—and it evaluates equally and simultaneously the considerations of safety, security, inspection effectiveness and trade-flow efficiency. The first phase of the CyberPort Project is nearing completion. It has identified nine guiding principles that will be incorporated into the redesign of the Nogales Mariposa Port Facility in subsequent phases. To a great degree, the same innovative concepts, streamlined procedures and advanced technology can be applied to San Luis II.
- The 80-acre parcel to be donated by the GYPA to GSA for San Luis II does not contemplate an area for an Arizona state truck safety inspection facility. (The issue of inspection of Mexican trucks has been highlighted by the recent U.S. implementation of the trucking provisions of the North American Free Trade Agreement and the issuance of detailed safety-related regulations.) Some additional parcel of land must be provided for an inspection facility, and its location and design must be fully integrated into the master site plan. The Arizona Motor Vehicle Department currently is contemplating a pilot program to perform truck safety inspections in Nogales, Sonora. If this pilot program is successful, it might be feasible to develop a similar MVD pre-inspection operation in San Luis Rio Colorado. This could reduce the size of the parcel of land that would be needed for safety inspections at the POE. One caveat is that the much

lower volume of commercial traffic at San Luis might make it a less likely candidate for a pre-inspection program.

- Pursuant to the Final Environmental Assessment for the San Luis II POE and the Endangered Species Act of 1973, the Bureau of Reclamation determined that the flat-tailed horned lizard would be adversely affected by the construction of the new border crossing. The GYPA has agreed to mitigation measures including the compensation of the Flat-Tailed Horned Lizard Strategy Fund in the amount \$235,000 for the loss of habitat, the construction of a 30-inch-high barrier (fenceline) around the POE facility prior to construction, and the relocation of flat-tailed horned lizards found within the fenced area. The U.S. Fish and Wildlife Service requires that the relocation be performed only in the period of April through September. Thus, to ensure that this operation does not delay construction of the new POE in FY-2006, it must be completed by September 2005.
- The cattle crossing that currently occupies the site of the San Luis II POE is a significant commercial operation with many thousands of head of cattle passing through it each year, mostly northbound. It will have to be either closed completely or relocated a suitable distance from the new POE.

Action Plan

1. Complete the feasibility study and preliminary design work of San Luis I and San Luis II by the fall of 2003.
 - Expedite the negotiations among ADOT, GSA and the GYPA regarding the use of the \$300,000 SETIF funds and the \$500,000 in federal appropriations for the feasibility study and preliminary design work for San Luis II.
 - Obtain GSA's commitment to provide funding for the feasibility study and preliminary design work for San Luis I.
 - Once the scope of work has been completed and an agreement has been concluded, move quickly to hire a contractor/contractors who will be required to complete the studies and design work by early FY-2004.
 - Require the preliminary design work for San Luis II to be as detailed as possible given the time and funds available, so as to minimize the time needed later to complete the design.
2. Launch a coordinated campaign, spearheaded by the GYPA, to influence the BSPC to adopt funding option 1 [i.e., a) to fund San Luis II as a design-build in FY-2006, and b) either to fund San Luis I also as a design-build project in FY-2006 or to fund San Luis I as a design project in FY-2006 and as a construction project not later than FY-2008].
 - Engage the members of the BSPC individually and directly to ensure that they have all the information needed to support such a decision. Collaborate closely with local officials of BSPC members to ensure their active endorsement of the projects.

- Ensure that the Arizona State Government is proactive in demonstrating its commitment to the projects, such as by providing letters of support from the Governor to the heads of the BSPC agencies and other federal officials as appropriate.
- Request members of Arizona's Congressional delegation to advise the heads of the BSPC agencies of their strong support for the projects.
- Exploit fora such as the U.S.-Mexico Binational Group on Bridges and Border Crossings, the U.S.-Mexico Joint Working Committee on transportation infrastructure and GSA's periodic meetings with its Mexican counterpart, CABIN, to promote the projects.

(Note: Timing of this campaign is critical. The BSPC will meet in early March of 2003 to review the status of POE projects and then in May to update its priority list. If the San Luis projects are to be included in the FY-2006 budget request per funding option 1 above, it is imperative that the BSPC decide to do so at the May meeting. By the time the BSPC's next priority-setting meeting takes place in the spring of 2004, the budget request for FY-2006 will already be prepared.)

3. Pursue special budget authority on a parallel track.

- Consult with members of Arizona's Congressional delegation and their staffs to determine which members would support special budget authority for the projects.
- Monitor relevant federal legislation (e.g., Homeland Security appropriations, TEA-21 reauthorization, etc.) with an eye toward earmarking funding for the San Luis projects.

4. Make full use of the private sector.

- Work closely with private sector entities that will benefit from the San Luis projects and their lobbyists to ensure a single, harmonious message is delivered to Congress and to the BSPC.

5. Develop the utilities plan and the master site plan for San Luis II, drawing upon the federal funds not needed for the feasibility study and preliminary design.

- Invite private sector input for the design of the non-governmental portion of the master site plan.
- Determine whether the POE will permanently remain a commercial-only facility or will eventually become a full-service facility.

6. Determine the location of a SENTRI dedicated commuter lane.

- Initiate a dialogue with INS and GSA on the creation of a SENTRI lane.
- Explore funding sources for a SENTRI lane.

(Note: The 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States [P.L. 107-206] enacted last

summer provided \$25 million to Mexico to implement the U.S.-Mexico Border Partnership Action Plan [Smart Border] concluded at the meeting of Presidents Bush and Fox in Monterrey, Mexico, in March 2002. The agreement between the United States and Mexico on the use of these funds contemplates that a sizeable portion be devoted to SENTRI lanes.)

7. Incorporate the CyberPort Project to make San Luis II a state-of-the-art facility.

- Ensure that the officers of the federal inspection services officers and GSA working on San Luis II are kept informed of the progress on all aspects of the CyberPort Project, i.e., brick-and-mortar construction, streamlined procedures and technology.
- To the extent that CyberPort concepts are embraced by federal authorities, require that the contractor integrate them into the preliminary design. Superbooths, weigh-in-motion scales, and express lanes could be integral components of the design.
- Examine closely the feasibility of pre-inspections in Mexico, particularly with a view toward anticipated growth in commercial traffic.

8. Determine the size and location of the parcel of land to be used for truck safety inspections at San Luis II.

- Initiate a dialogue with the MVD and the Department of Public Safety about the truck safety inspection facility.
- Explore the feasibility of MVD pre-inspections in San Luis Rio Colorado.

9. Implement the mitigation measures for the flat-tailed horned lizard.

- Prepare for the construction of the specified barrier and the relocation of flat-tailed horned lizard within the fenced area so that the operation is completed by September 2005.

10. Take steps to ensure that Mexico is prepared to open its side of the San Luis II POE in 2007 and its side of the reconfigured San Luis I POE in 2009-2010.

- Exploit fora such as the Binational Group, the Joint Working Committee and GSA's meetings with CABIN to promote the commitment of Mexico's federal government to the timely completion of the projects.
- Engage directly the state of Sonora and the municipality of San Luis Rio Colorado to ensure their commitment.

