



December 1, 2021

President Joseph R. Biden, Jr.  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

CC: Monica Medina  
Assistant Secretary  
Bureau of Oceans and International Environmental and Scientific Affairs  
U.S. Department of State

**Re: Request for Presidential support of a moratorium on deep seabed mining**

Dear President Biden:

On behalf of the undersigned organizations, we write to inform you of alarming actions at the International Seabed Authority (ISA) that could severely harm U.S. waters and territories in the Pacific and to request a clear and timely response from the U.S. government to this developing threat. Growing interest and investment in deep seabed mining by countries and corporations around the world has led to a rush for rights to mine the high seas. On June 30<sup>th</sup> of this year, the country of Nauru employed a clause of the United Nations Convention on the Law of the Sea (UNCLOS) called the “two-year rule” and notified the ISA of its intent to begin mining the Clarion Clipperton Zone by June 2023.<sup>1</sup> Were the ISA to grant Nauru’s request for an exploitation license, deep seabed mining could occur in waters abutting the U.S. EEZ in less than two years, with significant risk to Hawai‘i, Guam, and other Pacific Islander communities and states.

There is a strong scientific consensus that deep seabed mining poses grave threats to the marine environment, including to the seafloor that is essential habitat to a largely uncatalogued diversity of species; to valuable deep and midwater fisheries; and to the biological systems that regulate carbon cycling and storage for the entire ocean and atmosphere. The dangers of deep seabed mining are already visible in the Pacific, where previous failed attempts at mining have disrupted marine habitats and bankrupted would-be investors in the industry. If mining were to occur at industry scale in the Clarion Clipperton Zone, where it is most immediately pending, there would be irreversible impacts to our coral

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<sup>1</sup> Section 1(15) of the 1994 Agreement Relating to the Implementation of Part XI of UNCLOS allows a member to submit a plan of work for approval and request the ISA to finalize all relevant rules, regulations, and procedures for exploitation within two years of the request. There has been no formal determination of the legal significance of triggering this provision, as Nauru is the first country to do so. Given the ISA’s lack of progress towards sufficiently protective regulations, requiring the ISA to finalize regulations and approve exploitation within two years would have disastrous consequences and violate the principles of due diligence and precaution to which the ISA is required to adhere.



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reefs, tuna and billfish fisheries, sharks, and overall ocean health.<sup>2</sup> Underwater sediment plumes created by mining machinery can drift across thousands of square kilometers of the ocean causing unknown harm and damage to biodiversity. The risks to the climate are also significant, as 80% of all marine carbon is stored in the deep ocean below 1000 meters,<sup>3</sup> and disrupting this sequestered carbon could reduce the buffering capacity of the ocean and increase atmospheric carbon dioxide.<sup>4</sup>

These risks are multiplied for Indigenous communities in the Pacific, who have not had a voice in international ocean management, despite their historic and present stewardship. Pacific Islanders have weathered continuous threats and attacks from corporations and state actors seeking to exploit their lands, waters, and resources. The United States has itself participated in the violent colonization of this region, as well as the ongoing degradation of Pacific sites for military exercises, waste disposal, and unsustainable industries. Native Hawaiians and other Indigenous communities in the Pacific now stand on the frontline of the “biggest attempted land grab in history of humankind,”<sup>5</sup> as their ancestral homelands are at risk from deep seabed mining. Climate change compounds these injustices and threatens the existence and sovereignty of Pacific islands. We cannot repeat colonial patterns of resource extraction that benefit powerful actors and saddle Pacific Islander communities with the costs.

“The deep sea is closely tied to our cultural heritage, inheritance and genealogical connections that acknowledge this realm as our source of all creation that is intimately described and chanted in the Kumulipo. The deep sea is our refugia and remains as our sacred place where creation still takes place to this day. As native Hawaiians and members of the community of Indigenous peoples in the Pacific and throughout the Honua, we bear the responsibility to care for these sacred places and to ensure their continuation in perpetuity.” Kolomona Kaho‘ohalahala, Po‘o and member of Kāpa‘a.

“The Ocean belongs to all of Humanity, not just corporations for profit. Therefore, it must be managed accordingly, for the benefit of all Humanity.” Kealoha Pisciotta, President of Mauna Kea Anaina Hou and Founder of Kai Palaoa.

Those who stand to profit from deep seabed mining argue that we need the critical minerals to fuel the clean energy economy, including to manufacture batteries and other technology, and that the urgency of the need outweighs the inestimable risks of the activity itself. We reject this false narrative and ask you to honor your commitment to provide a sustainable supply chain for critical minerals by opposing deep seabed mining and investing in a circular economy that sources materials responsibly and recycles and reuses existing materials.<sup>6</sup> A sustainable supply chain requires sourcing materials exclusively from

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<sup>2</sup> Furthermore, scientists are only just beginning to understand the potential impacts of mining on our fisheries, especially for migratory species, including tuna. J.M.A. van der Grient & J.C. Drazen, *Potential spatial intersection between high-seas fisheries and deep-sea mining in international waters*, 129 *Marine Policy* (2021).

