

## Case Summary

**Case Name:** OOIDA v US DOT, FMCSA, Mary Peters, John Hill and The United States of America

**Court Name:** United States Court of Appeals for the District of Columbia

**Case Filed:** September 7, 2007

## Allegations

The Petition was filed requesting a review of the final determination of the FMCSA to proceed with a pilot program that would authorize up to 100 trucking companies based in Mexico to perform long-haul operations within the United States, beyond the current commercial zone at the border. OOIDA also asked for a stay on the program pending the review in the U.S. Court of Appeals of DC.

Sen. Byron Dorgan, (ND-D) and Sen. Arlen Specter, (PA-R) offered an amendment to the Senate's FY 2008 Transportation, Housing and Urban Development Appropriations bill. It would cut off funds for implementing the cross-border pilot program. The U.S. House of Representatives unanimously approved a similar amendment as part of deliberations on its version of the FY2008 transportation appropriations legislation that also would remove funding for the cross-border pilot program. On September 11, 2007, the Senate passed the amendment, 74-24, to cut off funding for the US DOT's Cross-Border Trucking Pilot Program.

On October 3, 2007, the lawsuit filed by OOIDA challenging the cross-border program was transferred to the U.S. District Court of Appeals for the 9th Circuit. Once the DC Circuit ruled on OOIDA's request for the emergency stay, it assigned the case to a Judicial Panel of Multidistrict Litigation to decide what Court of Appeals would hear the case. OOIDA's legal team filed a motion supporting a transfer of the case to the 9th Circuit.

On July 31, 2008, bill HR 6630 was passed on a unanimous vote and ordered the Department of Transportation to terminate a pilot program for Mexican motor carriers. The bill was sponsored by Representatives Peter DeFazio along with James Oberstar, John J. Duncan Jr., and John Mica.

The program continued on for 11 months despite an ongoing court challenge by OOIDA; a funding cut passed by Congress and signed into law; and numerous other votes in favor of shutting the program down. Despite all of this, the DOT forged ahead with the program – which included only 27 Mexican motor carriers with 107 trucks participating, far below the DOT's anticipated 100 carriers.

Funding for the program was officially cut in the huge omnibus appropriations legislation that was signed into law on March 11, 2009. On March 18, 2009, in a notice posted in the *Federal Register*, FMCSA officials announced the termination of the demonstration project that allowed long-haul access to select Mexican motor carriers.

In shutting the program down, FMCSA staffers are no longer processing applications for the program and revoked registration that was awarded to participants in the program. The notice did not state how FMCSA officials plan to verify that the motor carriers cease operating beyond the commercial zones.

In a letter to the 9th Circuit Court of Appeals in San Francisco, OOIDA argued that unless a ruling is handed down on the lawfulness of that program, then the government could use invalid data to support a more expansive cross-border trucking program. The court had asked the parties of the lawsuit to file short briefs about the effect on the litigation of Congress's action to pull funding for the pilot program. Other parties to the suit, including the Teamsters and Sierra Club, told the court that this Congressional action, and the DOT's subsequent termination of the pilot program, rendered the legal action "moot" - no longer requiring a decision by the court; however, OOIDA disagrees, believing that the issue is still relevant and a decision from the court could benefit future programs by setting standards for safety and security.

On April 20, 2009, the U.S. Court of Appeals for the 9th Circuit dismissed the lawsuits challenging the now-defunct long-haul cross-border trucking program with Mexico. The three-judge panel ruled the cases were no longer relevant because the funding of the program was cut off on March 11, 2009, marking the end of the program.