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Resolution of the appropriate governmental role in deep ocean mining would be authorized by S. 2053, the Deep Sea Minerals Resources Act. Questions involving the need to coordinate deep ocean mining with overall foreign policy objectives and what share of the revenues from the deep ocean mining should accrue to the public remain unresolved. The bill would establish a system of issuing licenses on a first-come first-serve basis, enabling firms to retain all financial benefits from resource recovery. This provision would not allow the public to receive a fair market value return from the use of its resources. GAO supports a system for the granting of leases to ocean mining firms similar to the bidding, royalty, and information sharing program employed for oil and gas leasing on the Outer Continental Shelf. The Secretary of Commerce should provide funding to assess the environmental impact of key prototype mining operation tests. Specific provisions need to be developed for the operation of a revenue sharing escrow account into which the receipts from the leasing program would be placed pending their distribution. Congress should not enact the bill until the various problems outlined are resolved. (SW)

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STATEMENT FOR THE RECORD OF
MONTE CANFIELD, JR., DIRECTOR
ENERGY AND MINERALS DIVISION
TO THE
SENATE SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES
COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. Chairman:

We appreciate the opportunity to present our views on S. 2053, the "Deep Sea Minerals Resources Act." The Comptroller General gave the Subcommittee his assessment of the proposed legislation on September 15. This statement is to amplify the rationale supporting GAO's official position.

The purposes of S. 2053 are to (1) establish an interim licensing program to encourage and regulate the recovery and processing of hard mineral resources of the deep sea bed, pending the adoption of a superseding international agreement relating to such activities as it may be ratified by and become binding upon the United States; (2) make available Federal insurance to safeguard investments in deep ocean mining technology, should the aforementioned international agreement adversely affect them; and (3) insure that the development of hard mineral resources on the deep sea bed is carried out in an environmentally safe manner which will protect the quality

of the marine environment in any area affected by such development.

We believe these investment and environmental questions should be considered in the framework of a coherent deep sea mining development program which establishes the appropriate Federal role and clearly assigns responsibility for carrying it out. Similarly, we believe that the provisions of any legislation that would authorize mining of deep sea mineral resources should be closely coordinated with and be part of both U.S. objectives under the Conference on the Law of the Sea and other essential foreign policy objectives. Third, we believe it vitally important that the basic equity issue be very carefully addressed and that the public, whether that of the United States or the larger international community, be assured of receiving a fair market value return for the alienation of resources which would be developed through deep ocean mining.

The Comptroller General has provided the Subcommittee a draft GAO report on deep ocean mining issues which is relevant to the first two of the preceding points. Even though the report is still with the agencies for comment, and subject to change before final release, it is not expected that any substantial revisions will be required.

The report confirms, first, that the basic framework for guiding U.S. deep ocean mining activities has not yet been

established. For exampppe, basic differences of opinion still persist as to who should have program responsibilities. This is demonstrated not only in the report, but pending legislation as well. S. 2053 would assign general authority to the Secretary of Interior, while the House version of the bill, H.R. 3350, assigns it to the Secretary of Commerce. The lack of rational administrative structure is indication of the absence of well-defined program goals. It obviously causes severe interagency coordination problems as well. Our report illustrates, for example, that just on the matter of oceanic research 21 Federal agencies in 6 Departments and 5 independent agencies are involved. The basic finding of our report is that there should be a primary authority responsible for determining the Federal role. That authority should develop, for Congressional approval, a comprehensive program to implement Federal responsibilities in accordance with national objectives. Particularly in the absence of any demonstrated near-term domestic need for development of new sources of materials likely to be supplied through deep ocean mining, we believe sufficient time is available to develop a rational structure for governing U.S. deep ocean mining activities prior to their actual authorization.

Another organizational and policy problem reinforced by the report is the clear need to coordinate deep ocean mining with overall foreign policy objectives. The report illustrates the potentially adverse effect development of deep ocean supply sources could have on existing mineral supply systems and the

revenues earned by some countries through established systems. This issue could have important ramifications for future U.S. relations with at least certain developing countries, and for that reason care must be taken to insure that any Federal deep ocean activities are consistent with overall U.S. foreign policy objectives.

The question of what share of the revenues from deep ocean mining should accrue to the public also remains unresolved. Section 103 of S. 2053 would establish a system of issuing licenses on a first-come first-serve basis. These exclusive licenses would be to developmental firms, or consortiums of firms, covering broad, as yet undefined, geographic areas. The firms would then retain all financial benefits from resource recovery. We believe there is a strong public interest 1/ in deep seabed mineral resources and that a licensing system which would provide for only private financial benefit is inappropriate. Rather, we think the public should be assured of receiving a fair market value return from the use of its resources.

It is very difficult for us to see how this can be accomplished in the absence of any competition for the development rights, particularly when there is such a dearth of

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1/We do not know what "public" will ultimately own this resource, but it is clearly not a "free good." If the public turns out to be an international public, the same logic should apply as if U.S. public resources were involved.

public information on the eventual economic worth of the rights as exist in this case. The Assistant Secretary of Interior for Energy and Minerals has testified that the resources available from ocean mining are very large by any standard, but that the public data now available are insufficient to determine how large for purposes of licensing specific areas of economic concentration.