(Note: The Arizona-Mexico Commission could play a useful role in this effort. For example, it could collaborate with the Sonora-Arizona Commission to schedule a binational meeting of interested parties at all levels in the spring of 2003, timed in conjunction with the launch of the feasibility studies for San Luis I and II.)

11. Determine the fate of the cattle crossing.

- Initiate a dialog with all interested parties—both in Arizona and in Sonora—to develop a consensus as to whether the cattle crossing should be closed or relocated.

ANNEX II

NOGALES PORTS OF ENTRY

Goal

To maximize the efficiency of the Nogales Ports of Entry (POEs) and the connecting transportation network, improving the flow of passenger and commercial vehicles as well as pedestrians and addressing safety concerns such as the location of the rail crossing at the downtown POE.

Discussion

Nogales is Arizona's gateway to Mexico. Together its POEs comprise the fourth largest commercial crossing on the southern border, handling more than \$12.5 billion of trade annually. In addition, there are 4.6 million crossings of passenger vehicles and 4.8 million pedestrian crossings every year. The new POE at Mariposa has been overwhelmed by the increase in commercial and passenger vehicles, leading to long lines and lengthy delays, while the downtown Grand Avenue POE also is plagued by congestion. The railroad crossing at the downtown POE cuts through the heart of the urban center, blocking traffic and posing serious safety concerns including the potential for an incident involving hazardous materials.

Mariposa

The Commercial Compound: Mariposa was constructed in the early 1990s as a full-service POE, processing both commercial and passenger traffic. One of its principal purposes was to allow all cross-border trucking to be rerouted off of downtown streets. Much attention was given to designing a thoroughly modern and highly efficient commercial compound. Among Mariposa's innovative features were the "superbooths," a unique experiment in state and federal partnership in which officials of the Arizona Department of Transportation's (ADOT) Motor Vehicle Division (MVD) and their U.S. Customs Service (USCS) colleagues work side by side. In March 2000, the General Accounting Office (GAO) concluded a lengthy study of commercial POEs along the U.S.-Mexico border and determined that Mariposa—with its superbooths—was the most efficient.

Despite this efficiency, Mariposa has been unable to keep pace with the rapid growth in commercial traffic since the implementation of the North American Free Trade Agreement. Particularly during the harvest season of winter fruits and vegetables, Mariposa is over saturated by the volume of trucks, up to 1,400 per day; the line can stretch for miles south into Mexico. To meet even the current peak demand and to prepare for future growth and new programs such as the Customs-Trade Partnership Against Terrorism (C-TPAT), the commercial facility at Mariposa must undergo extensive "brick-and-mortar" expansion and implement new policies and procedures.

ADOT's *Arizona Port Efficiency Study* has served as the basis for the Mariposa Port Redesign effort, in which ADOT has collaborated closely with the Arizona Department of Public Safety (DPS) as well as relevant federal agencies. State and federal inspection agencies are planning to establish in the near future electronic communications networking with their government counterparts as well as the

private sector in Nogales, Sonora. Technological enhancements will include: electronic monitoring, credentialing, messaging, traffic management, data exchange, dynamic message signage, closed circuit television, license plate readers and inexpensive transponders. This application of technology will allow the instantaneous transmission of authorized data on cross-border commercial vehicle activity.

The CyberPort Project administered by ADOT and conducted by the University of Arizona seeks to go further in transforming Mariposa into a state-of-the-art commercial facility. CyberPort looks beyond technology and beyond the port-of-entry compound to consider a holistic, system-wide approach to the development of the entire trade-flow process—from the point of origin to the point of destination—and it evaluates equally and simultaneously the considerations of safety, security, inspection effectiveness and trade-flow efficiency. The first phase of the CyberPort Project is nearing completion. It has identified nine guiding principles to be incorporated into the redesign of the Nogales Mariposa Port Facility in subsequent phases. It has also proposed four projects to begin the streamlining process. In the second phase, feasibility studies will be performed on the actual redesign and implementation of major improvements, using Mariposa as the pilot port of entry. The third and final phase will involve the physical redesign of a state-of-the-art facility, and it will take advantage of all the legal, technological, physical and processing improvements that are identified in the first two phases.

Under Mariposa's current operation, all northbound commercial traffic is funneled through a single building (“the barn”) for drug and safety screening as it enters the Mariposa compound. Trucks then proceed to primary inspection at the superbooths, where U.S. Customs and Arizona MVD officials review a number of documents. If all is in order, trucks may be authorized “line release” and allowed to enter the United States directly. In many cases, trucks are sent to secondary inspection, where they may be manually inspected by USCS officers or passed through X-ray or gamma ray systems. Trucks transporting agricultural goods may also be examined by Animal and Plant Health Inspection Service (APHIS) inspectors. If needed, truck safety inspections are performed at a newly built facility by officers of the Federal Motor Carrier Safety Administration (FMCSA) and the Arizona MVD and DPS.

Critical to increasing the capacity of the commercial facility at Mariposa is improving the flow of vehicles to and through primary inspection. This requires construction of one or more drug and safety screening buildings and the construction of additional superbooths. The upcoming implementation by the USCS of the Automated Commercial Environment (ACE)—with its heavy focus on technology—and of the C-TPAT program makes the need for such changes even more compelling. In fact, for the C-TPAT program to function as it is intended, allowing for the rapid processing and clearance of participating vehicles, it must have an “express lane” dedicated to those vehicles. From the perspective of the private sector, the value of C-TPAT would diminish greatly if trucks continued to wait in long lines before they arrived at the POE. The dedicated lane must extend back across the border into Mexico to be effective, and thus it is vital that Mexico cooperate by constructing a suitable approach on its side of the POE.

Given the topography of Mariposa and the design of the existing facilities, the optimal reconfiguration involves expanding the commercial compound to the west to utilize the site now used for inspection of northbound passenger vehicles. The Arizona Customs Management Center in Tucson estimates that three additional superbooths could be constructed in this area.

Mariposa's secondary inspection site can become congested during peak season, and it may also require expansion. However, when the ACE and C-TPAT programs are fully functioning, the USCS should be able to process participating vehicles with minimal delay, and the percentage of such vehicles should become significant as these programs mature. Other programs by federal and state agencies can similarly lessen the number of secondary inspections they require. Thus, the extent to which expansion of the secondary yard may be needed will be influenced by the success of ACE, C-TPAT and other programs in reducing the number of secondary inspections.

The Passenger-Vehicle Facility: Over the past decade, Mariposa's passenger-vehicle facility has also become heavily congested at peak periods, resulting in lengthy delays. The reconfiguration of Mariposa affords the opportunity to relieve the congestion of passenger vehicles, either by constructing a larger facility adjacent to the existing POE or by opening an entirely new passenger-vehicle POE some distance to the west.

For a multitude of safety, security and operational concerns, passenger vehicles should be segregated from commercial vehicles at POEs. This is accomplished at the highway approaches at most full-service POEs on the Southwest border—including major commercial crossings such as Otay Mesa and Calexico II in California and the Bridge of the Americas, Pharr and Los Tomates in Texas. In some urban areas, including downtown Nogales, the separation has taken the form of restricting access to only passenger vehicles. The World Trade Bridge in Laredo goes to the other extreme and processes only trucks.

