HWG

HWG LLP
1919 M STREET NW, SUITE 800
WASHINGTON, DC 20036-3537
TEL: +1 202 730 1300 | HWGLAW.COM

Kent Bressie
direct dial: +1 202 730 1337
kbressie@hwglaw.com

February 23, 2026

VIA ELECTRONIC FILING

Mr. Kerry Kehoe
Federal Consistency Specialist
Office for Coastal Management
National Oceanic and Atmospheric Administration
1305 East-West Highway, 10th Floor
Silver Spring, Maryland 20910

Re: NOAA Docket Nos. NOAA–NOS–2025–0702, NOAA–NOS–2025–1330

Dear Mr. Kehoe:

The North American Submarine Cable Association ("NASCA") urges the National Oceanic and Atmospheric Administration ("NOAA") to take specific measures to protect submarine cables in the mining areas proposed in Applications A and B as submitted by The Metals Company USA, LLC ("TMC USA"). NASCA recognizes that NOAA is still developing the regulatory regime for mining under the Deep Seabed Hard Mineral Resources Act ("DSHMRA")[1] and that the United States seeks to develop secure supply chains for critical minerals. NASCA also appreciates the diligence and proactive outreach conducted to date by TMC USA, as explained in Application A and Application B, and the ongoing dialogue between TMC USA's parent company and the International Cable Protection Committee ("ICPC").[2]

The U.S. Government has long treated submarine cables as critical infrastructure vital to U.S. national security and economic interests. Consistent with this view, the United States, as a non-party observer at the International Seabed Authority ("ISA"), has long called attention to the risks of damage and route foreclosure posed to submarine cables by uncoordinated deep seabed mining activities and the need for diligence and protection measures. To ensure effective

[1] 30 U.S.C. §§ 1401 et seq.

[2] The ICPC is a peer organization of NASCA representing the submarine cable industry at the multilateral level. The ICPC holds observer status with the International Seabed Authority ("ISA") to protect submarine cables from damage and minimize route foreclosure with respect to the ISA's implementation of Part IX of United Nations Convention on the Law of the Sea ("UNCLOS").

coordination with, and protection of, submarine cables in relation to deep seabed mining under DSHMRA, and to ensure that diligence results in meaningful cable protection, NASCA urges NOAA to:

- Require as a precondition for any license grant that TMC USA confer with the operator of any proximate submarine cable to develop a cable protection plan and adjust its mining plans as necessary;
- As an alternative to a cable protection plan, require as a mining license condition default separation distances between mining activities and the existing submarine cable (absent agreement on coordination to permit closer proximity), consistent with the relevant recommendations of the International Cable Protection Committee ("ICPC") and the report of the Federal Communication Commission's Communications Security, Reliability, and Interoperability Council ("CSRIC") IV Report on spatial separation;[3]
- Require as a mining license condition that TMC USA confer and coordinate with submarine cable operators that might seek to route future submarine cables through authorized mining areas, balancing the need for geographic route diversity of submarine cables (which enhances their resilience) with the need to protect and minimize disruption of preexisting mining activities; and
- Require as a mining license condition the use of advanced technologies to identify equipment and activity locations in potential proximity to submarine cables.

Unless and until such requirements are adopted, NOAA should decline to license TMC USA in the proposed mining area identified in Application B. NASCA believes that such measures are necessary given that NOAA declined NASCA's earlier proposal to modify the proposed 15 C.F.R. § 971.214(d), which would have addressed these matters by rule.[4]

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[3] *See* International Cable Protection Committee, Recommendation No. 2, Issue 12C, *Recommended Routing and Reporting Criteria for Submarine Telecommunications Cables in Proximity to Other Such Cables*; International Cable Protection Committee, *Government Best Practices for Protecting and Promoting Resilience of Submarine Telecommunications Cables* § 3, https://iscpc.org/documents/?id=3733, ("ICPC Best Practices"); Communications Security, Reliability and Interoperability Council, Working Group 8, Submarine Cable Routing and Landing Final Report—Protection of Submarine Cables Through Spatial Separation at 58 (2014) ("CSRIC Spatial Separation Report"), https://transition.fcc.gov/pshs/advisory/csric4/CSRIC_IV_WG8_Report1_3Dec2014.pdf.

