

111TH CONGRESS  
2D SESSION

# S. 3057

To provide to the Secretary of Interior a mechanism to cancel contracts for the sale of materials CA–20139 and CA–22901, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 2, 2010

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To provide to the Secretary of Interior a mechanism to cancel contracts for the sale of materials CA–20139 and CA–22901, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Soledad Canyon High  
5       Desert, California Public Lands Conservation and Man-  
6       agement Act of 2010”.

7       **SEC. 2. FINDING AND PURPOSES.**

8       (a) FINDINGS.—The Congress finds the following:

9               (1) SOLEDAD CANYON AREA.—

1 (A) Two valid Federal contracts, privately  
2 held, numbered CA-20139 and CA-22901, and  
3 issued under the Materials Act of 1947, author-  
4 ize extraction of approximately 56,000,000 tons  
5 of sand and gravel from the Federal mineral es-  
6 tate in lands located in Soledad Canyon adja-  
7 cent to the City of Santa Clarita, California.

8 (B) It is in the best interest of the citizens  
9 of California and the Federal Government to  
10 cancel the Contracts and prohibit future mining  
11 in the area that was subject to the two Federal  
12 Contracts in the Soledad Canyon area of Cali-  
13 fornia.

14 (C) The holder of the Contracts should re-  
15 ceive, as compensation for such cancellation, the  
16 fair market value of the Contracts and all costs,  
17 fees, and covered liabilities incurred by the Con-  
18 tract Holder in good faith in its efforts to de-  
19 velop the Contracts.

20 (D) A site-specific solution that is fair to  
21 the Contract Holder and that seeks to protect  
22 the environment and minimize impacts on local  
23 transportation systems is in the best interest of  
24 the Nation.

1           (E) Considerable sums of money have been  
2 expended by the Contract Holder and the City  
3 of Santa Clarita on legal and other services in  
4 trying to ensure their interests are protected  
5 with respect to the Contracts CA-20139 and  
6 CA-22901.

7           (F) Facilitation of an open-space corridor  
8 between the two arms of the Angeles National  
9 Forest that enhances environmental and wildlife  
10 values is in the national interest.

11       (2) VICTORVILLE AREA.—

12           (A) The Bureau of Land Management has  
13 extensive land ownership in small and large  
14 parcels interspersed with or adjacent to private  
15 land in and around Victorville, California, mak-  
16 ing many of these parcels difficult to manage  
17 and appropriate for disposal.

18           (B) Certain public lands near Victorville,  
19 California, have been previously identified for  
20 disposal as a result of the Bureau of Land  
21 Management's West Mojave Land Management  
22 Plan which was approved in 2006 with public  
23 involvement and participation.

24           (C) In order to promote responsible and  
25 orderly economic development, certain public

1           lands should be sold at fair market value to the  
2           City of Victorville or the County of San  
3           Bernardino; both located in California.

4           (b) PURPOSES.—The purposes of this Act are the fol-  
5           lowing:

6           (1) To provide to the Bureau of Land Manage-  
7           ment the authority to cancel Contracts CA–20139  
8           and CA–22901 and prohibit future mining in the  
9           area that was subject to the two Federal Contracts  
10          in the Soledad Canyon area of California.

11          (2) To provide a means for the Contract Holder  
12          to recover for the cancellation of the Contracts, the  
13          fair market value of the Contracts and the Contract  
14          Holder’s expenditures and covered liabilities incurred  
15          pursuing the development of the Contracts.

16          (3) To provide the Bureau of Land Manage-  
17          ment tools to verify expenses incurred by the Con-  
18          tract Holder and provide relief.

19          (4) To provide timelines for the verification of  
20          costs incurred by the Contract Holder and the deter-  
21          mination of compensation and to provide a dispute  
22          resolution process.

23          (5) To provide for the orderly disposal of cer-  
24          tain Federal lands in San Bernardino County, Cali-

1       fornia, and to provide for the acquisition of environ-  
2       mentally sensitive lands in the State of California.

3 **SEC. 3. DEFINITIONS.**

4       In this Act:

5           (1) CITY OF SANTA CLARITA.—The term “City  
6       of Santa Clarita” means the City of Santa Clarita,  
7       California.

