

Administration of Donald J. Trump, 2019

Presidential Permit—Authorizing TransCanada Keystone Pipeline, L.P., To Construct, Connect, Operate, and Maintain Pipeline Facilities at the International Boundary Between the United States and Canada

March 29, 2019

By virtue of the authority vested in me as President of the United States of America, I hereby grant permission, subject to the conditions herein set forth, to TransCanada Keystone Pipeline, L.P. (hereinafter referred to as the "permittee"), to construct, connect, operate, and maintain pipeline facilities at the international border of the United States and Canada at Phillips County, Montana, for the import of oil from Canada to the United States. The permittee is a limited partnership organized under the laws of the State of Delaware, owned by affiliates of TransCanada Corporation, a Canadian public company organized under the laws of Canada.

This permit supersedes the Presidential permit issued to the permittee, dated March 23, 2017. For the avoidance of doubt, I hereby revoke that March 23, 2017, permit. Furthermore, this permit grants the permission described in the previous paragraph and revokes the March 23, 2017, permit notwithstanding Executive Order 13337 of April 30, 2004 (Issuance of Permits With Respect to Certain Energy-Related Facilities and Land Transportation Crossings on the International Boundaries of the United States) and the Presidential Memorandum of January 24, 2017 (Presidential Memorandum Regarding Construction of the Keystone XL Pipeline).

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 application for a Presidential permit filed on May 4, 2012, and resubmitted on January 26, 2017, 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 36-inch diameter pipeline extending from the international border between the United States and Canada at a point in Phillips County, Montana, to and including the first mainline shut-off valve in the United States located approximately 1.2 miles from the international border, and any land, structures, installations, or equipment appurtenant thereto.

This permit is subject to the following conditions:

Article 1. (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 of the United States (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 until the permittee has notified the President or his designee of such change and the President has approved the change.

(2) The construction, connection, operation, and maintenance of the Facilities (not including the route) shall be, in all material respects and as consistent with applicable law, as described in the permittee's application for a Presidential permit filed on May 4, 2012, and resubmitted on January 26, 2017.

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 the Border facilities by the permittee. Consistent with Article 10, this permit shall remain in effect until terminated, revoked, or amended by the President.

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 that possession of such Border facilities be taken—or that they be removed or that other action be taken—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 shall exercise 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 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, shall be immediately communicated in writing to the President or his designee, and shall include information identifying the transferee. Notwithstanding any transfer of ownership or control of the Border facilities, or any part thereof, 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 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. 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 10. This permit shall expire 5 years from the date of its issuance if the permittee has not commenced construction of the Border facilities by that date.

Article 11. 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 March, 2019, in the City of Washington, District of Columbia.

DONALD J. TRUMP

[Filed with the Office of the Federal Register, 11:15 a.m., April 2, 2019]

NOTE: This Presidential permit was published in the *Federal Register* on April 3.

Categories: Presidential Permit : TransCanada Keystone Pipeline, L.P., authorizing construction, connection, operation, and maintenance.

Subjects: Energy : Oil and gas industry :: Keystone XL Pipeline project.

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