

Presidential Documents

Presidential Permit of July 29, 2020

Authorizing the Kansas City Southern Railway Company To Construct, Connect, Operate, and Maintain Railway Bridge Facilities at the International Boundary Between the United States and Mexico

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 The Kansas City Southern Railway Company (the “permittee”). The permittee is a Missouri corporation and a wholly owned subsidiary of Kansas City Southern, a Delaware corporation. Permission is hereby granted to the permittee to construct, connect, operate, and maintain certain railway Border facilities, as described herein, at the international border of the United States and Mexico at Laredo, Texas, and Nuevo Laredo, Mexico.

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 railway bridge project—to be constructed adjacent to the existing International Rail Bridge at Laredo, Texas—associated with the permittee’s March 3, 2020, application for a Presidential 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 the railway bridge, its approaches, 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.

Article 2. The standards for, and the manner of, construction, connection, 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 said Border facilities by the permittee. The Border facilities, including the construction, connection, operation, and maintenance of the Border facilities, shall be subject to all applicable laws and regulations, including laws and regulations governing bridges or railway safety, or issued or administered by the Committee on Foreign Investment in the United States or by the United States Section of the International Boundary and Water Commission.

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. To the extent authorized by law, the permittee shall provide to U.S. Customs and Border Protection of the Department of Homeland Security and any other relevant United States Government agencies, at no cost to the United States, suitable inspection facilities, at a mutually agreed upon site, for officers and employees of such agencies to perform their duties. The provision of such facilities shall include, to the extent deemed necessary by such agencies, the transfer of title to any such facilities (including the site) to the United States. The inspection facilities shall meet the latest agency design standards and any operational requirements, including facilities for the Rail-Vehicle and Cargo Inspection Systems, inspection and office space, personnel parking and restrooms, utilities, and an access road. To the extent authorized by law, the permittee shall be responsible for any ongoing maintenance or necessary improvements to the inspection facilities, including to comply with updated agency design standards, and for the full cost of providing services at such facilities.

Article 8. 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 9. 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 10. The permittee shall provide written notice to the President or his designee at the time that the construction authorized by this permit begins, at such time as such construction is completed, interrupted, or discontinued, and at other times as may be requested by the President.

Article 11. This permit shall expire 15 years from the date of its issuance if the permittee has not commenced construction of the Border facilities by that date.

Article 12. 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.