8           (2) CITY OF VICTORVILLE.—The term “City of  
9       Victorville” means the City of Victorville, California.

10          (3) COUNTY OF SAN BERNARDINO.—The term  
11       “County of San Bernardino” means the County of  
12       San Bernardino, California.

13          (4) CONTRACTS.—The term “Contracts” means  
14       the Bureau of Land Management mineral contracts  
15       numbered CA–20139 and CA–22901.

16          (5) CONTRACT HOLDER.—The term “Contract  
17       Holder” means the private party to the Contracts  
18       CA–20139 and CA–22901, and its successors that  
19       hold legal interests in such Contracts.

20          (6) COVERED LIABILITIES.—The term “covered  
21       liabilities” includes any court-ordered or court-ap-  
22       proved payment, settlement, or other liability on the  
23       part of the Contract Holder for damages, costs,  
24       compensation, or reimbursement to any third party  
25       for agreements entered into by the Contract Holder

1 in good faith prior to January 1, 2008, in order to  
2 exercise rights under the Contracts.

3 (7) ENVIRONMENTALLY SENSITIVE LAND.—The  
4 term “environmentally sensitive land” means land or  
5 an interest in land, the acquisition of which by the  
6 United States would, in the judgment of the Sec-  
7 retary or the Secretary of Agriculture—

8 (A) promote the preservation of natural,  
9 scientific, aesthetic, historical, cultural, water-  
10 shed, wildlife, and other values contributing to  
11 public enjoyment and biological diversity;

12 (B) enhance recreational opportunities and  
13 public access;

14 (C) provide the opportunity to achieve bet-  
15 ter management of public land through consoli-  
16 dation of Federal ownership; or

17 (D) otherwise serve the public interest.

18 (8) MATERIALS ACT OF 1947.—The term “Ma-  
19 terials Act of 1947” means the Act of July 31, 1947  
20 (chapter 406; 61 Stat. 681; 30 U.S.C. 601–604).

21 (9) SECRETARY.—The term “Secretary” means  
22 the Secretary of the Interior.

23 (10) SPECIAL ACCOUNT.—The term “special ac-  
24 count” means the account in the Treasury of the  
25 United States established under subsection 5(i).

1 **SEC. 4. CANCELLATION OF THE CONTRACTS; COMPENSA-**  
2 **TION TO CONTRACT HOLDER.**

3 (a) **CONTRACT CANCELLATIONS.**—The Secretary  
4 shall cancel Bureau of Land Management mineral Con-  
5 tracts CA–20139 and CA–22901 and withdraw those  
6 areas that were subject to the Contracts from further min-  
7 eral entry under all mineral leasing and sales authorities  
8 available to the Secretary, effective on the date of the en-  
9 actment of this Act.

10 (b) **COMPENSATION.**—As compensation for the can-  
11 cellation of the Contracts, the Contract Holder shall re-  
12 ceive the following amounts, whether determined by  
13 agreed negotiated value or awarded by judgment of the  
14 United States Court of Federal Claims in accordance with  
15 the referral provisions of subsection (g)—

16 (1) the fair market value of the cancelled Con-  
17 tracts, determined in accordance with subsection (e);

18 (2) the Contract Holder’s expenditures in trying  
19 to bring the Contracts into commercial production,  
20 as described in subsection (f);

21 (3) interest on the compensation provided for in  
22 paragraphs (1), (2), and (4) from the date of the en-  
23 actment of this Act until the last day of the month  
24 preceding the date on which payment is made, com-  
25 pounded quarterly and computed at the rate applica-

1 ble to marketable obligations of the United States of  
2 three year maturity for the period involved; and

3 (4) covered liabilities incurred in trying to bring  
4 the Contracts into commercial production, as de-  
5 scribed in subsection (f); provided, however, that  
6 compensation for covered liabilities may be paid to  
7 Contract Holder under this section for up to 15  
8 years following the effective date of this Act.

9 (c) MEANS OF PAYMENT; ASSURANCES OF PAY-  
10 MENT.—

11 (1) FULL FAITH AND CREDIT.—The full faith  
12 and credit of the United States is hereby pledged to  
13 the payment of the compensation provided for in  
14 subsection (b).