Many factors will shape the decision whether to expand the passenger-vehicle facility at Mariposa or to open a new POE. These include construction costs, operating expenses for federal inspection services (personnel, equipment, etc.), environmental considerations, costs of linking the facility to the local transportation system, plans for future growth of the community, and—very importantly—the position taken by Mexico. A thorough feasibility study is the first step in evaluating these factors. In conjunction with this study, it will be necessary to prepare an environmental assessment in compliance with the National Environmental Protection Act of 1969. Given the major environmental issues involved, such as the possibility of filling in a large section of the ravine at Mariposa to create space for a new, expanded passenger-vehicle facility, it seems highly likely that a full Environmental Impact Statement would be required.

The process for building out the existing passenger-vehicle facility would be lengthy and complicated, and the process for opening a new POE would be even more so. A new POE would require federal approval that can only be obtained through a tedious, cumbersome bureaucratic process. If the new POE were to utilize a cross-border facility such as a bridge, it would require a Presidential Permit, per Executive Orders 11423 of 1968 and 12847 of 1993. If it were simply an at-grade crossing without any such facility, technically it would not require a Presidential Permit. In practice, however, there would be little distinction, as essentially all the same requirements would have to be met. (It is also possible that the Executive Orders might be amended due to heightened security concerns in the wake of September 11, 2001, to require all new crossings to obtain Presidential Permits. A new E.O. issued on January 23, 2003, already amended E.O. 11423 to include the new Department of Homeland Security.) The U.S. Department of State is responsible for the issuance of Presidential Permits, and it coordinates this process with more than one dozen federal and state agencies. This process takes several years, at best, as was

illustrated by the experience with the San Luis II POE. (The most recent Presidential Permit for an international bridge, Anzalduas in Texas, took seven years to obtain.) The Department of State also is responsible for coordinating the project with Mexico, and Mexico's concurrence is essential for final federal approval. (In the case of Mariposa, whereas the reconfiguration of the existing POE may require only limited complementary action by Mexico such as the creation of express lane for trucks and passenger vehicles, the construction of a new POE and the connecting highway system would require a substantial financial investment by Mexico.) A key step in the process is an exchange of diplomatic notes through which the two governments formally agree to open a new POE.

Projected Timeline: The traditional method of financing construction of POE projects is federal funding under the General Services Administration's (GSA) annual Federal Buildings Fund appropriation. The Border Station Partnership Council (BSPC)—comprised of GSA, the Immigration and Naturalization Service (INS), the USCS, the Federal Highway Administration (FHWA), the APHIS and the Food and Drug Administration (FDA)—oversees this process and determines the priority for financing POE projects. It produces a five-year rolling priority list of all projects on the northern and southern borders. It updates this list annually.

GSA normally seeks appropriations to design a project in one fiscal year (FY), and then requests funds for the actual construction through a subsequent appropriation, typically two years later. The BSPC does have the option of compressing the timeline on a specific project by combining the design phase and the construction phase, designating it as a "design-build" project to be funded in a single fiscal year.

The current BSPC list reaches to FY-2008. In May, it will update the list and look ahead as far as FY-2009. At this time, the reconfiguration of Mariposa and the possible opening of a new passenger-vehicle POE are not even under consideration. Under the standard process, the BSPC would only place the reconfiguration project on its list after all preliminary work—such as a feasibility study and an environmental assessment—was completed and federal approval was granted. If a new POE were to be opened, these prerequisites would include the exchange of diplomatic notes with Mexico. GSA would require a preliminary design to be completed and then would prepare a prospectus estimating the construction cost before it would move forward to request funds for the project. GSA plans its budget requests two years in advance; it is currently preparing its request for FY-2005.

Working with the BSPC process, it is possible to develop a realistic timeline for the Mariposa project. In a best-case scenario, all requirements could be met and federal approval could be granted in two years—and diplomatic notes exchanged if there is to be a new POE. (If the process takes longer, all the timelines described below must be adjusted accordingly.) This would make it possible for the BSPC to act in FY-2005 to place the Mariposa project on its priority list for the FY-2006 to FY-2011 timeframe. While the BSPC has the option of placing Mariposa ahead of other projects already on the list, under normal practice it would add Mariposa to the end of the list. This would contemplate the design of the reconstruction of Mariposa for FY-2011, with construction probably to follow in FY-2013.

The design and subsequent construction of the new facilities at Mariposa will be complicated by the constraints imposed by topography and the layout of the current POE. Moreover, the construction must be performed in a manner that permits the continued flow of traffic. Since the commercial facility will displace some or all of the

existing passenger-vehicle facility, it will be necessary to construct the new passenger-vehicle facility before the main elements of the expansion work at the commercial facility can begin. If the passenger-vehicles facility were to be situated in a new POE, the BSPC might choose to schedule this project in an earlier Fiscal Year than the Mariposa reconfiguration project.

In sum, given the extensive preparatory work that needs to be done and the time-consuming process for funding and constructing POEs, the reconfiguration of Mariposa and the possible opening of a new passenger-vehicle POE will take well into the next decade.

There are options for advancing the appropriation of federal funding so as to allow earlier reconfiguration of Mariposa.

Funding Option 1: The BSPC could take action that would significantly accelerate the timeline: it could designate Mariposa a priority project and place it high on its list, and it could designate Mariposa as a design-build project for funding in a single fiscal year. If, using the best-case scenario described above, federal approval of the project were granted in FY-2005, the BSPC could request that GSA move quickly to develop a preliminary design and prepare the necessary prospectus. These requirements could be met by early FY-2006, in time to include Mariposa in GSA's FY-2008 budget request. Combined with a design-build designation, this could advance the actual construction of the project by perhaps three or four years.

Funding Option 2: An alternative approach would be to obtain special legislative authority for one or both projects. This could be accomplished by designating the project as a special line item ("earmark") in the GSA appropriations bill or some other funding vehicle, such as the upcoming reauthorization of the Transportation Equity Act for the 21st Century (TEA-21). This approach would have the advantage of securing the funding and separating the Mariposa project from the normal BSPC priority procedure. However, it would be difficult to obtain such special funding until the preliminary steps outlined above are completed. While technically Congress could appropriate the needed funds in any fiscal year (and give special authority so that those funds would not expire at the end of that year), Congress normally is reluctant to approve funds until a prospectus is prepared that offers a solid estimate of the cost. Following the best-case scenario outlined above, if federal approval were received in FY-2005 and the preliminary design and prospectus were completed in FY-2006, Congress could fund Mariposa as a design-build project as early as FY-2007.

In pursuing either of these options, the value of the active and coordinated support of the Arizona State Government and Arizona's Congressional delegation cannot be overstated. Such support would be vital to any effort to persuade the BSPC to designate Mariposa as a design-build project for funding in FY-2008. An effort to seek earmarked funds would be absolutely dependent on Arizona's Congressional delegation.

Interim Measures: Given the reality that the physical reconfiguration of Mariposa is a long-term proposition, it is important to look for ways to improve the situation in the short to medium term.

