

Congress of the United States
Washington, DC 20515

February 16, 2018

The Honorable Thad Cochran
Chairman
United States Senate
Committee on Appropriations
S-128, the Capitol
Washington, DC 20510

The Honorable Patrick Leahy
Vice-Chairman
United States Senate
Committee on Appropriations
S-146A, the Capitol
Washington, DC 20510

The Honorable Rodney Frelinghuysen
Chairman
U.S. House of Representatives
Committee on Appropriations
H-305, the Capitol
Washington, DC 20515

The Honorable Nita Lowey
Ranking Member
U.S. House of Representatives
Committee on Appropriations
1016 Longworth House Office Building
Washington, DC 20515

Dear Chairmen Cochran and Frelinghuysen, Vice-Chairman Leahy and Ranking Member Lowey,

We write to urge you to reject any provisions in any comprehensive funding bill or Omnibus which include language authorizing a mineral withdrawal or the withholding or prohibition of use of agency funds in relation to Bureau of Land Management (BLM) contracts number CA 20139 and CA 22901 issued to CEMEX for sand and gravel mining.

The draft version of the Senate Interior, Environment, and Related Agencies Appropriations bill includes in Section 124(a) the withdrawal of the mineral estate in the area covered by the contracts. This misguided provision, included at the behest of a Democrat Senator, represents another political attempt to short-circuit CEMEX's Soledad operations and prevent the company from fulfilling two contracts issued by the BLM. A similar amendment put forth in the House was withdrawn due to overwhelming opposition and impending failure.

There are 1,140 **CEMEX U.S. related facilities** including: 10 cement plants, 43 strategically located distribution terminals, 57 aggregate quarries and more than 270 ready-mix concrete plants. CEMEX's two contracts in question are a result of the two contracts being put out for competitive bid by the BLM to mine sand and gravel. The BLM subsequently approved CEMEX's project and these two contracts by issuing a Record of Decision following a lengthy review process which lasted more than 10 years. The withdrawal of the mineral estate covered by these contracts could constitute a taking and expose taxpayers.

Further, the established procedures for mineral production are subject to robust safeguards and protocols exercised by agencies, states and local governments which are governed by extensive statutory requirements – these are technical rather than political actions, and as such proceed according to the law.

In this case, it is clear that the attempts to attack these contracts occur on the basis that the politicians who have worked to do so find it politically advantageous. But it is improper for political preferences to impinge upon the orderly, statutory-guided process. In fact, the very purpose of agency review guided by statute is so that decisions can be regular and not subject to haphazard political infiltrations.

The contracts in question have also been subject to extensive litigation, which to-date CEMEX has prevailed in. Litigation is the opportunity for parties claiming damages or statutory deficiency in the mineral development and review process to press their case. It is inappropriate for politics to intervene in the case of the failure of any substantive basis on which development would be halted. The meaning of such an intervention is that an individual politician has decided it is in their best interest to disrupt the normal functioning of the law. While that self-interest incentive can appear compelling to a politician, their actions that result are the antithesis of good public policy.

You may notice we have made no argument in this letter concerning the merits or benefits of the development of the contracts in question – for the State of California, for the mining industry, or otherwise. Though a cursory glance seems to indicate those benefits would be substantial, the actual question at hand has nothing to do with whether development is sufficiently beneficent in this case, or whether the resultant projects would be safe, etc. Those considerations are incredibly important, but they are already accounted for in the profit calculations of individual companies, and the statutes underlying mineral proposal assessments, respectively. The only consideration that is relevant here is whether a given public servant's political advantage should be attached greater priority than the established, effective workings of the law – a question that we believe answers itself in a public policy context.

Accordingly, we ask that you take these considerations seriously when negotiating a final appropriations package and work to depoliticize our agency processes by ensuring such language does not make it into negotiated base text.


