NOAA and Deep Seabed Hard Mineral Exploration and Recovery

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- Establishes requirements for U.S. citizens engaged in exploration or mining in international waters
- Does not apply to areas within U.S. jurisdiction
- Only pertains to manganese nodules
- Enacted as an interim measure pending U.S. ratification of the Law of the Sea
Requirements

• License required for exploration in international waters by U.S. citizens
• Permit required for mining in international waters by U.S. citizens
• Numerous other environmental and other compliance obligations may also apply
History

• Enactment was preceded by exploration in the 1970s demonstrating the feasibility of recovery
• NOAA studied potential environmental impacts in the 1970s
• 1980 – Deep Seabed Hard Mineral Resources Act
• Four exploration licenses issued in 1984
• Soon after issuance, expectations changed
Status

• Two exploration licenses remain in effect
• Both are held by Lockheed Martin
• The licenses are extended every five years
• No at-sea exploration can occur without further environmental review and authorization
• No permits have been issued for mining
2015 Litigation

- The Center for Biological Diversity sued NOAA in 2015 challenging the 2012 license extension
- Violation of the Administrative Procedure Act
- Misstatements in the complaint and press reports created impression that mining was authorized
- Suit settled in 2016
Where the U.S. Stands

• No accession to the Law of the Sea Convention
• No membership in International Seabed Authority
• No international recognition of licenses
• Observer within International Seabed Authority
• If accession, changes in U.S. law will be needed
Continuing Interest of the U.S. to Be Engaged

• Effects of new sources on markets and producers
• Role of U.S. companies as subcontractors
• Information sharing on ocean and earth sciences
• Need to understand damages and how U.S. interests may be affected
• How will liability and compensation be assigned?
• Changes in U.S. law may be needed
• If accession occurs, U.S. companies could be at a competitive disadvantage
Parting Thought

There Are Many Challenges to Overcome Before Deep Seabed Mining Becomes a Reality
Questions?

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