

**Statement of
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**House Committee on Natural Resources
Subcommittee on Energy & Mineral Resources**

**Hearing on
H.R. 2925, Mining Regulatory Clarity Act
H.R. 7003, National Landslide Preparedness Act Reauthorization Act
H.R. 7004, To amend the Mineral Leasing Act to amend references of gilsonite to asphaltite**

January 31, 2024

Introduction

Thank you for the opportunity to testify on H.R. 2925, the Mining Regulatory Clarity Act; H.R. 7003, the National Landslide Preparedness Act Reauthorization Act; and H.R. 7004, which would amend the Mineral Leasing Act to modify certain terminology. These bills address issues related to the Federal mining and mineral leasing programs managed by the Bureau of Land Management (BLM) and the national landslide hazards reduction and 3D elevation programs of the U.S. Geological Survey (USGS). Specifically, H.R. 2925 would change claimant rights on Federal mining claims; H.R. 7003 would reauthorize the National Landslide Preparedness Act through 2028; and H.R. 7004 would change all references to the term “gilsonite” in the Mineral Leasing Act (MLA) to “asphaltite.”

We appreciate the efforts of the Sponsors and the Subcommittee on the bills under consideration today, and we look forward to continuing to work with Congress as they move forward through the legislative process.

H.R. 2925, Mining Regulatory Clarity Act

H.R. 2925 would amend the Omnibus Budget Reconciliation Act of 1993 to expand the rights of mining claimants, with respect to locatable minerals, by defining the term “operations” to include various mining-related activities. These include any activity or work carried out in connection with prospecting, discovery and assessment, development, extraction, or processing; the reclamation of an area disturbed by any of these activities; and any action reasonably incident to these activities, regardless of whether it is carried out on a mining claim, such as the construction and maintenance of any road, transmission line, pipeline, or any other necessary infrastructure or means of access on public land for a support facility.

This bill would also grant mining claimants the right to use, occupy, and conduct operations on public land with or without the discovery of a valuable mineral deposit, so long as they have paid the location fee and claim maintenance fee. In lieu of paying the claim maintenance fee, claimants who qualify for a small miner waiver may instead comply with the required work assessment under the general mining laws. Under the bill, claimants who have met these

requirements would be considered to have satisfied any requirements under FLPMA for the payment of fair market value to the U.S. for the use of public land resources.

The Department is committed to working with the Sponsor and the Subcommittee on reforms that provide certainty and stability for the industry, strengthen domestic mineral supply chains, advance environmental sustainability, while ensuring a fair return to taxpayers. The Department's understanding is that H.R. 2925 seeks to address the ruling in *Center for Biological Diversity v. U.S. Fish and Wildlife Service*, 33 F.4th 1202 (9th Cir. 2022), commonly known as the *Rosemont* decision. While the Department supports the goals of H.R. 2925, it is important to note that we have already addressed this decision by issuing a Solicitor's M-Opinion that identifies options for operators potentially impacted by *Rosemont*, and we note that legislation to resolve this issue may be unnecessary.

Furthermore, the Department is concerned that, as written, this bill could lead to a number of serious unintended consequences. In particular, granting the right of use and occupancy to claimants prior to showing the discovery of a valuable mineral greatly expands the rights conferred under the Mining Law, and could encourage the filing of nuisance claims that attempt to interfere with or prevent other authorized uses of public lands such as grazing, hunting, off-highway vehicle use, energy development, and more. It could also lead to unauthorized non-mining industrial uses and residential occupancy – often referred to as “squatting” – which previously necessitated the development of regulations to address the issue. It is also important to note that discovery of a valuable mineral deposit should always be required on lands that have been withdrawn from mineral entry, such as units of the National Park System. The Department would like to work with the Sponsor and the Subcommittee on improvements to the bill that maintain the intent of the legislation while limiting potential unintended consequences.

H.R. 7003, National Landslide Preparedness Act Reauthorization Act

H.R. 7003 would reauthorize the National Landslide Preparedness Act (NLPA, P.L. 116-323) through 2028. The NLPA directed the Department, acting through the USGS, to create a program to identify and understand landslide hazards and risks; reduce losses from landslides; protect communities at risk from landslides; and help improve communication and emergency preparedness for landslide disasters and impacts. The NLPA also authorized the 3D Elevation Program (3DEP), managed by the USGS National Geospatial Program, to respond to the growing need for high-quality topographic data and for a wide range of other three-dimensional representations of the Nation's natural and constructed features.

The Department appreciates and supports reauthorization of the NLPA and would like to work with the Sponsor and the Subcommittee to consider amendments that would improve the ability to implement this vital authority along with our partners. Such amendments include clarifying that certain emergency-management and land-use decisions are appropriately made by State, Tribal, and local governments; technical corrections to reinforce the need to collect data to maintain quality and identify changes in the landscape that are essential criteria for landslide-hazard research; and technical changes to better reflect the current state of the 3DEP program's implementation and the ongoing need for data collection.

H.R. 7004, To amend the Mineral Leasing Act to amend references of gilsonite to asphaltite

H.R. 7004 would amend the Mineral Leasing Act (MLA) to replace the term “gilsonite” with “asphaltite.” The MLA identifies gilsonite as a leasable mineral, but it does not contain any references to asphaltite. The Department’s general understanding is that the term asphaltite can be considered a more inclusive term for all vein-type solid hydrocarbons, which includes gilsonite. The proposed change to the MLA would not alter how these types of hydrocarbons would be leased. We note that the BLM would need to amend its regulations at 43 C.F.R. Parts 3000, 3140, and 3500 to reflect this change in terminology. While the Department does not object to H.R. 7004, we would welcome the opportunity to work with the Sponsor and the Subcommittee to include a definition for the term “asphaltite” in order to minimize the potential for confusion regarding the intended reach of the change in terminology.

Conclusion

Thank you for the opportunity to testify on these bills.