15 (2) MEANS OF PAYMENT.—Compensation paid  
16 to Contract Holder under this Act shall be paid by  
17 means of disbursement of funds from the special ac-  
18 count created in the Treasury of the United States  
19 pursuant to section 5(i) except as otherwise provided  
20 in paragraph (3).

21 (3) PAYMENT BY DEADLINE.—Notwithstanding  
22 paragraph (2) or any other provision of this Act, in  
23 the event that the Contract Holder has not received  
24 all of the compensation provided for in this section  
25 on or before the third anniversary of the enactment

1 of this Act, all compensation then remaining to be  
2 paid to Contract Holder shall be paid from the per-  
3 manent judgment appropriation established pursu-  
4 ant to section 1304 of title 31, United States Code.

5 (4) NEGOTIATED AGREEMENT.—Any negotiated  
6 agreement between the Secretary and the Contract  
7 Holder as to the amount of compensation described  
8 in subsection (b) shall be deemed to be a com-  
9 promise settlement of imminent litigation within the  
10 meaning of section 1304 of title 31, United States  
11 Code, and section 2414 of title 28, United States  
12 Code, and, notwithstanding anything to the contrary  
13 contained in any other provision of law, including  
14 section 2517 of title 28, United States Code, any  
15 final judgment by the United States Court of Fed-  
16 eral Claims determining the fair market value of  
17 Contracts CA–20139 and CA–22901 in accordance  
18 with the referral provisions of subsection (g) shall be  
19 deemed to be a final judgment and award within the  
20 meaning of section 1304 of title 31, United States  
21 Code.

22 (d) INCREASE IN ADJUSTED BASIS OF CONTRACT  
23 UPON CANCELLATION.—For purposes of the Internal  
24 Revenue Code of 1986, the adjusted basis of any Contract  
25 to which subsection (a) applies shall be increased (imme-

1 diately before the cancellation of such Contract under such  
2 section) by the excess (if any) of—

3 (1) the fair market value of such Contract (de-  
4 termined immediately before such cancellation), over

5 (2) the adjusted basis of such Contract (as de-  
6 termined immediately before the application of this  
7 section).

8 (e) DETERMINATION OF FAIR MARKET VALUE.—The  
9 Secretary shall, within six months after the date of enact-  
10 ment of this Act, determine by mineral appraisal, utilizing  
11 the discounted cash flow method of appraisal (in accord-  
12 ance with the appraisal guidelines for appraisals of large  
13 quantities of mineral materials contained in section IV(E)  
14 of BLM Mineral Material Appraisal Handbook H-3630),  
15 the fair market value of the Contracts and notify the Con-  
16 tract Holder of those determinations. In determining the  
17 fair market value of the Contracts, the Secretary shall as-  
18 sume that—

19 (1) the Contract Holder has obtained all the  
20 permits and entitlements necessary to mine,  
21 produce, and sell sand and gravel under the Con-  
22 tract; and

23 (2) mining operations under the Contract have  
24 commenced at the time of the determination, with  
25 maximum annual production volumes that—

1 (A) are based on the projected supply and  
2 demand outlook at the time of determination;  
3 and

4 (B) reflect depletion of the reserves that  
5 are subject to the Contract within the effective  
6 periods of the Contract.

7 (f) EXPENDITURES AND COVERED LIABILITIES DE-  
8 SCRIBED.—The compensation provided for in subsection  
9 (b)(2) is equal to the sum of the following:

10 (1) All amounts paid to the United States by  
11 Contract Holder with respect to the cancelled Con-  
12 tract as bonus bids or other prepayments.

13 (2) Interest on amounts referred to in para-  
14 graph (1), from the date of payment of such  
15 amounts to the United States, at a rate determined  
16 by the Secretary.

17 (3) Amounts expended by the Contract Holder  
18 in securing the Contract and trying to bring it into  
19 production, including—

20 (A) all actual costs, including fees, associ-  
21 ated with the engineering and environmental  
22 studies and permitting proceedings that were  
23 incurred in good faith in the Contract Holder's  
24 efforts to exercise rights granted under the  
25 Contract terms; and

1           (B) all actual legal costs, including fees  
2           and covered liabilities, incurred in good faith in  
3           the Contract Holder's efforts to exercise rights  
4           granted in the Contract including all fees and  
5           costs associated with securing permits and enti-  
6           tlements, litigation to compel, secure, or defend  
7           permits or entitlements, and litigation in con-  
8           nection with disputes relating to mineral and  
9           surface estate rights to the property that is the  
10          subject of the Contract.