[4] *See* Comments of the North American Submarine Cable Association, NOAA Docket NOS-2025-0108 (submitted Sep. 5, 2025) ("NASCA DSHMRA Comments").

1. Background on NASCA and Submarine Cables

NASCA is the primary trade association for submarine cable operators, submarine cable maintenance authorities, and prime contractors for submarine cable systems operating in or connecting to North America.[5] The submarine cable industry is a key stakeholder with respect to proposed uses of the water column and seabed of the high seas, as its members have dozens of submarine cables transiting those ocean areas.

Submarine telecommunications cables form the backbone of U.S. modern digital infrastructure. Submarine cables—not satellites—continue to carry approximately 99 percent of the world's Internet, voice, and data traffic.[6] Activities that rely upon submarine cables span the full range of economic and social activities: submarine telecommunications cables enable Internet connectivity and electronic commerce, global payment networks, mobile wireless backhaul, government and military communications, telemedicine, research, remote work and video conferencing, and communications with friends and family.[7] This reliance is growing—with more cables planned—as our cultural, social, economic, and national security institutions and activities increasingly depend on digital, cloud-based platforms. It is imperative that the protection of submarine cable infrastructure be a key priority for NOAA as well as for licensees and permittees for critical minerals exploration and recovery from the seabed of the high seas.

The United States is not a party to UNCLOS, but it is a party to (and was a major proponent of) the Convention on the High Seas, which provides that "all States shall be entitled to lay submarine cables and pipelines on the bed of the high seas" and that "subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or

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[5] NASCA's members include Alaska Communications System; Alaska United Fiber System Partnership; Alcatel Submarine Networks; AquaComms; AT&T Corp.; C&W Networks; Edge Network Services; EXA Infrastructure; FLAG Telecom; Global Marine Systems Ltd.; GlobeNet; Google, LLC; IT International Telecom; Lumen Technologies UK, Ltd; Mertech Marine; OPT French Polynesia; PC Landing Corporation; Rogers Communications; Seaborn Networks; Southern Caribbean Fiber; Southern Cross Cable Network; SubCom, LLC; Tampnet Group; Tata Communications (Americas); Telstra; Telxius Cable USA, Inc.; Verizon; Vodafone; and Zayo Group Ltd. *See* Member Companies, North American Submarine Cable Association, https://www.n-a-s-c-a.org/member-companies/.

[6] Doug Brake, *Submarine Cables: Critical Infrastructure for Global Communications*, Info. Tech. & Innovation Found., at 1 (Apr. 2019), https://www2.itif.org/2019-submarine-cables.pdf.

[7] *See* International Cable Protection Committee, *ICPC Calls on Governments and Industry to Facilitate and Expedite Submarine Cable Installation and Repair During the COVID-19 Pandemic in Order to Protect Internet Connectivity and Critical Communications* at 1 (Apr. 3, 2020), https://www.iscpc.org/documents/?id=3299.

pipelines."[8] DSHMRA itself provides that "United States citizens shall exercise their rights on the high seas with reasonable regard for the interests of other states in their exercise of the freedoms of the high seas."[9]

U.S. federal law establishes punishable offenses for willful, culpably negligent, or negligent damage to submarine cables.[10] These statutory provisions implement a U.S. treaty obligation dating back to 1888.[11] U.S. law recognizes the right of cable owners to sue for damages in addition to the existence of statutory offenses.[12] Rather than pursue post-damage remedies, however, submarine cable operators prefer to minimize the risk of damage in the first instance through coordination and risk reduction with other marine industries, including deep seabed mining.

