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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Deep Seabed Mining: Approval of Exploration License Extensions

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of extension of deep seabed hard mineral exploration licenses.

SUMMARY: NOAA is announcing the approval of a five-year extension request for two deep seabed hard mineral exploration licenses issued under the Deep Seabed Hard Mineral Resources Act (DSHMRA). The decision to approve the extensions follows a review of the request and activities performed by the Licensee pursuant to the exploration plan for the licenses, the proposed exploration plan, comments submitted on the request, and a determination that the Licensee has substantially complied with the licenses, their terms, conditions and restrictions, and the associated exploration plan. No at-sea exploration activities are authorized by these extensions without prior written authorization and further environmental review by NOAA.

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SUPPLEMENTARY INFORMATION: On January 31, 2022, Lockheed Martin Corporation (Licensee or "LMC") requested that NOAA extend LMC's two DSHMRA exploration licenses. The licenses are known as USA-1 and USA-4.

When originally issued by NOAA in 1984, USA-1 and USA-4 were for a term of ten years. DSHMRA requires that requests to extend exploration licenses be approved every five years if the licensee has substantially complied with the licenses, their terms, conditions and restrictions, and the associated exploration plan.

On March 18, 2022, NOAA published a ***Federal Register*** notice (FRN) announcing the receipt of LMC's extension request for USA-1 and USA-4, and soliciting comments on whether

the Licensee has met the statutory requirement of showing substantial compliance (87 FR 15408). NOAA also solicited comments from the Western Pacific Fisheries Management Council (WPFMC) and the U.S. Department of State. NOAA's response to comments is included in this notice.

Upon determining that the Licensee has substantially complied with the licenses, their terms, conditions and restrictions, and the associated exploration plan, and that the extension of these licenses qualifies for a categorical exclusion pursuant to National Environmental Policy Act (NEPA), NOAA has approved a five-year extension of the licenses through June 2, 2027. The extension maintains the proprietary interests that the licenses confer upon the Licensee but does not authorize LMC to conduct at-sea exploration activities pursuant to the licenses. Prior written authorization and further environmental review by NOAA is required before any at-sea exploration may be undertaken pursuant to these licenses.

Response to Comments: As noted above, in addition to the FRN requesting comments on the extension request, comments were solicited from WPFMC and the U.S. Department of State. No comments were received from the WPFMC. The Department of State reviewed the request and had no objections or comments.

NOAA received one response to the FRN request for comments which was a joint letter by various organizations opposed to deep seabed mining and urging NOAA to deny the extension request and cancel the exploration licenses. The comments focused on three themes, all of which are asserted to support the conclusion that NOAA should deny the extension request and cancel the exploration licenses: (1) the environmental impacts of deep seabed mining are unacceptable; (2) there is too little known about the deep seabed environment and ecosystem to determine whether impacts would be acceptable; and (3) the designation by the International Seabed Authority of an Area of Particular Environmental Interest that partially overlaps with the USA-1 exploration license should preclude exploration activities in that area of the license. The comments are summarized below with responses by the NOAA Office for Coastal Management.

Comment: Deep seabed mining poses innumerable risks to the ocean environment and the fragile ecology of the deep sea, and the Biden administration should decline to extend these licenses due to the lasting and permanent damage they could inflict on the world's oceans.

Response: NOAA agrees that deep seabed mining may pose risks to the ocean environment and ecology of the deep sea, and that any proposal to conduct deep seabed mining needs to be carefully considered; however, these DSHMRA exploration licenses do not authorize mining. As noted in the FRN announcing the extension request and soliciting comments, no at-sea activities may be conducted pursuant to these exploration licenses without further environmental review and additional prior written authorization by NOAA. Further, pursuant to the applicable requirements of DSHMRA, NOAA is obligated to extend existing exploration licenses where, as here, a licensee has "substantially complied with the license and exploration plan and has requested an extension of the license." See 30 U.S.C. 1417.