11          (g) REFERRAL TO THE UNITED STATES COURT OF  
12 FEDERAL CLAIMS.—

13           (1) REFERRAL.—If within 12 months after the  
14           date of enactment of this Act, the Secretary and the  
15           Contract Holder do not reach agreed negotiated  
16           value under subsection (b) regarding the fair market  
17           value of Contracts CA-20139 and CA-22901, the  
18           Contract Holder shall have 3 months thereafter to  
19           notify the Secretary that it disagrees with the Sec-  
20           retary's determination of such value. In the event of  
21           such notification, the Secretary shall refer the issue  
22           of fair market value to the United States Court of  
23           Federal Claims for determination.

24           (2) RESOLUTION BY COURT.—In any referral  
25           under this subsection, the court shall determine de

1        novo the fair market value of Contracts CA–20139  
2        and CA–22901.

3        (h) SUBMISSION OF EXPENSES INCURRED.—

4            (1) IN GENERAL.—To assist in the verification  
5        of the amounts expended referred to in subsection  
6        (f)(3), the Contract Holder shall submit to the Sec-  
7        retary within 60 days after the date of enactment of  
8        this Act an itemized list of such amounts, with  
9        enough detail and supporting documentation so the  
10       Secretary can determine that the expenses are asso-  
11       ciated with the Contracts.

12            (2) ARBITRATION.—The Secretary shall issue  
13        the determination of the amounts expended referred  
14        to in paragraph (f)(3) within 60 days after receipt  
15        of the itemized list required under paragraph (1). If  
16        the Secretary disapproves such list, the Secretary  
17        shall, upon the request of the Contract Holder, de-  
18        termine such amounts through arbitration in accord-  
19        ance with subchapter IV of chapter 5 of title 5,  
20        United States Code.

21            (i) ASSIGNMENT.—The Contract Holder may at any  
22        time assign its rights or entitlement under this Act to all  
23        or any part of the compensation provided for in para-  
24        graphs (1) and (2) of subsection (b).

1 **SEC. 5. SALE OF LANDS NEAR VICTORVILLE, CALIFORNIA.**

2 (a) IN GENERAL.—Notwithstanding the land use  
3 planning requirements of sections 202 and 203 and the  
4 other provisions of section 203 of the Federal Land Policy  
5 and Management Act of 1976 (43 U.S.C. 1712 and 1713),  
6 and subject to subsections (b), (c), and (d), the Secretary  
7 shall offer for sale by competitive bidding, for a minimum  
8 price not less than fair market value as determined by ap-  
9 praisal by the Secretary under subsection (h), all right,  
10 title and interest of the United States in and to those  
11 lands identified for disposition on the map entitled  
12 “Victorville disposal area, California” dated December  
13 2009. The Secretary shall keep such map on file and avail-  
14 able for public inspection in the offices of the Director of  
15 the Bureau of Land Management and in the district office  
16 of the Bureau located in Barstow, California.

17 (b) PRE-EMPTIVE RIGHT OF THE CITY OF  
18 VICTORVILLE TO PURCHASE AREA A LANDS.—Prior to  
19 any sale of any of the right, title, and interest of the  
20 United States as provided in subsection (a), the Secretary  
21 shall provide the City of Victorville, California, with the  
22 primary pre-emptive right to purchase some or all of such  
23 right, title, and interest in and to the lands identified as  
24 Area A on the map referred to in subsection (a). The  
25 terms of such pre-emptive right shall afford the City of  
26 Victorville a period of 30 days prior to any phased sale

1 to be conducted under subsection (g) in which the City  
2 may purchase some or all of the right, title, and interest  
3 of the United States, as provided in subsection (a), then  
4 to be offered for sale at its fair market value as deter-  
5 mined by appraisal by the Secretary under subsection (h),  
6 by paying to the Secretary in immediately available funds  
7 the entire purchase price of the right, title, and interest  
8 so purchased by the City. Such period shall commence on  
9 the 60th day prior to any phased sale to be conducted  
10 under subsection (g), and shall end on the 31st day prior  
11 to any such sale. Failure by the City of Victorville to pur-  
12 chase and pay for such right, title, and interest, and to  
13 comply with such other terms and conditions of purchase  
14 as the Secretary shall prescribe, within such period shall  
15 terminate the pre-emptive right of the City of Victorville  
16 with respect to the right, title, and interest then offered,  
17 but shall not terminate such pre-emptive right with re-  
18 spect to subsequent phased offers of the remaining right,  
19 title, and interest identified on the map referred to in sub-  
20 section (a).