Sincerely,



Paul A. Gosar, D.D.S.
Member of Congress



Bill Flores
Member of Congress



Steve Pearce
Member of Congress



Duncan Hunter
Member of Congress



Doug Lamborn
Member of Congress



Mo Brooks
Member of Congress



Blake Farenthold
Member of Congress



Don Young
Member of Congress



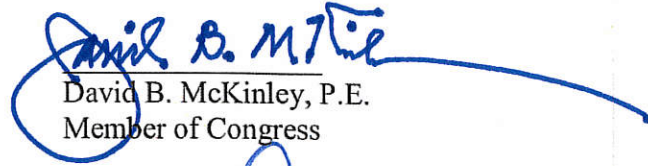
Tom McClintock
Member of Congress



Dana Rohrabacher
Member of Congress



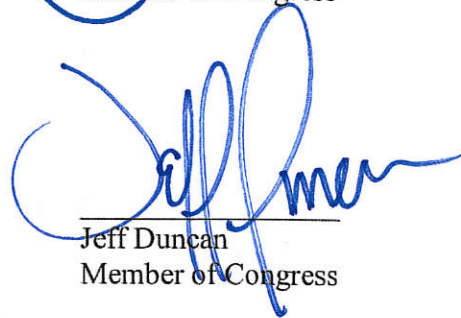
Louie Gohmert
Member of Congress



David B. McKinley, P.E.
Member of Congress



Pete Sessions
Member of Congress



Jeff Duncan
Member of Congress



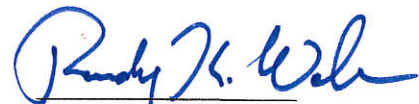
Gus M. Bilirakis
Member of Congress



Trent Kelly
Member of Congress



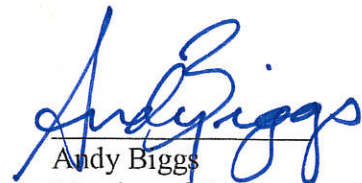
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Scott Perry
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Sam Graves
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A. Drew Ferguson IV, DMD
Member of Congress



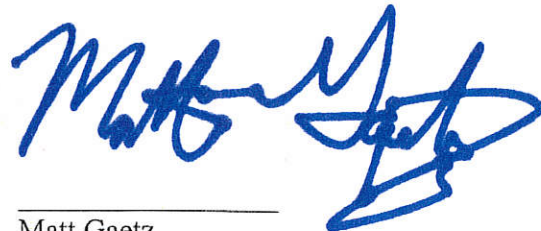
Mark Meadows
Member of Congress



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Martha McSally
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Matt Gaetz
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Dennis A. Ross
Member of Congress



Neal P. Dunn, M.D.
Member of Congress



Ralph Lee Abraham
Member of Congress



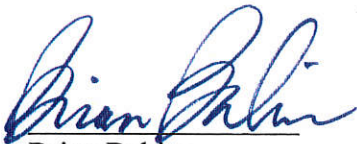
John Ratcliffe
Member of Congress



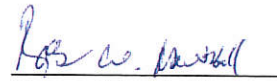
Jody Hice
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Doug LaMalfa
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Brian Babin
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Roger Marshall
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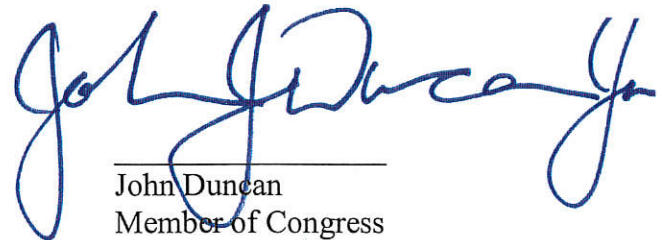
Bruce Westerman
Member of Congress



Glenn 'GT' Thompson
Member of Congress



Steve King
Member of Congress



John Duncan
Member of Congress

Cc: Secretary of the Department of the Interior Ryan Zinke
Senate Interior, Environment, and Related Agencies Chairman Lisa Murkowski
Senate Interior, Environment, and Related Agencies Tom Udall
House Interior, Environment, and Related Agencies Chairman Ken Calvert
House Interior, Environment, and Related Agencies Ranking Member Betty McCollum