

112TH CONGRESS
2D SESSION

H. R. 6469

To direct the Secretary of the Interior, acting through the Bureau of Land Management, to conduct a study of the legal and administrative steps necessary to carry out the goals of H.R. 4332, the Soledad Canyon High Desert, California Public Lands Conservation and Management Act of 2009 of the 111th Congress.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2012

Mr. McKEON introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To direct the Secretary of the Interior, acting through the Bureau of Land Management, to conduct a study of the legal and administrative steps necessary to carry out the goals of H.R. 4332, the Soledad Canyon High Desert, California Public Lands Conservation and Management Act of 2009 of the 111th Congress.

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 Mine
5 Mitigation and Relocation Act of 2012”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The Soledad Canyon area has been used to
4 mine construction aggregate resources since the
5 1960s.

6 (2) In 1987, the State of California classified
7 Soledad Canyon as a “regionally significant con-
8 struction aggregate resource area”.

9 (3) The construction sand and gravel industry
10 is valued at more than \$5,900,000,000 by the
11 United States Geological Survey, with an estimated
12 4,000 companies performing 6,400 construction
13 sand and gravel operations in 50 States. California
14 leads the Nation in gross tonnage of sand and gravel
15 mined.

16 (4) Sand and gravel are estimated to be used
17 in accordance with the following percentages:

18 (A) 41 percent for concrete aggregates.

19 (B) 25 percent for road base, coverings,
20 and stabilization.

21 (C) 13 percent as construction fill.

22 (D) 12 percent for asphalt.

23 (E) 4 percent for plaster.

24 (F) 5 percent for miscellaneous products,
25 including filtration and railroad ballasts, bricks,
26 and pipes.

1 (5) Two privately held valid Federal contracts,
2 numbered CA-20139 and CA-22901, issued under
3 the Act of July 31, 1947 (30 U.S.C. 601 et seq.; 61
4 Stat 681; commonly known as the Materials Act of
5 1947), authorize the extraction of approximately
6 56,000,000 tons of sand and gravel from the Fed-
7 eral mineral estate in lands located in Soledad Can-
8 yon adjacent to the city of Santa Clarita, California.

9 (6) Those Federal contracts were awarded in
10 1990 to Transit Mixed Concrete. Southdown, the
11 parent company of Transit Mixed Concrete, was ac-
12 quired by CEMEX in 2000, resulting in CEMEX
13 holding the Federal contracts.

14 (7) The Bureau of Land Management approved
15 a mining plan of operations and prepared a draft en-
16 vironmental impact statement with respect to the
17 Soledad Canyon Mine, which was released on May 6,
18 1999. The environmental impact statement was sub-
19 sequently modified to address growing concerns
20 among Santa Clarita residents about the impact
21 mining operations in Soledad Canyon had on air
22 quality and health, truck traffic, and declining prop-
23 erty values in Santa Clarita.

24 (8) The final environmental impact statement
25 was released to the public on June 2, 2000, with a

1 list of eight alternatives for mining the Soledad Can-
2 yon site.

3 (9) The county of Los Angeles was required,
4 with respect to mining in Soledad Canyon, under the
5 California Environmental Quality Act (Cal. Public
6 Resources Code, section 21000 et seq.) to prepare
7 an environmental impact report to comply with the
8 California Surface Mining Reclamation Act (Cal.
9 Public Resources Code, section 2710 et seq.). The
10 final environmental impact report was released in
11 April 2001, but the County Board of Supervisors
12 voted to deny a permit under such Act (Cal. Public
13 Resources Code, section 2710 et seq.) in early 2002,
14 citing the right and responsibility of the county to
15 impose reasonable environmental and resource pro-
16 tection and regulation on mining in Soledad Canyon.

17 (10) Numerous lawsuits were filed between
18 2002 and 2004 involving the city of Santa Clarita,
19 the county of Los Angeles, the Center for Biological
20 Diversity, and CEMEX.

21 (11) Exhibit H to the Consent Decree resulting
22 from the settlement of CEMEX Inc. v. County of
23 Los Angeles, filed on May 20, 2004, in the United
24 States District Court for the Central District of
25 California, Western Division, contains the mitigation

1 agreement between CEMEX and the county of Los
2 Angeles (entitled “Settlement Project Conditions”),
3 which lists 40 conditions that CEMEX is required to
4 meet in order to mitigate the environmental, health,
5 traffic, endangered species, and safety concerns
6 raised by the county, local residents, and the city of
7 Santa Clarita.

8 (12) Congressman Howard P. “Buck” McKeon
9 of California has introduced the following bills with
10 respect to the Soledad Canyon Mine:

11 (A) H.R. 3060 (106th Congress) to with-
12 draw specified lands from the operation of Fed-
13 eral mining and mineral leasing laws and to
14 nullify any existing permits issued on such
15 lands.

16 (B) H.R. 679 (107th Congress) to reintro-
17 duce H.R. 3060 from the 106th Congress.