21 (c) PRE-EMPTIVE RIGHTS OF THE COUNTY OF SAN  
22 BERNARDINO TO PURCHASE AREA A LANDS AND AREA  
23 B LANDS.—Prior to any sale of any of the right, title,  
24 and interest of the United States as provided in subsection  
25 (a), and after providing the City of Victorville the right

1 to purchase under subsection (b), the Secretary shall pro-  
2 vide the County of San Bernardino with the secondary  
3 pre-emptive right to purchase some or all of such right,  
4 title, and interest in and to the lands identified as Area  
5 A on the map referred to in subsection (a), and the exclu-  
6 sive preemptive right to purchase all such right, title, and  
7 interest in and to the lands identified as Area B on the  
8 map referred to in subsection (a). The terms of such pre-  
9 emptive rights shall afford the County of San Bernardino  
10 rights with respect to such lands identified as Area A and  
11 lands identified as Area B that are substantially similar  
12 to the pre-emptive right afforded under subsection (b).

13 (d) RIGHT OF LOCAL LAND USE AUTHORITY TO  
14 PURCHASE AREA C LANDS.—Prior to any sale of any of  
15 the right, title, and interest of the United States as pro-  
16 vided in subsection (a), the Secretary shall provide the  
17 local land use authority with respect to the lands identified  
18 as Area C on the map referred to in subsection (a), as  
19 determined under the statutes of the State of California,  
20 the exclusive pre-emptive right to purchase some or all of  
21 such right, title, and interest in and to such lands. The  
22 terms of such pre-emptive right shall afford the local land  
23 use authority rights with respect to such lands identified  
24 as Area C that are substantially similar to the pre-emptive  
25 rights afforded under subsections (b) and (c).

1           (e) WITHDRAWAL AND RESERVATION.—Subject to  
2 valid existing rights, the minerals in all Federal lands  
3 identified in subsection (a) for disposal are withdrawn  
4 from settlement, sale, location, or entry under the public  
5 land laws, including the mining laws codified at chapter  
6 2 of title 30, United States Code, from leasing under the  
7 mineral leasing laws including those codified at chapter  
8 3A of title 30, United States Code, and disposals under  
9 the Materials Act of 1947 (30 U.S.C. 601 et seq.). Any  
10 sale or other disposal of such lands shall reserve to the  
11 United States all minerals in such lands, together with  
12 the right to prospect for, mine, and remove such minerals.

13           (f) CONSULTATION.—Before initiating efforts to dis-  
14 pose of land under this section, the Secretary shall consult  
15 with the City of Victorville, the County of San Bernardino,  
16 and surface owners in the jurisdiction where the lands are  
17 located, on the potential impact and other appropriate as-  
18 pects of the disposal. Consultation under this subsection  
19 is in addition to any other consultation required by law.

20           (g) PHASING OF SALES.—

21           (1) AREA A LANDS.—The Secretary shall, not  
22 later than 12 months following the enactment of this  
23 Act, offer for sale under subsection (a), subject to  
24 the primary pre-emptive right of the City of  
25 Victorville under subsection (b) and the secondary

1 pre-emptive right of the County of San Bernardino  
2 under subsection (c), those lands depicted as Area A  
3 on the map referred to in subsection (a).

4 (2) AREA B LANDS.—The Secretary shall, not  
5 later than 24 months following the enactment of this  
6 Act, offer for sale under subsection (a), subject to  
7 the exclusive pre-emptive right of the County of San  
8 Bernardino, those lands depicted as Area B on the  
9 map referred to in subsection (a).

10 (3) AREA C LANDS.—The Secretary shall, not  
11 later than 24 months following the enactment of this  
12 Act, offer for sale under subsection (a), subject to  
13 the pre-emptive right of the local land use authority  
14 under subsection (d), those lands depicted as Area  
15 C on the map referred to in subsection (a).