- SENTRI—The heavy congestion of passenger vehicles that now plagues Mariposa could be greatly eased by the creation of a dedicated commuter lane (INS's

Secure Electronic Network for Travelers' Rapid Inspection program— SENTRI). The existing configuration of the POE should lend itself to SENTRI. One potential issue is whether an existing primary inspection lane would have to be taken out of service and dedicated to SENTRI. In general, Mexico has opposed taking lanes out of service for SENTRI, perceiving that this would negatively affect normal border crossers. In any event, Mexico's cooperation is essential, as it must construct on its side of the border a traffic-flow pattern that channels SENTRI subscribers directly into the SENTRI lane if the system is to function properly. Another potential issue pertains to the number of subscribers. As currently operated, SENTRI is intended to be a "pay-as-you-go" system funded through user fees. If there is not an adequate number of commuters enrolling in the system, it will not be financially self-sufficient. Moreover, a low number of users would bring into question a decision to install SENTRI, particularly if it were necessary to convert an existing lane into a SENTRI lane.

- Pre-inspections— Congestion and delays of the commercial traffic at Mariposa could be reduced by performing some inspections before the trucks arrive at the border. (Homeland Security Secretary Tom Ridge and Customs Commissioner Robert Bonner advocate such measure to "push the border back.") For several years, the Arizona MVD has considered the possibility of establishing a permitting and inspection station in Nogales, Sonora. At this station, MVD personnel or an authorized third party would conduct certain pre-screening activities: weighing of vehicles; checking for proper entry credentials including verification of registration, commercial drivers license, insurance and motor carrier safety compliance; collection of required permit fees; and issuance of trip permits. The CyberPort Project embraces this approach. In December 2002, MVD organized a meeting with other ADOT officers and DPS to consider expanding this concept to include truck safety inspections. It appears feasible to have MVD personnel or an authorized third party perform Commercial Vehicle Safety Alliance (CVSA) Level I inspections (North American Standard Inspection) and issue the corresponding decal at such a station in Mexico. The preferred site is the *Confederacion de Asociaciones Agricolas del Estado de Sinaloa* (CAADES) commercial-vehicles staging compound. CAADES currently processes the majority of produce-laden trucks bound for the United States, and it is located adjacent to the Mexican customs facility at the southern end of the express toll road to Mariposa, some ten miles from the border. (The Arizona Department of Agriculture has been operating effectively at CAADES and other smaller compounds in Mexico for many years.) Such pre-clearance activities would enable MVD to electronically capture, store and transmit information on commercial vehicles to the USCS and other federal and Arizona state officials at Mariposa, greatly facilitating processing at the POE.

Grand Avenue

The issues pertaining to the downtown Grand Avenue POE differ significantly from those posed at Mariposa. While the POE is also plagued with serious passenger-vehicle congestion, the current configuration does not lend itself to brick-and-mortar expansion to ease the situation. The Grand Avenue POE is completely landlocked; it is surrounded by city streets and commercial buildings on three sides, and its facilities abut the Mexican border. A SENTRI lane would be helpful, but the POE's current configuration would require taking a lane out of service. Also it would be exceedingly difficult to construct the needed approach in the downtown area of Nogales, Sonora.

There is one action that could open up space at Grand Avenue and possibly make it practical to install a SENTRI system: relocation of the rail line. The rail line runs along the east side of the POE facility. If this space were to be made available for other purposes, it may be possible to convert it into a site for SENTRI. There also would be an adjoining parcel of land in Mexico in which it might be possible to develop an avenue of approach to the SENTRI lane. Alternatively, the relocation of the rail line might make it possible to reconfigure Grand Avenue so as to make it feasible to install SENTRI in some other area of the compound.

While the rail line has a vital role in border commerce, transporting \$2.5 billion in goods each year, its location has long been a problem for the Nogales community. On average, six trains pass through each day—three northbound and three southbound. Whenever they cross, the trains necessarily block traffic and create major congestion. Even emergency vehicles on both sides of the border are hindered from moving from one side of town to the other until the trains clear the track. Moreover, the trains often transport hazardous materials, such as tanker cars filled with thousands of gallons of sulfuric acid. Not only do the rail lines cut through the heart of the downtown center of both Nogales, Arizona, and Nogales, Sonora, they pass over the drainage tunnel used by storm water flowing north from Mexico into the United States. There is the possibility of an accident—or even terrorist attack—in which the tunnel collapses while rail cars loaded with hazardous material are above. (Some local officials are concerned that certain chemicals carried into the tunnel by runoff from Mexico might be corroding the tunnel's foundation, and that this could lead to such a collapse.) Clearly, there is the potential for a major spill of hazardous materials that imperils the lives of large number of residents on both sides of the border.

The congestion problems caused daily by the rail line and the potential for a disaster have been the subject of discussion for years, and there have been repeated calls to relocate the line. For example, ADOT's *2000 Arizona State Rail Plan Update* specifically noted the interest in relocating the line. Alternative routes to the west (possibly linked to the Mariposa POE) and to the east have been suggested. The principal obstacles to relocation have been the cost, up to \$500 million by one estimate, and determining who would pay.

The actual POE facility for a commercial rail line is far simpler than that for a vehicular crossing. Only a small Customs inspection facility is needed, and much of the operation can be automated using the Vehicle and Cargo Inspection System (VACIS) gamma ray equipment. Moreover, the POE only needs to operate when trains are actually passing through; at other times the gate may be locked closed. On the other hand, rail lines also impose their own specific sets of requirements that can be far more demanding than those for vehicular crossings, such as grade and turning radius of the track leading to the POE.

There have been proposals for passenger rail service between the United States and Mexico at Nogales, such as tourist visits to the Copper Canyon in Chihuahua. A passenger rail crossing could require additional infrastructure and resources at the POE. However, the reality is that passenger rail is almost never profitable. Unless it were determined that passenger service would be lucrative, the owner of the rail line would have little incentive to introduce it. Thus, at this point there appears no need to contemplate a POE that processes passengers.

The Nogales rail line is owned and operated by Union Pacific. As a private corporation, UP is responsible to its stockholders. So long as the existing rail line satisfactorily meets the railroad's operational requirements, there is little corporate justification for expending large sums of capital to relocate the line. UP may stand to benefit from a new POE with facilities that streamline operations and decrease crossing times, but such efficiencies and cost-savings would not offset the cost of the relocation itself. While the company may be prepared to act as a good corporate citizen in advancing the welfare of the community, Union Pacific is not prepared to shoulder the high cost of relocating the line alone. For the relocation to become a reality, innovative financing will have to be found.

The first step toward the relocation of the rail line is the preparation of a feasibility study that thoroughly assess the various options in terms of costs, operational effects on rail operations, financial implications, environmental impact, etc. There are various options for obtaining funds for such as study. Among the possible sources of federal grants or loans are the Transportation and Community and System Preservation Pilot Program (TCSP) and the Railroad Rehabilitation and Improvement Financing Program (RRIF). It might also be possible to tap future federal homeland security funds, as the current location of the rail line clearly poses a serious security issue. A source of State grants could be the Safety Enforcement and Transportation Infrastructure Fund (SETIF). Depending on the scope of the feasibility study and the extent of environmental work performed, such an effort could cost more than \$1 million, and it might be necessary to pool funding from multiple sources.

