

# PRESIDENTIAL PERMIT

## AUTHORIZING THE UNION PACIFIC RAILROAD COMPANY TO OPERATE AND MAINTAIN THE BROWNSVILLE WEST RAIL BYPASS INTERNATIONAL BRIDGE, ITS APPROACHES AND FACILITIES, AT THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND MEXICO

By virtue of the authority vested in me as Under Secretary of State for Economic Growth, Energy, and the Environment, including those authorities under Executive Order 11423, [33 FR 11741](#) (1968); as amended by Executive Order 12847 of May 17, 1993, [58 FR 29511](#) (1993), [Executive Order 13284](#) of January 23, 2003, [68 FR 4075](#) (2003) and [Executive Order 13337](#) of April 30, 2004, [69 FR 25299](#) (2004); the International Bridge Act of 1972 (86 Stat. 731; [33 U.S.C. 535 et seq.](#)); and Department of State Delegation of Authority 118-2 of January 26, 2006; and having requested and received the views of various of the federal departments and other interested persons; I hereby grant permission, subject to the conditions herein set forth, to the Union Pacific Railroad Company (hereinafter referred to as “permittee”), to operate and maintain the Brownsville West Rail Bypass International Bridge. This permit supersedes the Presidential Permit that the Department of State issued on October 1, 2004 to Cameron County, Texas.

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The term “facilities” as used in this permit means the bridge, its approaches and any land, structure or installations appurtenant thereto.

The term “United States facilities” as used in this permit means that part of the facilities in the United States.

This permit is subject to the following conditions:

*Article 1.* The United States facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions and requirements of this permit and any amendment thereof. This permit may be terminated at the will of the Secretary of State or the Secretary's delegate or may be amended by the Secretary of State or the Secretary's delegate at will or upon proper application therefore. The permittee shall make no substantial change in the location of the United States facilities or in the operation authorized by this permit until such changes have been approved by the Secretary of State or the Secretary's delegate.

*Article 2.* The standards for, and the manner of, the operation and maintenance of the United States facilities shall be subject to inspection and approval by the representatives of appropriate federal or state agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

*Article 3.* The permittee shall comply with all applicable federal, state, and local laws and regulations regarding the operation and maintenance of the United States facilities, and with all applicable industrial codes. The permittee shall obtain the requisite permits from the relevant

Mexican authorities as well as from the relevant state and local government entities and relevant federal agencies.

*Article 4.* Upon the termination, revocation or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the United States facilities in the immediate vicinity of the international boundary shall be removed by and at the expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove this portion of the United States facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession or removal.

*Article 5.* If, in the future, it should appear to the United States Coast Guard or the Secretary of Homeland Security (or the Secretary's delegate) that any facilities or operations permitted hereunder cause unreasonable obstructions to the free navigation of any of the navigable waters of the United States, the permittee may be required, upon notice from the United States Coast Guard or the Secretary of Homeland Security (or the Secretary's delegate), to remove or alter such facilities as are owned by it so as to render navigation through such waters free and unobstructed.

*Article 6.* This permit and the operation of the United States facilities hereunder shall be subject to the limitations, terms, and conditions issued by any competent agency of the United States Government, including but not limited to the United States Coast Guard, the Department of Homeland Security, the General Services Administration, and the United States Section of the International Boundary and Water Commission (USIBWC). This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in exact accordance with such limitations, terms and conditions.

*Article 7.* When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the United States facilities or parts thereof; to retain possession, management or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such United States facilities upon the basis of a reasonable profit in normal conditions, and the cost of restoring said facilities to as good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

*Article 8.* Any transfer of ownership or control of the United States facilities or any part thereof shall be immediately notified in writing to the United States Department of State for approval, including identification of the transferee. In the event of such transfer of ownership or control, the permit shall remain in force and the United States facilities shall be subject to all the conditions, permissions, and requirements of this permit and any amendments thereof.

*Article 9.* (1) The permittee shall acquire such right-of-way grants or easements, permits and other authorizations as may become necessary and appropriate.

(2) The permittee shall save harmless and indemnify the United States from any claimed or adjudged liability arising out of the operation or maintenance of the facilities.

(3) The permittee shall maintain the United States facilities and every part thereof in a condition of good repair for their safe operation.

*Article 10.* The permittee shall provide to the U.S. Customs and Border Protection, at no cost to the federal government, facilities for the Rail-Vehicle and Cargo Inspection Systems (VACIS), to include office space for CBP personnel, restrooms, parking area, utilities, and an access road.

*Article 11.* The permittee shall take all appropriate measures to prevent or mitigate adverse environmental impacts or disruption of significant archeological resources in connection with the operation and maintenance of the United States facilities, including those mitigation measures set forth in the Final Environmental Assessment and in the Department's Finding of No Significant Impact (FONSI) dated June 18, 2004 issued in response to Cameron County's application of June 2003 for a Presidential permit with respect to the Brownsville West Rail Bypass International Bridge.

*Article 12.* The permittee shall comply with all agreed actions and obligations undertaken to be performed in by Cameron County in its Application for a Presidential Permit, dated June 2003, in the Final Environmental Assessment, and in the FONSI, dated June 18, 2004, and in Union Pacific Railroad Company's application for a Presidential Permit, dated July 7, 2016. The Final Environmental Assessment includes the "Draft Environmental Assessment Document for the Proposed Brownsville-Matamoros West Rail Bypass Plan" dated June 2003, all comments submitted by agencies on that document, the responses to those comments, and all correspondence between agencies and the permittee addressing agencies' concerns.

*Article 13.* The permittee shall file with the appropriate agencies of the United States Government such statements or reports under oath with respect to the United States facilities, and/or permittee's actions in connection therewith, as are now or may hereafter be required under any laws or regulations of the United States Government or its agencies.

*In witness whereof,* I, Catherine A. Novelli, Under Secretary of State for Economic Growth, Energy, and the Environment, have hereunto set my hand this 13th day of January, 2017 in the City of Washington, District of Columbia.

Catherine A. Novelli

Under Secretary of State for Economic Growth, Energy, and the Environment.