16 (4) REMAINING LANDS.—The Secretary, after  
17 consultations with the City of Victorville, may within  
18 20 years following the enactment of this Act, offer  
19 for sale under subsection (a) all the remaining lands  
20 identified for disposal in West Mojave Land Man-  
21 agement Plan of 2006, except those lands depicted  
22 as “Area of Critical Environmental Concern” in the  
23 map referred to in subsection (a).

24 (5) COMPLIANCE WITH ENVIRONMENTAL RE-  
25 QUIREMENTS.—Land disposal activities of the Sec-

1       retary under this subsection shall be consistent with  
2       all applicable environmental requirements.

3       (h) DETERMINATION OF FAIR MARKET VALUE.—

4       The fair market value of the lands referred to in sub-  
5       section (g)(1) shall be based on an appraisal of the fair  
6       market value thereof as of the date of the enactment of  
7       this Act which shall be completed not later than 6 months  
8       after the date of the enactment of this Act. The fair mar-  
9       ket value of the lands referred to in subsection (g)(2) shall  
10      be based on an appraisal of the fair market value thereof  
11      as of that date that is approximately 6 months prior to  
12      the related date of offer as set forth in subsection (g)(2)  
13      and shall be completed not later than 6 months prior to  
14      the related offer. The fair market value of the lands de-  
15      scribed in subsection (g)(3) shall be based on an appraisal  
16      of each parcel offered for sale as of the date of such offer  
17      and such appraisal shall be completed not less than 6  
18      months prior to the related offer.

19      (i) SPECIAL ACCOUNT.—

20           (1) DEPOSIT; AVAILABILITY.—The gross pro-  
21      ceeds of sales of land under subsection (a) shall be  
22      deposited in a special account in the Treasury for  
23      use under paragraph (2). Amounts in the special ac-  
24      count shall be available to the Secretary for purposes  
25      of subparagraphs (A) through (E) of paragraph (2)

1 and to the Secretary of Agriculture for purposes of  
2 subparagraphs (B) and (C) of paragraph (2) without  
3 further appropriation and shall remain available  
4 until disbursed.

5 (2) DISPOSITION OF PROCEEDS.—Proceeds  
6 from sales of lands described in subsection (a) shall  
7 be disbursed by the Secretary in the following order  
8 of priority:

9 (A) As compensation to the Contract Hold-  
10 er under section 4(b) for cancellation of the  
11 Contracts by the Secretary.

12 (B) For the acquisition of private in hold-  
13 ings and land interests in the Mojave National  
14 Preserve.

15 (C) For the acquisition of holdings and  
16 land interests from willing sellers contained  
17 within the Conceptual Area Protection Plan as  
18 identified in the East Santa Clarita Land Con-  
19 servation Concept Plan and Implementation  
20 Strategy.

21 (D) For the acquisition of environmentally  
22 sensitive land in the State of California in ac-  
23 cordance with section 6.

24 (E) For the reimbursement of costs in-  
25 curred by the California State Office and the

1 Barstow Field Office of the Bureau of Land  
2 Management for preparing for the conveyance  
3 of land described in subsection (a) including  
4 surveys and appraisals, compliance with the Na-  
5 tional Environmental Policy Act of 1969 (42  
6 U.S.C. 4321), and, except as otherwise provided  
7 in subsection (a), compliance with sections 201  
8 and 203 of the Federal Land Policy and Man-  
9 agement Act of 1976 (43 U.S.C. 1711, 1712).

10 (3) LIMITATION ON USE OTHER THAN FOR  
11 COMPENSATION.—No funds may be expended under  
12 this subsection for purposes of subparagraphs (B)  
13 through (E) of paragraph (2) until the date all com-  
14 pensation has been paid to the Contract Holder for  
15 cancellation of the Contracts by the Secretary.