The actual construction of the relocation project would require a major financial investment. If project costs exceed \$100 million, one source of loans could be through the Transportation Infrastructure Finance and Innovation Act (TIFIA). The North American Development Bank (NADBank), which expanded the mandate of its loan program in 2000, might be a potential lender if it could be argued that the relocation project has a significant environmental benefit. Special Congressional authorization of funds for loans or grants is another possibility. (To the extent financial assistance comes in the form of loans, it will be necessary to generate the revenue to repay the loans, such as through user fees. The rate of any such fees should not be so high as to become a disincentive to the use of the rail line.)

In addition to working with UP and federal, state and local agencies in the United States, any action to relocate the rail line must be coordinated fully with Mexico and the Mexican railroad company, *Ferrocarriles Nacionales de México* (Ferromex).

Other Considerations

Following are a number of issues that should be kept in mind:

- The creation of the Department of Homeland Security may well affect the Nogales POEs. Three of the members of the BSPC that are now in different federal departments—INS, USCS and APHIS—will be moved into the new Department beginning March 1. How this could affect the operation of the BSPC, or whether the BSPC will even continue to exist in anything like its current form, is uncertain at this time. Also, the Department of Homeland Security might impose new policies regarding POEs. It is possible that new funding might become available for homeland security (and related matters such as Entry-Exit Controls) that could be tapped for projects in Nogales. Clearly, it will be important to monitor

closely the evolution of the new Department and react quickly to new opportunities and challenges.

- Since developments on the U.S. side of the border must be matched by parallel events on the Mexican side, it is essential to maintain regular contact with relevant Mexican authorities. Projects in Mexico are subject to the same financing constraints as projects in the United States, and Mexico's budgetary problems are far more acute than those of the United States. It is a reality that many priority projects in Mexico are delayed because of a lack of resources. Generally speaking, the less Mexico has to spend on a project, the easier it will be for Mexico to endorse it.
- The future relocation of the passenger-vehicle facility at Mariposa will require the relocation of any SENTRI lane that is built at the existing site. This should not be a reason to delay the installation of SENTRI. The cost of installing a SENTRI lane is relatively modest, probably under \$1 million in this case, and construction can take place in a matter of months after the decision to install the system is made and funds become available. Moreover, funds are already available to construct lanes for SENTRI in Mexico. (The 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States [P.L. 107-206] enacted last summer provided \$25 million to Mexico to implement the U.S.-Mexico Border Partnership Action Plan [Smart Border] concluded at the meeting of Presidents Bush and Fox in Monterrey, Mexico, in March 2002. The agreement between the United States and Mexico on the use of these funds contemplates that a sizeable portion be devoted to SENTRI lanes.) The cost of relocating SENTRI when the POE is reconfigured pales when compared to the value of the congestion relief SENTRI can offer over the intervening years.
- The *Unified Nogales/Santa Cruz County Transportation 2000 Plan* addresses transportation needs for the Nogales/Santa Cruz County planning region out to the year 2020. A companion report, *Trade Corridors in the Nogales/Santa Cruz County Region*, focuses on commercial traffic. Two major new corridors proposed are 1) the North-South Interconnector, intended to "provide a superior alternative to SR 189 for trucks originating at the international border" and headed for warehouse destinations along Interstate-19 and destinations in southern Arizona and the United States via Interstate-19 and Interstate-10, and 2) the East-West Interconnector, intended to reduce congestion and improve safety conditions on Mariposa Road and other existing east-west corridors. The alignment of the North-South Interconnector is proposed to originate ultimately "at a new port of entry with a direct roadway connection with Mexico Route 15." It should be understood that any new POE west of Mariposa would be restricted to passenger vehicles only, and that commercial vehicles would continue to cross at Mariposa.
- While the CyberPort Project team has worked closely with federal agencies, ultimately it will be up to the federal agencies to determine the degree to which the concepts developed in the project are incorporated. For example, GSA will lead the design work for the reconfiguration of the federal facilities at the Mariposa POE.
- As noted above, the NADBank is now operating with an expanded mandate that includes possible financing of transportation projects that have a significant environmental benefit. Nogales is a non-attainment area with regard to air

quality, with PM10 particulate matter (particles less than 10 microns in diameter) a major problem. To the extent that road improvements can improve air quality, it may be possible to obtain NADBank financing for such projects. Under current policies, any loans would be through the Bank's standard loan program, with interest rates currently in the 5.5% to 7.5% range, as the projects would not qualify for grants or the Bank's Low Interest Rate Lending Facility.

- There are a variety of immediate issues at Mariposa not considered in this Annex—e.g., parking areas for out-of-service trucks and for passenger vehicles, construction of a new lane for trucks exiting the compound, etc.—that are currently being addressed by federal and Arizona State officials.
- This Annex does not address the Morley Gate pedestrian crossing.

Action Plan

1. Secure funding for the second phase of the CyberPort Project.
 - Ensure that the Arizona State Government is proactive in demonstrating its commitment to the project, such as by providing letters of support from the Governor.
 - Request members of Arizona's Congressional delegation to support full funding in the TEA-21 reauthorization bill.
 - Monitor other relevant federal legislation (e.g., Homeland Security appropriations) with an eye toward earmarking funding for CyberPort.
 - Develop contingency plans for alternative funding mechanisms, such as use of the State's SETIF program, in case there is a shortfall or a delay in federal funding.
 - Exploit fora such as the U.S.-Mexico Binational Group on Bridges and Border Crossings, the U.S.-Mexico Joint Working Committee (JWC) on transportation infrastructure and GSA's periodic meetings with its Mexican counterpart, CABIN, to promote the CyberPort Project.
2. Launch a coordinated campaign to influence the BSPC 1) to designate Mariposa as a high priority as soon as the reconfiguration project receives final federal approval, and 2) to designate Mariposa as a design-build project.
 - Engage the members of the BSPC individually and directly to ensure that they have all the information needed to support such a decision. Collaborate closely with local officials of BSPC members to ensure their active endorsement of the project.
 - Ensure that the Arizona State Government is proactive in demonstrating its commitment to the project, such as by providing letters of support from the Governor to the heads of the BSPC agencies and other federal officials as appropriate.
 - Request members of Arizona's Congressional delegation to advise the heads of the BSPC agencies of their strong support for the project.

