

Testimony of Craig Mueller
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Before the House Committee on Natural Resources
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On H.R. 7004, a bill to amend the Mineral Leasing Act to amend references of gilsonite to asphaltite

Good morning, Mr. Chairman and distinguished members of the Committee.

My name is Craig Mueller, I am CEO of the American Gilsonite Company, AGC for short.

I appreciate the opportunity to testify this morning, and I especially want to thank Congressman John Curtis, who sponsored the bill I am here to discuss, along with three of his colleagues from Utah's congressional delegation who joined him as original cosponsors: Representatives Celeste Maloy, Blake Moore, and Burgess Owens.

AGC is one of two enterprises in the Uinta Basin of northeastern Utah that produce a naturally occurring carbon - based resin, a type of asphaltite called uintaite. There are three types of asphaltites, which differ mostly in terms of their carbon and sulfur content, specific gravity, and the temperatures at which they soften. Apart from uintaite in the U.S., there are two lower quality asphaltites: grahamite found in Argentina and portions of the U.S., and glance pitch, which is found principally in Iran and to a lesser extent in Colombia.

Uintaite is unique, with its own chemical fingerprint that distinguishes it from other types of asphaltite in lab testing. Its strength, flexibility, extreme light weight and environmentally friendly profile make it a superior additive in drilling fluids and cementing applications, as well as improving performance and quality in asphalt, inks, paints, stains, construction materials, and foundry castings.

To fully appreciate the impetus behind H.R. 7004, a bit of history is in order. In 1885, geologist William Phipps Blake gave the asphaltite located in Utah its scientific name: uintaite. The following year, our company's namesake, Samuel Gilson, began producing and selling uintaite.

In 1895, the company registered a trademark for the name Gilsonite® with the U.S. Patent Office. The company subsequently registered it in Germany, the U.K., Japan, Ireland, and Brazil, and we are careful to keep our registrations current.

Later, in the wake of the 1970s energy crisis, America sought to reduce its dependence on foreign oil. The Nation adopted a multifaceted approach, including fossil fuel alternatives.

In 1976, the EPA stated, "There are no significant existing or anticipated processes for the recovery of United States' tar sand hydrocarbon materials" through at least the year 2000. Nevertheless, in 1981 Congress amended the Mineral Leasing Act through a bill titled, "An Act to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits."

In the text of that bill, Congress mistakenly aggregated uintaite with tar sand and, significantly, dubbed it lower-case "gilsonite" minus the Circle R symbol that attaches to legally registered trademarks. Based on the substance's naming history alone, Congress erred in using "gilsonite" generically for legislative purposes.

Here is why this is so important to AGC and our clients. Foreign competitors have long been marketing mineralogically similar but inferior asphaltites labeled as Gilsonite®. Unfortunately, the lower-case "gilsonite" in the MLA encourages this trademark infringement. When AGC defends its trademark in court, the company must overcome claims that "gilsonite" is a valid generic name for a range of asphaltites that in truth are not identical in terms of their chemistry or their performance.

It is important to note that the primary offender is the nation of Iran. Iran produces glance pitch at state-subsidized cost and sells it abroad as "gilsonite," including in the U.S. by transshipping product through third-party countries like Turkey, India and China in violation of U.S. sanctions. Given that a sizeable portion of Iran's economy is controlled by its government, it is reasonable to suspect that proceeds flow to Iran's Islamic Revolutionary Guard.

This bill simply corrects a 43-year-old legislative drafting error by substituting the word "asphaltite" for the word "gilsonite."

Mr. Chairman, we have worked with Customs and Border Protection and the State Department, yet such product still finds its way into the U.S. This simple legislative change would aid AGC's efforts to defend our trademark and allow for appropriate differentiation of the different types of asphaltites. Continuing to litigate "gilsonite" imposes a financial burden on our company, impacts employment, and distracts us from our mission of maintaining a reliable supply chain for our clients.

Thank you again for the opportunity to testify today. We look forward to working with the Committee to ensure the bill's passage in the House and Senate, and I would be happy to answer any questions the Committee has at this time.