



TEXAS GENERAL LAND OFFICE

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PRESS RELEASE

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Patterson files \$558 million lawsuit against CEMEX *Multi-national cement giant fails to pay Texas schoolchildren mining royalties*

AUSTIN — Texas Land Commissioner Jerry Patterson today filed suit against Mexican cement giant CEMEX, alleging the multi-national corporation failed to pay Texas schoolchildren bonus and royalty payments for mining minerals worth \$558 million.

CEMEX mined millions of tons of minerals from McKelligon Canyon, located in the Franklin Mountains just north of downtown El Paso without obtaining a lease from or paying royalties to the mineral owner, the state's Permanent School Fund.

“CEMEX has profited greatly while failing to properly lease or pay royalties owed to the public schoolchildren of Texas,” Patterson said. “As Texas Land Commissioner, I have a sworn fiduciary duty to look out for the school kids’ assets and this lawsuit seeks to make sure they get their fair share.”

Since the 1940s, CEMEX and its predecessors have mined and extracted the minerals in McKelligon Canyon mine. The state's Permanent School Fund owns all minerals in McKelligon Canyon. Texas never authorized CEMEX to take its minerals.

Understanding the case requires understanding Texas history. When Texas won its independence from Mexico, in 1836, the young republic's constitution required that vacant or unappropriated land remain in the public domain. When Texas joined the Union, those vacant lands remained in the state's public domain. The surface of the vacant lands were slowly sold off for nominal amounts and used by the original purchasers for grazing, agricultural and related purposes. The state, however, retained all valuable materials on, in and under the state's lands for the benefit of public education.

These Permanent School Fund lands in El Paso's McKelligon Canyon were sold under the Land Sales Acts of 1895 and 1907, which expressly state all mineral wealth on the land remained property of the school fund.

The roots of this Texas law trace back to Spanish law, which allowed the King of Spain to issue land grants that essentially allowed the use of the land for settlement, grazing or farming but reserved any materials of value on or under the land to the sovereign. Mexico was under Spanish real estate law as was Texas when it was a Mexican territory.

The Texas Permanent School Fund, worth \$18.9 billion, is made up of stocks, bonds and real estate investments. The Texas General Land Office leases surface acreage on behalf of the school fund, and charges royalties for the right to produce its mineral wealth, including oil, gas and other minerals. Earnings from the fund help fund Texas public schools, from kindergarten through the 12th grade, using non-tax revenues that help offset local property taxes.

“The schoolchildren of Texas were and still are legally entitled to possession of the mineral estate at McKelligon Canyon,” Patterson said.

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