- Exploit fora such as meetings of the Binational Group and the JWC as well as GSA's meetings with CABIN to promote the Mariposa project.
3. Launch a coordinated campaign to obtain a SENTRI lane at Mariposa and explore opening a lane at Grand Avenue.
- Engage the INS (or the Bureau of Customs and Border Protection within the Department of Homeland Security after March 1), explaining the need and offering to facilitate site surveys, a study of potential enrollment, etc. Seek a commitment to begin the project as soon as funds are available.
 - Ensure that the Arizona State Government is proactive in demonstrating its interest in SENTRI, such as by providing letters of support from the Governor to the head of INS and other federal officials as appropriate.
 - Request members of Arizona's Congressional delegation to advise the INS and other federal officials as appropriate of their strong support for SENTRI. Seek their support for appropriating funds in the FY-2004 budget.
 - Consult with Mexican officials at the federal, state and local levels to secure their active support for a SENTRI lane. Seek a commitment from Mexico's federal government to designate a portion of the \$25 million provided by the United States to implement the Smart Border initiative for construction of a dedicated lane on the Mexican side of Mariposa. Concurrently work with INS and the State Department to obtain their support.
 - Exploit fora such as the Binational Group and the JWC as well as GSA's meetings with CABIN to promote the SENTRI project.
4. Conduct a field operational test of the concept of an MVD inspection station at the CAADES compound in Mexico.
- Accelerate interagency coordination, resolving all outstanding issues (legal, financial, operational, etc.). If necessary, take steps to identify a contractor who could function as an authorized third party to perform inspections.
 - Negotiate the necessary arrangements with Mexican authorities and with CAADES.
 - Consult with Mexico and the Department of State regarding the possibility of drawing on funds transferred to Mexico to implement the Smart Border initiative in order to support pre-inspections at CAADES.
5. Initiate a study to assess the feasibility of relocating the rail line in Nogales.
- Engage Union Pacific and obtain its full support for the study.
 - Ensure the active support of appropriate Arizona State agencies—including ADOT, DPS, the Arizona Department of Commerce, and the Arizona Department of Environmental Quality—as well as local officials.
 - Seek the support of relevant federal agencies.
 - Seek funding through the various federal and state programs described above.

6. Make full use of the private sector.
 - Work closely with private sector entities and organizations such as the Nogales Alliance, the Nogales Chamber of Commerce and the Nogales Economic Development Foundation (and their lobbyists) to ensure a single, harmonious message is delivered to Congress and to federal agencies regarding the issues at the Nogales POEs.

ANNEX III

DOUGLAS PORTS OF ENTRY

Goal

To open a new commercial Port of Entry (POE) and a new rail POE in Douglas, and to reconfigure the existing POE into a pedestrian- and passenger-vehicle-only facility.

Discussion

Douglas is the principal border crossing in eastern Arizona. A town of 16,000, it sits adjacent to its far larger sister-city, Agua Prieta, Sonora, which has a population of 110,000. Douglas is served by a single, full-service POE located in the urban area. In 1999, the Arizona Department of Transportation (ADOT) and the Secretariat of Urban Infrastructure and Ecology of the Mexican State of Sonora initiated a binational study of port operations and traffic flow at the POE. The purpose of the *Douglas/Agua Prieta Port Efficiency Study* was to recommend strategies and actions in the areas of port operations, technologies, and infrastructure to improve the current and future flow of passenger vehicles, commercial cargo and pedestrians. Numerous federal, state and local officials from both sides of the border participated in the study, as did many members of the public. Completed in 2000, the study produced a list of nine significant problem areas, including:

- Location of the port of entry within the respective urban areas;
- Lack of an international rail crossing in the Douglas/Agua Prieta area;
- Current border infrastructure and facilities;
- Level of binational agency coordination on infrastructure and facilities planning;
- Traffic flow conflicts between pedestrians, passenger vehicles and trucks;
- Processing and inspection of hazardous materials;
- Truck circulation at the port of entry and within the Douglas/Agua Prieta urbanized area; and
- Traffic congestion approaching the port of entry in Douglas/Agua Prieta.

A Binational Workshop recommended a number of actions and initiatives to address these problem areas, including:

- Initiate planning activities for a new POE west of the existing POE. The concept called for a commercial facility specifically designed to provide for truck circulation and port accessibility so that truck routing did not adversely impact the urban areas of Douglas and Agua Prieta.
- Initiate planning activities for a new rail crossing. The concept called for a rail terminus in Douglas connected by a short spur line with *Ferrocarriles Nacionales*

de Mexico (Ferromex). This would provide Douglas direct access to the national rail system in Mexico and indirect access to the U.S. rail system via a planned rail crossing in Naco and/or the existing crossing in Nogales.

A New Commercial Port of Entry

On the roads leading to the existing full-service POE at Douglas, trucks and passenger vehicles must share the same lane, and pedestrians must walk between vehicles. These conditions pose serious safety, security and congestion issues. High volumes of truck traffic pass over major city streets to and from the POE. Many of these trucks carry hazardous materials, particularly sulfuric acid, related to mining activity in Arizona and Sonora. The capacity of the commercial compound is limited, and there is insufficient space available to increase that capacity by installing new inspection lanes or equipment. These problems will only be exacerbated by future growth in commercial traffic.

The economy of Douglas would stand to benefit from an increase in commercial traffic and the business that this could generate both in Douglas itself and in its sister city of Agua Prieta. There is the potential for a significant increase as Mexico improves Highway 17. This route would offer trucks with cargoes moving between locations in southern and eastern Sonora such as Ciudad Obregón and locations in the central and eastern sections of the United States a viable, shorter alternative to the Nogales POE. However, the lack of commercial cargo processing facilities and inspection technologies at the Douglas POE creates flow inefficiencies that are not only disincentives for truckers to use the port, but also add to the significant congestion issues at Nogales.

Communities elsewhere along the border have solved similar problems by relocating commercial processing to new POEs outside the urban area. Nogales opened the Mariposa POE in the 1990s, and San Luis is now well along with the plans for its new commercial POE. Relocation of the commercial compound could bring similar benefits to Douglas.

- It would remove trucks from the downtown streets, relieving congestion and enhancing safety.
- It would ensure hazardous materials crossing the border are kept away from the populated center of town.
- It would allow the existing POE to be reconfigured so as to relieve congestion by improving the flow of passenger vehicles and pedestrians.
- It would result in a new, state-of-the-art-facility that could accommodate the anticipated increase in commercial traffic and stimulate private investment, thus contributing to the economic growth of the region by providing opportunities for logistics, distribution and trade services.
- It would enhance border security by improving the capacity for monitoring in a region that has been particularly vulnerable.

Land suitable for a new commercial POE can be found approximately one mile west of the current POE. The POE could be roughly aligned with the new ADOT Service Center and inspection facility for commercial vehicles being constructed at the

intersection of highways US 80 and State Route 191. Only a short connector road would be needed between the POE and the inspection facility.

A Rail Crossing

Douglas has been without rail service since the former line was closed in the 1990s. Lack of low-cost rail transportation has limited the opportunities for the community's economic development. The concept of a rail spur that would cross the border and connect with the Ferromex rail line offers a relatively inexpensive approach to restore rail service. By giving Douglas access to both the Mexican and U.S. rail systems, it would allow firms in Douglas to compete more effectively with those in other communities that have such service.

The rail spur could also be constructed on land available west of the existing POE. Only a short stretch of track—probably no more than a mile—would be needed from the border to access a cargo transfer facility. On the Mexican side, the line now runs near the border, and thus it would be relatively easy to lay track for a spur connecting it with the border.

For the spur to operate efficiently, it would need the services of someone with experience in rail service in the border region. One option would be to contract the spur operation to an existing short-line company familiar with the area.

The Process for Opening New Border Crossings

Many factors shape a decision whether to open a new POE. These include construction costs, operating expenses for federal inspection services (personnel, equipment, etc.), environmental considerations, costs of linking the facility to the local transportation system, plans for future growth of the community, and—very importantly—the position taken by Mexico. A thorough feasibility study is the first step in evaluating these factors. In conjunction with this study, it is necessary to prepare an environmental assessment in compliance with the National Environmental Protection Act of 1969. If major environmental issues are involved, a full Environmental Impact Statement is required.