A similar situation has existed in oil and gas leasing on the Outer Continental Shelf. There protection of the public's interest has been aided by a system of competitive bidding. Geological information financed by the Government is made available to the public. Information obtained by private parties under exploration permits is also made available to the Government, but not to the detriment of the leasee's competitive interests.

We support a similar bidding, royalty, and information sharing system for the granting of leases to ocean mining firms. Such a system would provide that:

--Exploration and actual commercial development are explicitly distinguished.

--Permits to explore the deep ocean area be issued. These permits should be issued to any potential bona fide bidder who wants to explore. In order to avoid unnecessary duplication of exploration, any bona fide potential bidder should be able to "buy in" on the

exploration information by paying a pro-rata share of the cost of exploration.

--Information obtained under exploration permits must be shared with the Government. Such information should help the Federal Government estimate the value of the resource to be leased.

--Following the exploration phase there be a call for nominations of areas to be leased. In addition, the Government should have the option of offering tracts that it feels are potentially valuable even if no nominations are received on those tracts.

--Leases be issued for commercial development activity in these areas in an open, competitive bid basis in a manner similar to Outer Continental Shelf oil and gas leases.

--Payments stemming from lease arrangements be put in an escrow account pending final international agreement as to how financial benefits from deep sea mineral development should be distributed.

--Exploration or commercial developmental action must take place within a specified time period or suffer forfeiture of lease rights.

The system would entail government determination of a minimum economic worth of resources susceptible to development within given tracts. This valuation would serve, as in the case of offshore oil and gas leases, as the baseline for com-

petitive developmental bids. Payments received could then be held in the escrow account now provided for in Section 204 of the bill.

We note that Section 204 does provide for the reservation of a portion of the revenues derived from ocean mining for future contribution to such international authority as may be established over deep seabed resources. However, actual implementation of such an escrow account is left to the passage of further, additional legislation. We believe that in the absence of any demonstrated, near-term domestic need for development of new sources of materials likely to be supplied through deep ocean mining; and given the importance of the revenue sharing principle; legislation should not be enacted which leaves the issue of escrow account payments open to later, indefinite resolution.

The government must have at its disposal far more data than is presently available to make that tract valuation process viable. In lieu of expensive and time consuming government-financed surveys, we recommend a system of information-sharing on ocean mineral resources similar to that for oil and gas resources. It is very important to stress that proprietary information submitted by private firms would not be publicly disseminated or otherwise made available to competing bidders until after the lease sale. The information sharing system we propose should not, as a consequence, have discernible adverse effects on capital formation in invest-

ment potential. Neither should competitive leasing have detrimental effects on the investment potential of ocean mining.

On a related point, we agree with the Treasury Department's earlier testimony that the investment decisions will, as they should, depend largely on whether the economic incentive of the venture justifys the risks. Accordingly, we concur with Treasury's position that special Government guarantees against losses from prospective international agreements are unnecessary.

We recognize that for purposes of deep ocean mineral development, unlike the oil and gas leases, the Government does not exercise sovereignty in international waters, nor does it wish to imply that it does. We do not think, however, that whether the Government issues "licenses" or "leases" to its citizens should influence that question as long as the receipts from the leasing process were held in escrow pending a decision as to how they should be distributed to the resource owning public.

With regard to environmental protection, our draft report explains that for lack of adequate and timely funding, the planned environmental (DOMES) test by the National Oceanic and Atmospheric Administration of the early commercial prototype mining operations might not be possible. This would have delayed the preparation of required environmental impact statements and Federal assurances that planned mining operations were environmentally sound. We recommended that the Secretary of Commerce evaluate the status of the program

and provide funding to assess the environmental impact of the key prototype tests.

Since the time our report was drafted, the prototype tests, then scheduled for May 1977, have been delayed until November. Further, $1.1 million were made available in 1977 with an additional $900,000 appropritated for 1978. It is planned to monitor the euphotic (ocean surface) impact of the first prototype operation in November and the benthic (ocean bottom) effect during the second operations scheduled for February 1978. The Department of Commerce has requested $1.985 million in 1979 to monitor both surface and subsurface effects simultaneously during tests scheduled for that year. Assuming the funds are forthcoming, this schedule should allow the Government to carry out the environmental safeguards of S. 2053 prior to full scale recovery operations in the early 1980's.

We think S. 2053 generally provides security of tenure to the mining companies and proper environmental safeguards--two principal requirements for nodule mining recognized in our draft report. We think, however, that it is equally important that the public's interest in the resources be recognized and that the Government's role in ocean mining be better defined before full scale operations are authorized. Accordingly, we recommend that the Congress not enact S. 2053 or H.R. 3350 without

--resolution of the appropriate governmental role in the deep ocean mining and other institutional problems identified in the draft GAO report;

--careful alignment between deep ocean mining and general foreign policy objectives;

--adequate provision for public recovery of a fair market value return on ocean mineral resources through a competitive leasing system; and

--development of specific provisions for operation of a revenue-sharing escrow account into which the receipts from the leasing program would be placed, pending their distribution.