
Presidential Documents

Title 3—

Presidential Permit of September 28, 2020

The President

Authorizing the Alaska to Alberta Railway Development Corporation To Construct, Connect, Operate, and Maintain Railway 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, I hereby grant this Presidential permit, subject to the conditions herein set forth, to the Alaska to Alberta Railway Development Corporation (the “permittee”). The permittee is a private corporation organized under the laws of the Government of Alberta, Canada, and registered in the State of Alaska. 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 Canada at Southeast Fairbanks Census Area, Alaska, in the Ladue River Valley at 63°15’N and 141°W, approximately 45 miles due north over land from the Alcan Border Crossing on Alaska Route 2 (also known as the Alaska Highway) and approximately 60 miles due east over land from the town of Tok, Alaska.

This permit does not affect the applicability of any otherwise relevant laws and regulations. As confirmed in Article 2 below, 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 “Alaska to Alberta Railway” project associated with the permittee’s application for a Presidential permit filed on September 6, 2019, and any land, structures, installations, or equipment appurtenant thereto.

The term “Border facilities,” as used in this permit, means those parts of the Facilities extending 1.0 miles from the international border between the United States and Canada, 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 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 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 railway safety or issued or administered by the Committee on Foreign Investment in the United States.

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 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. The permittee shall provide written notice to the President or his designee describing any material investment in the Facilities, direct or indirect, by non-Canadian foreign investors of any kind, including individuals, corporations or other non-governmental entities, and governmental entities. Such written notice shall be provided at such time as an agreement for any such investment is entered into, or 30 days before any such investment is made, whichever is earlier, and at other times as may be requested by the President.

Article 12. This permit shall expire 10 years from the date of its issuance if the permittee has not commenced construction of the Border facilities by that date.

Article 13. 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-eighth day of September, 2020, in the City of Washington, District of Columbia.