16 (4) SPECIAL ACCOUNT RESERVE FOR CONTRACT  
17 HOLDER.—

18 (A) LIMITATION ON DISBURSEMENTS.—  
19 Notwithstanding paragraphs (2) and (3), funds  
20 in the special account referred to in paragraph  
21 (1) may be expended for purposes set forth in  
22 subparagraphs (B) through (E) of paragraph  
23 (2) after compensation has been paid to Con-  
24 tract Holder as provided in paragraphs (1), (2),  
25 and (3) of section 4(b), but prior to the date

1 compensation required under section 4(b)(4)  
2 has been paid to Contract Holder, if the agreed-  
3 upon amount referred to in subparagraph (B)  
4 of this paragraph is held as a reserve for pay-  
5 ment to Contract Holder under section 4(b)(4).

6 (B) DETERMINATION OF RESERVE.—For  
7 purposes of calculating the reserve provided for  
8 in this paragraph, the value of the compensa-  
9 tion provided for in section 4(b)(4) is deemed to  
10 be such amount as is agreed upon by the Sec-  
11 retary and the Contract Holder: *Provided*, That  
12 such agreed-upon amount shall in no event be  
13 less than 15 percent of the sum of the value of  
14 the elements of compensation described in para-  
15 graphs (1) through (3) of section 4(b): *Provided*  
16 *further*, That such agreement shall be made  
17 prior to the disbursement of any funds from the  
18 special account for any matter other than com-  
19 pensation to the Contract Holder. Nothing in  
20 this paragraph shall be construed to reduce the  
21 amount of the compensation payable to the  
22 Contract Holder pursuant to section 4(b)(4).

23 (5) INVESTMENT OF SPECIAL ACCOUNT.—Any  
24 amounts deposited in the special account shall earn  
25 interest in an amount determined by the Secretary

1 of the Treasury on the basis of the current average  
2 market yield on outstanding marketable obligations  
3 of the United States with a maturity of three years  
4 and shall be expended according to the provisions of  
5 this section.

6 (6) PROCEDURES.—Except with respect to the  
7 disbursement of funds as compensation to the Con-  
8 tract Holder for cancellation of the Contracts, the  
9 Secretary shall coordinate the use of the special ac-  
10 count with the Secretary of Agriculture, the State of  
11 California, local governments, and other interested  
12 persons, to ensure accountability and demonstrated  
13 results.

14 **SEC. 6. ACQUISITIONS.**

15 (a) IN GENERAL.—After the consultation process has  
16 been completed in accordance with subsection (b), the Sec-  
17 retary may acquire with the proceeds of the special ac-  
18 count referred to in section 5(a) environmentally sensitive  
19 land and interests in environmentally sensitive land.  
20 Lands may not be acquired under this section without the  
21 consent of the owner thereof. Funds made available from  
22 the special account may be used for this purpose with any  
23 other funds made available under any other provision of  
24 law.

1           (b) CONSULTATION.—Before initiating efforts to ac-  
2     quire land under this section, the Secretary or the Sec-  
3     retary of Agriculture shall consult with the State of Cali-  
4     fornia and with counties and cities affected by such acqui-  
5     sition, including appropriate planning and regulatory  
6     agencies, and with other interested persons, concerning  
7     the necessity of making the acquisition, the potential im-  
8     pacts on State and local government, and other appro-  
9     priate aspects of the acquisition. Consultation under this  
10    subsection is in addition to any other consultation required  
11    by law.

12           (c) ADMINISTRATION.—On acceptance of title by the  
13    United States, land and interests in land acquired under  
14    this section that is within the boundaries of a unit of the  
15    National Forest System, National Park System, National  
16    Wildlife Refuge System, National Wild and Scenic Rivers  
17    System, National Trails System, National Wilderness  
18    Preservation System, or any other system established by  
19    Act of Congress, or any national conservation or national  
20    recreation area established by Act of Congress—

21           (1) shall, notwithstanding any other provision  
22    of law, become part of the unit or area without fur-  
23    ther action by the Secretary or Secretary of Agri-  
24    culture; and

1           (2) shall be managed in accordance with all  
2       laws and regulations and land use plans applicable  
3       to the unit or area.

4       (d) DETERMINATION OF FAIR MARKET VALUE.—  
5       The fair market value of land or an interest in land to  
6       be acquired by the Secretary or the Secretary of Agri-  
7       culture under this section shall be determined under sec-  
8       tion 206 of the Federal Land Policy and Management Act  
9       of 1976 (16 U.S.C. 1716) and shall be consistent with  
10      other applicable requirements and standards.

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