A new POE requires federal approval that can only be obtained through a tedious, cumbersome bureaucratic process. If a new POE is to utilize a cross-border facility such as a bridge, it requires a Presidential Permit, per Executive Orders 11423 of 1968 and 12847 of 1993. If it is simply an at-grade crossing without any such facility, as apparently would be the case for a new Douglas POE, technically it does not require a Presidential Permit. In practice, however, there is little distinction, as essentially all the same requirements have to be met. (It is also possible that the Executive Orders might be amended due to heightened security concerns in the wake of September 11, 2001, to require all new crossings to obtain Presidential Permits. A new E.O. issued on January 23, 2003, already amended E.O. 11423 to include the new Department of Homeland Security.) The U.S. Department of State is responsible for the issuance of Presidential Permits, and it coordinates this process with more than one dozen federal and state agencies. This process takes several years, at best, as was illustrated by the experience with the San Luis II POE. (The most recent Presidential Permit for an international bridge, Anzalduas in Texas, took seven years to obtain.) The Department of State also is responsible for coordinating the project with Mexico, and Mexico's concurrence is essential for final federal

approval. A key step in the process is an exchange of diplomatic notes through which the two governments formally agree to open a new POE.

The traditional method of financing construction of POE projects is federal funding under the General Services Administration's (GSA) annual Federal Buildings Fund appropriation. The Border Station Partnership Council (BSPC)—comprised of GSA, the Immigration and Naturalization Service (INS), the U.S. Customs Service (USCS), the Federal Highway Administration (FHWA), the Animal and Plant Health Inspection Service (APHIS) and the Food and Drug Administration (FDA)—oversees this process and determines the priority for financing POE projects. It produces a five-year rolling priority list of all projects on the northern and southern borders. It updates this list annually.

GSA normally seeks appropriations to design a project in one fiscal year (FY), and then requests funds for the actual construction through a subsequent appropriation, typically two years later. The BSPC does have the option of compressing the timeline on a specific project by combining the design phase and the construction phase, designating it as a "design-build" project to be funded in a single fiscal year.

The current BSPC list reaches to FY-2008. In May, it will update the list and look ahead as far as FY-2009. At this time, the possible opening of a new commercial POE and of a rail POE and the reconfiguration of the existing Douglas POE into a passenger-vehicle and pedestrian POE and are not under consideration. Per the standard process, the BSPC would only place these projects on its list after all preliminary work—such as a feasibility study and an environmental assessment—was completed, federal approval was granted, and diplomatic notes were exchanged with Mexico. GSA would require a preliminary design to be completed and then would prepare a prospectus estimating the construction cost before it would move forward to request funds for the project. GSA plans its budget requests two years in advance; it is currently preparing its request for FY-2005.

Working with the BSPC process, it is possible to develop a realistic timeline for the new Douglas POE and the reconfiguration project. (The rail crossing could have a much different timeline, as explained below.) In a best-case scenario, all requirements could be met and federal approval could be granted in two years—and diplomatic notes could be exchanged. (If the process takes longer, all the timelines described below must be adjusted accordingly.) This would make it possible for the BSPC to act in FY-2005 to place the Douglas project on its priority list for the FY-2006 to FY-2011 timeframe. While the BSPC has the option of placing Douglas ahead of other projects already on the list, under normal practice it would add Douglas to the end of the list. This would contemplate the design of the new commercial POE for FY-2011, with construction probably to follow in FY-2013.

Since the commercial vehicle facility would be built on essentially open land, the design can draw extensively on existing GSA POE models. The design and subsequent construction of the reconfiguration of the existing facilities at Douglas may well prove more difficult, due to the constraints imposed by the layout and landlocked nature of the current POE. Moreover, the construction there must be performed in a manner that permits the continued flow of traffic. Since the commercial facility would be displaced during the reconfiguration, it will be necessary to construct the new commercial facility before the main elements of the reconfiguration can begin. The BSPC might choose to schedule the design and construction of the new POE in an earlier Fiscal Year than the reconfiguration project.

During this process and before construction can begin, GSA will need to acquire title to the property on which the POE facilities will be built. The federal government will expect the sponsors of the project to purchase a sizeable parcel of land, perhaps 80 acres, and donate this land to GSA for the facilities.

In sum, given the extensive preparatory work that needs to be done and the time-consuming process for funding and constructing POEs, the opening of a new commercial POE and the reconfiguration of the current crossing into a passenger-vehicle and pedestrian-only POE will take well into the next decade.

The POE facility for a commercial rail line is far simpler than that for a vehicular crossing, and most of the expenses are borne by the project sponsor. Only a small Customs inspection facility is needed, and much of the operation can be automated using the Vehicle and Cargo Inspection System (VACIS) gamma ray equipment. Moreover, the POE only needs to operate when trains are actually passing through; at other times the gate may be locked closed. Rail lines do impose their own specific sets of requirements that can be far more demanding than those for vehicular crossings, such as grade and turning radius of the track leading to the POE, but these do not appear to be significant hindrances for the rail spur project as it is currently conceived. Thus, the timeline for the rail POE could be many years shorter than that for the commercial crossing and the reconfiguration of the existing port.

Launching the Application Process

Given the considerable effort and expense involved in obtaining federal approval of new border crossings, there are clear benefits in linking the commercial-vehicle and the rail-spur projects, but to do so in a way that allows one to be approved independently of the other. This approach would avoid duplication in the application, particularly with regard to the environmental assessment, which will constitute a major percentage of the overall expenses. It would ensure a unified, coordinated effort to obtain federal approval. Fortunately, since both projects are contemplated in the same general area west of the existing POE, linking them in the application would be a natural step.

As noted above, the federal resources needed for a rail crossing are minimal, and thus a rail crossing is a far simpler proposition from the federal perspective. Federal concerns are centered around the environment assessment (and any mitigation measures that are identified), a sound financial plan that covers construction and operating costs, and Mexico's support (both by the government and Ferromex). To the extent that these concerns—as well as other questions that arise—can be satisfied in an expeditious manner, federal approval may be granted in relatively short period. In contrast, the far heavier demand on resources for a new commercial POE and the reconfiguration of the existing port—particularly millions of dollars for construction—will likely slow federal approval.

The immediate issue is to get the process started and to initiate the feasibility study and environmental work. Approximately \$100,000 would be needed for a preliminary analysis to determine if the projects are feasible and whether the effort should proceed. If the determination is positive, the work can continue to complete the application process. Realistically, the application process will require a minimum of two years and cost a minimum of \$750,000. The timeline could stretch considerably longer, and the cost could run considerably higher. Moreover, there is no guarantee that the projects will obtain federal approval; they will be competing

for scarce resources with other projects that, from the federal perspective, might have a higher priority.

There are a number of possible sources of funding for the feasibility study. One approach would be to obtain special legislative authority for federal funds. This could be accomplished by designating the study as a special line item ("earmark") in a funding vehicle such as the upcoming reauthorization of the Transportation Equity Act for the 21st Century (TEA-21). In pursuing this option, the value of the active and coordinated support of the Arizona State Government and Arizona's Congressional delegation cannot be overstated. An effort to seek earmarked funds would be absolutely dependent on Arizona's Congressional delegation.

