September 16, 1983

Mr. James P. Lawless
Ocean Minerals and Energy Division (N/ORM1)
National Oceanic and Atmospheric Administration
2001 Wisconsin Avenue, N.W.
Washington, D.C. 20235

Dear Mr. Lawless:

Discussion Papers on Regulatory Issues Pertinent to the Commercial Recovery of Deep Seabed Hard Mineral Resources

In accordance with our standard review-coordination procedures, the following members of the University of Hawaii have assisted in the review of the above cited Discussion Papers: Keith Chave, Oceanography; Jack Huizingh, Natural Energy Laboratory of Hawaii; and Jacquelin N. Miller, Environmental Center.

Discussion Paper: Marine Environmental Issues Related to Deep Seabed Mining Commercial Recovery

Our reviewers have expressed accord with the general tenor of these papers, ie. that the lack of detailed information on the tropical Pacific Ocean, particularly site-specific benthic environment, dictates the need for the collection of additional site-specific environmental data prior to the issuance of specific monitoring requirements, technical guidelines, or required mitigation measures for individual permits. Furthermore, the suggested consideration of involving an outside review mechanism would seem highly appropriate from both a scientific as well as economic standpoint. A single coordinated approach and direction to the data collection and analysis techniques would help to assure standardization of results for optimum scientifically valid comparisons. Such an approach and coordination effort would significantly reduce the duplication of effort by the various mining consortia in their data analysis and facilitate intersite comparisons of environmental parameters. A perceived difficulty with this approach would be the need for divulgence of what may be regarded as "privileged" information which might be of economic value to competing consortia. We would hope that, if such a concern is expressed by the various mining consortia, sufficient safeguards could be provided in the regulations to mitigate their proprietary concerns without jeopardizing the scientific as well as economic benefits to be gained by providing for an overall review and analysis liaison of "experts". We would concur that the mining companies should retain responsibility for the initial design of the environmental monitoring plans as indicated. However, review and coordination by a financially and academically independent group would assure a non-biased analysis of environmental factors relative to the development of the deep-sea hard mineral resources.

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Discussion Paper: Deep Seabed Mining Regulations for Commercial Recovery

In general the direction of NOAA's approach to formulating regulations for commercial recovery of hard mineral resources seems appropriate. In view of the uncertainties in time, mining procedures, technological developments, locations, and environmental impacts, regulatory requirements must be designed to provide both wise environmental management and to meet the economic-fiscal needs of the commercial collectors. Provision for speedy modification of the regulations to meet specific needs or concerns identified from ongoing research should be a prominent provision in any regulations adopted.

Mention is made of the potential requirement from applicants of additional environmental information pertinent to onshore facilities and impacts (pg. 12). Such a requirement seems appropriately linked to the commercial recovery permits. We would urge however that in the development of such onshore environmental information every effort be given to utilizing existing data whenever possible to reduce the redundancy in descriptive environmental data and analysis.

The initial 20-year term of the mining permit (pg. 14) has been questioned by our reviewers. Given the magnitude of the investments required for commercial deep seabed mining, it would seem appropriate to consider a much longer initial term perhaps 30 to 50 years. Recovery of the investment over 20 years may force miners into selectively harvesting only the prime areas so as to maximize their returns. Experience with land based mining would indicate that such a procedure can lead to exploitation and wasted resources and may result in such depressed markets that the commercial venture is seriously jeopardized. While we recognize that large mine sites should not be held indefinitely, tied up as it were by companies with no intention of mining in the foreseeable future, we also recognize that market and technological advances predicate optimum recovery rates and times. The proposed restriction of a permit extension to those consortia who have recovered hard mineral resources in commercial quantities every year seems too restrictive. We would suggest that consideration be given to language in the regulations to assure miners that a permit extension will be granted if significant economic recovery has been demonstrated over the initial 20 year period.

The discussion of resource assessment with respect to a Logical Mining Unit (pg. 14) raises some questions with regard to documentation by the mining companies of their resource investigations. The economic value of resource disclosure information to competing miners is of such magnitude that consideration must be given to means of maintaining the confidentiality of proprietary information. Without adequate assurance of this protection, mining consortia cannot be expected to divulge the detailed site characteristics, ore grades, concentrations, and mining plans required under Section 103 of the Act. Furthermore, adequate environmental and resource management is dependent on the adequacy of this resource assessment hence we suggest that efforts be made in the development of regulations dealing with disclosure of proprietary information to protect the needs of industry as well as to balance the need for environmental/regulatory safeguards.
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Our reviewers have expressed some concern with the suggestion (pg. 18) that the mining claim applicant be responsible for the development of resource conservation measures. It would seem essential that provision be made for government input into the development of conservation measures (otherwise one is in the position of leaving the fox to guard the geese).

We appreciate the opportunity to comment on these discussion papers and hope you will find our comments useful in the preparation of the necessary regulations.

Yours truly,

[Signature]
Doak C. Cox
Director

cc: Jack Huzingh
Keith Chave
Jacquelin Miller
John Craven