18 (C) H.R. 3529 (108th Congress), the
19 Soledad Canyon Mine Lease Cancellation Act,
20 to cancel two mining permits for the Soledad
21 Canyon Mine and to prohibit the Secretary of
22 the Interior from issuing permits for mining
23 above historical levels in Soledad Canyon.

24 (D) H.R. 5471 (109th Congress), the
25 Soledad Canyon Mine Leases Adjustment Act—

1 (i) to cancel two mining permits for
2 the Soledad Canyon Mine;

3 (ii) to direct the Secretary of the Inte-
4 rior to provide additional financial and
5 mineral production opportunities in ex-
6 change for the economic value invested to
7 date on the two permits; and

8 (iii) to prohibit the Secretary of the
9 Interior from issuing permits for mining
10 above historical levels in Soledad Canyon.

11 (E) H.R. 5887 (110th Congress), the
12 Soledad Canyon Mine Act—

13 (i) to authorize the Secretary of the
14 Interior, acting through the Bureau of
15 Land Management, to cancel mining con-
16 tracts CA-20139 and CA-22901;

17 (ii) to prohibit future mining in the
18 Soledad Canyon;

19 (iii) to provide a means for CEMEX
20 to recover as just compensation for the
21 cancellation of the contracts the fair mar-
22 ket value of, and the expenditures and cov-
23 ered liabilities of Transit Mixed Concrete
24 in pursuing the development of, the con-
25 tracts;

1 (iv) to provide the Bureau of Land
2 Management with the necessary tools to
3 verify the expenses incurred by CEMEX
4 and provide relief to CEMEX for such ex-
5 penses;

6 (v) to provide timelines for the
7 verification of such expenses and the deter-
8 mination of just compensation; and

9 (vi) to provide for a dispute resolution
10 process.

11 (F) H.R. 4332 (111th Congress), the
12 Soledad Canyon High Desert, California Public
13 Lands Conservation and Management Act of
14 2009—

15 (i) to authorize the Secretary of the
16 Interior, acting through the Bureau of
17 Land Management, to cancel mining con-
18 tracts CA-20139 and CA-22901;

19 (ii) to withdraw the areas that were
20 subject to such contracts from further min-
21 eral entry under all mineral leasing and
22 sales authorities available to the Secretary;

23 (iii) to provide compensation to
24 CEMEX for such contracts;

1 (iv) to offer for sale by competitive
2 bidding lands identified for disposition
3 near Victorville, California; and

4 (v) to acquire environmentally sen-
5 sitive land and collect the proceeds of the
6 sale of lands near Victorville, California.

7 (13) Congressman McKeon was instrumental in
8 CEMEX and the city of Santa Clarita entering into
9 an agreement (entitled the “Principles of Coopera-
10 tion”) on January 8, 2007, which was renewed eight
11 times and expired on May 31, 2012. The Principles
12 of Cooperation governed the conduct between the
13 two parties, ensured that no mining permits were
14 initiated at any level, and ensured that all parties
15 would work toward a mutually favorable legislative
16 solution.

17 (14) On November 4, 2011, Congressman
18 McKeon was informed by the Chairman of the Com-
19 mittee on Natural Resources of the House of Rep-
20 resentatives, Congressman Doc Hastings of Wash-
21 ington, that H.R. 4332 (111th Congress) was con-
22 sidered a congressional earmark under the Rules of
23 the House of Representatives for the 112th Con-
24 gress.

1 (15) Clause 9(e) of rule XXI of the Rules of the
2 House of Representatives for the 112th Congress de-
3 fines a congressional earmark as “a provision or re-
4 port language included primarily at the request of a
5 Member, Delegate, Resident Commissioner, or Sen-
6 ator providing, authorizing or recommending a spe-
7 cific amount of discretionary budget authority, credit
8 authority, or other spending authority for a contract,
9 loan, loan guarantee, grant, loan authority, or other
10 expenditure with or to an entity, or targeted to a
11 specific State, locality or Congressional district,
12 other than through a statutory or administrative for-
13 mula-driven or competitive award process.”.

14 **SEC. 3. STUDY REQUIRED BY BUREAU OF LAND MANAGE-**
15 **MENT.**

16 (a) STUDY REQUIRED.—Beginning not later than 90
17 days after the date of the enactment of this Act, the Sec-
18 retary of the Interior, acting through the Bureau of Land
19 Management, shall commence a study of the legal and ad-
20 ministrative steps, including obtaining sufficient funding,
21 necessary to carry out the goals of H.R. 4332 (111th Con-
22 gress) referred to in section 2(12)(F).

23 (b) REPORT.—Not later than 120 days after the date
24 of the enactment of this Act, the Secretary of the Interior
25 shall submit to the Committee on Natural Resources of

1 the House of Representatives and the Committee on En-
2 ergy and Natural Resources of the Senate a report of the
3 findings of the study conducted under subsection (a). The
4 report shall include recommendations on the best means
5 to achieve the goals of H.R. 4332 (111th Congress) re-
6 ferred to in section 2(12)(F).

○