Another option would be to seek funding for the study from the State of Arizona. One source of money could be the Safety Enforcement and Transportation Infrastructure Fund (SETIF), a special program that focuses on border transportation infrastructure issues.

There are a number of Arizona State programs that could play a role in the projects, including:

- The Arizona International Development Authority: AIDA was created i.a. to facilitate the construction of infrastructure projects in the border area—utilizing federal, state and local funding and private capital—and to finance public and private projects that facilitate development of international trade and commerce.
- The Greater Arizona Development Authority: GADA is a rural development bank that provides financial and technical assistance to local and tribal governments and special districts with the development of public infrastructure.

One model that might be emulated is the creation of the Greater Yuma Port Authority (GYPA) for the San Luis II POE project. Local communities, the county and a tribe pooled their energies and their resources to create the GYPA, with very positive results. The GYPA purchased approximately 347 acres of land along the border, and it contemplates deeding 80 acres to GSA for the POE facilities. The remaining acres can be made available for commercial purposes, such as an industrial park, warehousing facilities, etc. This approach made it financially viable to purchase the land for the POE and to fund the application process.

The City of Douglas' existing partnerships with Cochise County, the State of Arizona, the U.S. Customs Service, the INS and the private sector could lay the groundwork for a joint effort on the POE projects.

Other Considerations

Following are a number of issues that should be kept in mind:

- The creation of the Department of Homeland Security may well affect the process. Three of the members of the BSPC that are now in different federal departments—INS, USCS and APHIS—will be moved into the new Department beginning March 1. How this could affect the operation of the BSPC, or whether the BSPC will even continue to exist in anything like its current form, is uncertain at this time. Also, the Department of Homeland Security might impose new policies regarding POEs that would affect the Douglas projects. It is possible that

new funding might become available for Homeland Security (and related matters such as Entry-Exit Controls) that could be tapped for the projects. Clearly, it will be important to monitor closely the evolution of the new Department and react quickly to new opportunities and challenges.

- The congestion that now plagues the Douglas POE would be eased by the routing of all commercial vehicles to a new POE. If congestion continues or worsens in the future due to increased passenger-vehicle traffic, it would be helpful to reconfigure the existing POE so as to permit the installation of a dedicated commuter lane (INS's Secure Electronic Network for Travelers' Rapid Inspection program—SENTRI). The existing configuration of the POE does not lend itself to SENTRI, which requires both an inspection booth within the passenger-vehicle compound and a special lane on the Mexican side to channel participating vehicles to the SENTRI booth.
- Building on the point above, it is important to consider whether the new commercial POE is to be expanded to become a full-service POE at some point in the future. If the new POE is ultimately to handle passenger vehicles, it is imperative that federal approval be sought in the initial application and that this be incorporated into the design of the POE, even if the passenger-vehicle portion might not be built for many years. If the new POE is designed and constructed as a commercial-only facility, it will be exceedingly difficult and costly to reconfigure it later.
- A private contractor familiar with the process for obtaining federal approval for new POEs could be very valuable in the application process. If the City of Douglas decides to retain a contractor, the cost of the feasibility study and environmental assessment may be reduced if Douglas municipal officials (e.g., engineers, environmental specialists, etc.) were to assist.
- Since developments on the U.S. side of the border must be matched by parallel events on the Mexican side, it is important to maintain regular contact with relevant Mexican authorities. Projects in Mexico are subject to the same financing constraints as are projects in the United States, and Mexico's budgetary problems are far more acute than those of the United States. It is a reality that many priority projects in Mexico are delayed because of a lack of resources.
- The CyberPort Project administered by ADOT and the University of Arizona can be drawn upon to make the new commercial POE a truly state-of-the-art commercial facility. CyberPort looks beyond technology and beyond the port-of-entry compound to consider a holistic, system-wide approach to the development of the entire trade-flow process—from the point of origin to the point of destination—and it evaluates equally and simultaneously the considerations of safety, security, inspection effectiveness and trade-flow efficiency. The first phase of the CyberPort Project is nearing completion. It has identified nine guiding principles that will be incorporated into the redesign of the Nogales Mariposa Port Facility in subsequent phases. To a great degree, the same innovative concepts, streamlined procedures and advanced technology can be applied to the Douglas POE.
- A cattle crossing currently occupies the likely site of the new POE. It will have to be relocated a suitable distance from the new POE.

Action Plan

1. Pursue federal and Arizona State funds for a preliminary feasibility study and environmental work (\$100,000).
 - Consult with members of Arizona's Congressional delegation and their staffs to determine which members would support special budget authority for the projects.
 - Monitor relevant federal legislation (e.g., Homeland Security appropriations, TEA-21 reauthorization, etc.) with an eye toward earmarking funding.
 - Consult with ADOT regarding the use of SETIF funds.
2. Launch a coordinated campaign to inform federal officials of the projects.
 - Engage the members of the BSPC individually and directly to ensure that they have information on the new POE. Collaborate closely with local officials of BSPC members to ensure their active endorsement of the projects.
 - Ensure that the Arizona State Government is proactive in demonstrating its commitment to the projects, such as by providing letters of support from the Governor to the heads of the BSPC agencies and other federal officials as appropriate.
 - Request members of Arizona's Congressional delegation to advise the heads of the BSPC agencies of their strong support for the projects.
 - Exploit fora such as the U.S.-Mexico Binational Group on Bridges and Border Crossings, the U.S.-Mexico Joint Working Committee on transportation infrastructure and GSA's periodic meetings with its Mexican counterpart, CABIN, to promote the projects.
3. Consult with the Arizona Department of Commerce regarding the AIDA and GADA programs.
4. Consult with the GYPA regarding its organization and funding of the San Luis II project.
5. Make full use of the private sector.
 - Work closely with private sector entities that will benefit from the Douglas projects to ensure a single, harmonious message is delivered to Congress and to the BSPC.
 - Work closely with Tucson's Puerto Nuevo project and the private investors interested in developing multi-modal linkages including the sea-land-rail opportunity represented by the rail linkage with the port of Guaymas.
6. Initiate a dialogue with INS and GSA on the creation of a SENTRI dedicated commuter lane.
 - Explore funding sources for a SENTRI lane.

(Note: The 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States [P.L. 107-206] enacted in mid-2002 provided \$25 million to implement the U.S.-Mexico Border Partnership Action Plan [Smart Border] concluded at the meeting of Presidents Bush and Fox in Monterrey, Mexico, in March 2002. The agreement between the United States and Mexico on the use of these funds contemplates that a sizeable portion be devoted to SENTRI lanes.)

7. Incorporate the CyberPort Project to make the Douglas commercial POE a state-of-the-art facility.
8. Open a dialogue with Mexico regarding the projects.
 - Engage directly the state of Sonora and the municipality of Agua Prieta to ensure their commitment.
 - Engage with Ferromex officials regarding their support for the rail spur.
 - Exploit fora such as meetings of the Binational Group and the JWC as well as GSA's meetings with CABIN to promote the projects.
9. Initiate a dialog with all interested parties—both in Arizona and in Sonora—to develop a consensus regarding the relocation of the cattle crossing.