Comment: Deep sea mining poses a very large risk. We may not understand its environmental impacts until after it has caused long-lasting damage to the marine environment. There are few categories of publicly available scientific knowledge comprehensive enough to enable evidence-based decision-making regarding environmental management. Marine scientists are just on the forefront of understanding deep sea species and environmental function, and there remains little known about how far species range, how populations are connected, and the potential impacts of spreading sediment plumes. Further information on deep-sea environmental baselines and mining impacts is critical for this emerging industry. Closing the scientific gaps related to deep seabed mining is a monumental task that is essential to fulfilling the overarching obligation to prevent serious harm and ensure effective protection, and will require clear direction, substantial resources, and robust coordination and collaboration. DSHMRA requires that any exploration and recovery activities "protect the quality of the environment." There is insufficient information for NOAA to proceed with issuance of deep seabed mining licenses and permits.

Response: Exploration activities and their effects are distinct from mining for commercial recovery. Exploration is a means to close scientific gaps so that licensees and decision makers can be better informed if and when mining for commercial recovery is actually proposed. In addition, as noted above, no at-sea activities may be conducted pursuant to these exploration licenses without further environmental review and authorization by NOAA. Any additional authorization by NOAA would occur only after a determination that proposed activities cannot reasonably be expected to result in a significant adverse effect on the quality of the environment. See 30 U.S.C. 1415(a)(4).

NOAA supports the development of additional scientific knowledge to better inform evidence-based decision-making for deep seabed mining. Decision-making on seabed mining should be guided by the best available scientific information on the marine environment and ecosystem, and the risks posed by mining and associated operational practices. Where information is lacking, NOAA will seek to support necessary data collection and synthesis, leveraging Federal, non-Federal, and Indigenous expertise and partnerships, and ensure resulting Federal data and information are publicly accessible and transparent.

Comment: The areas at issue in Lockheed Martin's licenses, USA-1 and USA-4, are particularly sensitive and are not suitable for deep sea mining. At the December 2021, meeting of the International Seabed Authority (ISA), the ISA's Legal and Technical Commission recommended that four areas within the Clarion Clipperton Zone be added to a network of "Areas of Particular Environmental Interest" (APEI), also known as protected areas. These areas would be added to nine existing APEIs which would not be subject to exploitation contracts through the ISA. One of the new protected areas (APEI-13) overlaps with one of Lockheed's leases under DSHMRA, and calls into question whether the United States should continue to authorize mining in an area that the ISA has determined to be an important ecosystem of unique biodiversity. Upon this backdrop, and because there is no way deep sea mining can be done

safely, we urge NOAA to deny Lockheed Martin's request for extension of its licenses in the Clarion Clipperton Zone of the Pacific Ocean.

Response: The overlapping designation of an Area of Particular Environmental Interest by the International Seabed Authority will be considered if and when at-sea exploration activities are proposed by the Licensee. Again, additional activities will be allowed only if NOAA determines that those activities cannot reasonably be expected to result in significant adverse effect on the quality of the environment.

Comment: If the Biden Administration aspires towards becoming a party to the United Nations Convention on the Law of the Sea in order to participate more fully and actively in the activities of the International Seabed Authority, NOAA must cancel Lockheed Martin's licenses under DSHMRA. This action is consistent with the mandate of DSHMRA to protect the environment, and signals a willingness to the international community to abide by the international standards of protection that will preserve the marine environment from the harmful impacts of mining activities.

Response: As noted above, NOAA is statutorily obligated to approve extension requests for exploration licenses for five years upon a finding that the licensee has met the terms and conditions of the licenses, and associated exploration plan.

NOAA recognizes the importance of a stable, science-based, internationally recognized regulatory framework for seabed mining that is harmonious with the U.S. seabed mining regulatory regime and ensures effective protection for the marine environment from harmful effects of seabed mining activities.

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