

Presidential Documents

Presidential Permit of July 29, 2020

Authorizing TransCanada Keystone Pipeline, L.P., To Operate and Maintain Existing Pipeline Facilities at the International Boundary Between the United States and Canada

By virtue of the authority vested in me as President of the United States of America (the “President”), I hereby grant this Presidential permit, subject to the conditions herein set forth to TransCanada Keystone Pipeline, L.P. (the “permittee”). The permittee is a limited partnership, organized under the laws of the State of Delaware and owned by affiliates of TC Energy Corporation, a Canadian public company organized under the laws of Canada. Permission is hereby granted to the permittee to operate and maintain existing pipeline Border facilities, as described herein, at the international border of the United States and Canada at Cavalier County, North Dakota, for the transport between the United States and Canada of all hydrocarbons and petroleum products of every description, refined or unrefined (inclusive of, but not limited to, crude oil, naphtha, liquefied petroleum gas, natural gas liquids, jet fuel, gasoline, kerosene, and diesel), but not including natural gas subject to section 3 of the Natural Gas Act, as amended (15 U.S.C. 717b).

This permit supersedes and revokes the Presidential permit issued previously to the permittee, dated March 11, 2008. *See* 73 Fed. Reg. 11456 (Mar. 3, 2008) (notice of proposed permit determination).

This permit does not affect the applicability of any otherwise-relevant laws and regulations. As confirmed in Article 2 of this permit, the Border facilities shall remain subject to all such laws and regulations.

The term “Facilities,” as used in this permit, means the portion in the United States of the international pipeline project associated with the permittee’s July 12, 2019, application for an amendment to its existing permit, and any land, structures, installations, or equipment appurtenant thereto.

The term “Border facilities,” as used in this permit, means those parts of the Facilities consisting of a 30-inch diameter pipeline in existence at the time of this permit’s issuance extending from the international border between the United States and Canada at Cavalier County, North Dakota, to and including the first mainline shut-off valve or pumping station in the United States, and any land, structures, installations, or equipment appurtenant thereto.

This permit is subject to the following conditions:

Article 1. The Border facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit and any subsequent Presidential amendment to it. This permit may be terminated, revoked, or amended at any time at the sole discretion of the President, with or without advice provided by any executive department or agency (agency). The permittee shall make no substantial change in the Border facilities, in the location of the Border facilities, or in the operation authorized by this permit unless the President has approved the change in an amendment to this permit or in a new permit. Such substantial changes do not include, and the permittee may make, changes to the average daily throughput capacity of the Border facilities to any volume of products

that is achievable through the Border facilities, and to the directional flow of any such products.

Article 2. The standards for, and the manner of, operation and maintenance of the Border facilities shall be subject to inspection by the representatives of appropriate Federal, State, and local agencies. Officers and employees of such agencies who are duly authorized and performing their official duties shall be granted free and unrestricted access to the Border facilities by the permittee. The Border facilities, including the operation and maintenance of the Border facilities, shall be subject to all applicable laws and regulations, including pipeline safety laws and regulations issued or administered by the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation.

Article 3. Upon the termination, revocation, or surrender of this permit, unless otherwise decided by the President, the permittee, at its own expense, shall remove the Border facilities within such time as the President may specify. If the permittee fails to comply with an order to remove, or to take such other appropriate action with respect to, the Border facilities, the President may direct an appropriate official or agency to take possession of the Border facilities—or to remove the Border facilities or take other action—at the expense of the permittee. The permittee shall have no claim for damages caused by any such possession, removal, or other action.

Article 4. When, in the judgment of the President, ensuring the national security of the United States requires entering upon and taking possession of any of the Border facilities or parts thereof, and retaining possession, management, or control thereof for such a length of time as the President may deem necessary, the United States shall have the right to do so, provided that the President or his designee has given due notice to the permittee. The United States shall also have the right thereafter to restore possession and control to the permittee. In the event that the United States exercises the rights described in this article, it shall pay to the permittee just and fair compensation for the use of such Border facilities, upon the basis of a reasonable profit in normal conditions, and shall bear the cost of restoring the Border facilities to their previous condition, less the reasonable value of any improvements that may have been made by the United States.

Article 5. Any transfer of ownership or control of the Border facilities, or any part thereof, or any changes to the name of the permittee, shall be immediately communicated in writing to the President or his designee, and shall include information identifying any transferee. Notwithstanding any such transfers or changes, this permit shall remain in force subject to all of its conditions, permissions, and requirements, and any amendments thereto, unless subsequently terminated, revoked, or amended by the President.

Article 6. (1) The permittee is responsible for acquiring any right-of-way grants or easements, permits, and other authorizations as may become necessary or appropriate.

(2) The permittee shall hold harmless and indemnify the United States from any claimed or adjudged liability arising out of construction, connection, operation, or maintenance of the Border facilities, including environmental contamination from the release, threatened release, or discharge of hazardous substances or hazardous waste.

(3) To ensure the safe operation of the Border facilities, the permittee shall maintain them and every part of them in a condition of good repair and in compliance with applicable law.

Article 7. The permittee shall file with the President or his designee, and with appropriate agencies, such sworn statements or reports with respect to the Border facilities, or the permittee's activities and operations in connection therewith, as are now, or may hereafter, be required under any law or regulation of the United States Government or its agencies. These reporting

obligations do not alter the intent that this permit be operative as a directive issued by the President alone.

Article 8. Upon request, the permittee shall provide appropriate information to the President or his designee with regard to the Border facilities. Such requests could include, for example, information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation, or maintenance of the Border facilities.

Article 9. This permit is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I, DONALD J. TRUMP, President of the United States of America, have hereunto set my hand this twenty-ninth day of July, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fifth.