<sup>3</sup> L. A. Levin et al., *Climate Change Considerations are Fundamental to Management of Deep-Sea Resource Extraction*. 26 *Global Change Biology* (2020).

<sup>4</sup> Mayorga Sala et al., *Protecting the global ocean for biodiversity, food and climate*. 592 *Nature* (2021).

<sup>5</sup> Katie Pavid, *Thank the ocean with every breath you take, says Dr Sylvia Earle*, Natural History Museum. (Nov. 28, 2017), [www.nhm.ac.uk/discover/news/2017/november/thank-the-ocean-dr-sylvia-earle.html](http://www.nhm.ac.uk/discover/news/2017/november/thank-the-ocean-dr-sylvia-earle.html).

<sup>6</sup> See The White House, *Building Resilient Supply Chains, Revitalizing Domestic Manufacturing, and Fostering Broad-Based Growth* (2021).

mining conducted under the strictest standards for the environment, health, and justice—standards that are currently impossible for the deep seabed mining industry to meet.

Exacerbating the risks of deep seabed mining is the lack of effective governance and oversight on the high seas. The ISA’s decision-making processes are opaque, inequitable, insulated from public engagement, and heavily influenced by mining interests. Licensed contractors are allowed to hide important environmental information obtained from exploration activities by designating it as commercial and confidential, and their reports to the ISA have never been made public. Furthermore, the ISA’s Legal and Technical Commission deliberates on license applications and mining regulations behind closed doors with no avenue for public participation and does not even guarantee access to member states or observers, frustrating the ability of the ISA to enforce its own standards and of the public to monitor activity in the global commons of the high seas. When independent consultants recommended changes to ISA processes pursuant to an UNCLOS-required internal review, the ISA largely failed to implement them. The ISA’s draft Standards and Guidelines do not provide the United States a pathway to stop or influence mining once it is underway, even if it impacts our waters. As the only maritime power that has not ratified UNCLOS, the U.S. has a responsibility to fully utilize its observer status to defend our maritime interests and those of our allies and to protect the global public good that is our ocean.

Now is the time for the U.S. to use the tools of law and diplomacy at its disposal to keep this potentially disastrous activity from occurring right outside our waters. We urge you to take action to prevent environmental harm to our oceans and climate, to create more sustainable supply chains for materials needed by the clean energy industry, and to center justice in our fight against climate change. Consistent with the Pacific Blue Line Statement<sup>7</sup> and with Resolution 069 of the IUCN World Conservation Congress<sup>8</sup>, we call on the Administration to commit to the following actions:

- Recognize that the ocean is our common heritage for whose protection we are all responsible, upon whose health we are all dependent, and to whose benefits we are all entitled.
- Implement a moratorium on deep seabed mining in the U.S. EEZ and support a moratorium on mining the seafloor in areas beyond national jurisdiction unless and until:
  - “rigorous and transparent impact assessments have been conducted, the risks of deep seabed mining comprehensively understood, and the effective protection of the marine environment ensured;
  - the precautionary principle, ecosystem approach, and the polluter pays principle have been implemented; and
  - public consultation mechanisms and independent review processes have been incorporated into all decision-making related to deep seabed mining, and, where relevant, the free, prior and informed consent of indigenous peoples is respected, and the consent of potentially affected communities is achieved;”<sup>9</sup>
- Utilize our status as an observer at the ISA to call for the President of Nauru to reconsider the “two-year rule.” Despite its non-member status, the U.S. has significant scientific and diplomatic

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<sup>7</sup> See *Protect Our Ocean*, Pacific Blue Line, [www.pacificblueline.org/pacific-blue-line-statement](http://www.pacificblueline.org/pacific-blue-line-statement).

<sup>8</sup> See IUCN, *Resol. 069: Protection of deep-ocean ecosystems and biodiversity through a moratorium on seabed mining*. (2021), <https://www.iucncongress2020.org/motion/069>.

<sup>9</sup> *Id.*



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leverage at the ISA and must urge the ISA to firmly resist attempts to rush regulations or approve exploitation.

- Take steps to meet the demand for critical minerals through sustainable, circular economy policies, including advanced recycling and domestic processing paired with mining reform and better international sourcing requirements, such as the Initiative Responsible for Mining Assurance (IRMA) standard for imported products; alternative materials research; and second-life batteries.
- Declare that the United States government will not purchase materials sourced from deep seabed mining, as corporations Google, Samsung SDI, BMW Group and Volvo Group have similarly declared.

We urge you to consider the above actions immediately to address the growing threat of deep seabed mining.

Sincerely,

Sylvia Earle, PhD  
President and Co-Chair  
Mission Blue

Hannah Bernard  
Executive Director  
Hawai'i Wildlife Fund

Moana Bjur  
Executive Director  
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