

DEPARTMENT OF STATE  
WASHINGTON

PERMIT

NUMBER 99-02

-----  
AUTHORIZING COX COMMUNICATIONS, INCORPORATED TO CONSTRUCT,  
OPERATE AND MAINTAIN AN INTERNATIONAL UNDERGROUND TUNNEL  
AT THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND  
MEXICO

By virtue of the authority vested in me as Acting Under Secretary of State for Economic, Business and Agricultural Affairs under Executive Order 11423, 33 Fed. Reg. 11741 (1968), as amended by Executive Order 12847 of May 17, 1993, 58 Fed. Reg. 29511 (1993) and Department of State Delegation of Authority number 118-1 of April 11, 1973; having considered the environmental effects of the proposed action in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. § 4321 et seq.) and other statutes related to environmental concerns; having considered the proposed action in accordance with the National Historic Preservation Act (80 Stat. 917, 16 U.S.C. § 470f et seq.); 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 Cox Communications, Inc. of San Diego, California (hereinafter referred to as "permittee"), to construct, operate and maintain an international underground tunnel in the vicinity of San Diego, California, and Tijuana, Baja California, Mexico.

\* \* \* \* \*

The term "facilities" as used in this permit means the tunnel, 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 the conditions, provisions and requirements of this permit or any amendment thereof; further that 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 therefor; further that 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. Standards for, and the manner of, the construction, 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 Federal and State laws and regulations regarding the construction, operation and maintenance of the United States facilities, and with all applicable industrial codes.

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. This permit and the operation of the United States facilities hereunder shall be subject to the regulations issued by any competent agency of the United States Government, including but not limited to the United States Section of the International Boundary and Water Commission (IBWC). 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 6. 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 7. 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, including the submission of a proper identification by the transferee. This permit shall remain in force subject to all the conditions, permissions and requirements of this permit and any amendments thereof unless terminated or amended by the Secretary of State or the Secretary's delegate.

Article 8. (1) The permittee shall acquire such right-of-way grants, easements, permits and other authorizations as may become necessary and appropriate.

(2) The permittee shall save harmless the United States from any claimed or adjudged liability arising out of the construction, completion 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 9. The permittee shall take all appropriate measures to prevent or mitigate adverse environmental impacts or disruption of significant archeological resources in connection with the construction, operation and maintenance of the United States facilities.

Article 10. The permittee shall comply with all actions to prevent or mitigate potentially adverse environmental impacts proposed to be performed by it in the Final Environmental Assessment dated March 15, 1999.

Article 11. The permittee shall file with the appropriate agencies of the Government of the United States 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 Government of the United States or its agencies.

Article 12. The permittee shall send notice to the Department of State at such time as the construction authorized by this permit is begun, and again at such time as construction is completed, interrupted or discontinued.

IN WITNESS THEREOF, I, Alan Larson, Acting Under Secretary of State for Economic, Business and Agricultural Affairs, have hereunto set my hand this 31st day of August, 1999, in the City of Washington, District of Columbia.

Alan Larson