2. Risks of Damage and Route Foreclosure

Uncoordinated deep seabed mining poses a number of risks to submarine cables, including:

- Direct physical disturbance of cables due to the presence and movement of mining equipment on the seafloor and activities such as the sampling, coring, drilling, dredging, scraping, grinding, and suction-based retrieval of minerals;
- Abrasion of cables through contact with minerals and sediments during exploration and extraction;
- Disturbance of cables by mining activities to out-of-service submarine cables, over which active submarine telecommunications cables may be laid;
- Destabilization of the seabed, which can cause abrasion and suspension of cable segments (on which other equipment and ghost fishing nets can snag); and
- Impeded access to the water column and seafloor during repairs and recovery of out-of-service ("OOS") submarine cables (which are recovered both for route clearance and recycling purposes).

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8 Geneva Convention on the High Seas, art. 26, 450 UNTS 11, 13 UST 2312, TIAS No. 5200 (Apr. 29, 1958) (entered into force definitively for the United States on Sept. 30, 1962) ("High Seas Convention").

9 30 U.S.C. § 1411(c).

10 47 U.S.C. §§ 21, 22.

11 Convention for the Protection of Submarine Telegraph Cables, arts. I–III, Mar. 14, 1884, 24 Stat. 989, 25 Stat. 1424, T.S. 380 (entered into force definitively for the United States on May 1, 1888) ("1884 Convention").

12 47 U.S.C. § 28.

Designation of large and/or contiguous lease areas can also foreclose routes for future submarine cables, as the ISA's designation under Part XI of UNCLOS of contiguous contract areas covering millions of square miles of seabed in the Clarion-Clipperton Zone has done in the east-central Pacific Ocean Region. NASCA calls on NOAA to ensure greater flexibility than the ISA has with respect to the routing of future submarine cables through and between authorized areas for mining activities.

3. Recommended Coordination and License Conditions

To give meaning to U.S. critical infrastructure protection policy and the due regard obligations of DSHMRA and U.S. treaty obligations under the High Seas Convention, and to protect existing submarine cable systems, NASCA believes that NOAA should require specific coordination requirements and license conditions, as set forth below.

First, NOAA should require as a precondition for any license grant that TMC USA confer with the operator of any proximate submarine cable to develop a cable protection plan for the existing submarine cable and adjust its mining plans as necessary. NASCA recognizes that such coordination may involve sensitive commercial information of both TMC USA and the cable operator, and that NOAA should not require public disclosure of such information. NASCA believes that a public summary with a more detailed confidential disclosure to NOAA would be sufficient for regulatory oversight purposes and would protect the interests of TMC USA and the submarine cable operator.

Second, NOAA should require as a mining license condition default separation distances between mining activities and cables absent agreement on coordination to permit closer proximity, consistent with the relevant recommendations of the ICPC and the CSRIC Spatial Separation Report.[13] NOAA should rely on the guidance and distances identified by the CSRIC, which recommended default spatial separation of submarine cables from each other and other marine infrastructure in ocean depths of more than 75 meters of the greater of (a) 500 meters or (b) two and half times of the depth of water, with closer proximity possible upon coordination between the affected parties.[14] As explained in some detail in the CSRIC Spatial Separation Report, these separation distances are dictated by the operational requirements of submarine cable recovery and repair, which involve grapnel runs to recover a damaged cable (or an OOS cable), repair the damaged cable on the ocean surface by splicing in new and additional cable, and return the repaired cable in a U-shaped configuration on the seafloor.

Third, NOAA should require as a mining license condition that TMC USA confer and coordinate with submarine cable operators that might seek to route future submarine cables

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[13] *See* CSRIC Spatial Separation Report; ICPC Best Practices.

[14] *See* CSRIC Spatial Separation Report at 13.

through authorized mining areas, balancing the need for geographic route diversity of submarine cables (which enhances their resilience) with the need to protect and minimize disruption of preexisting mining activities. Although NOAA has no jurisdictional authority to exclude cables from areas authorized for mining under DSHMRA, it can facilitate such coordination.

Fourth, NOAA should require as a mining license condition the use of advanced technologies to identify equipment and activity locations in potential proximity to submarine cables. Such technologies include acoustic beacons and drones, which can facilitate cable protection and potentially greater proximity of submarine cables and mining activities.

4. Call for Development of Comprehensive Cable Protection Regulations and Guidance

More generally, NASCA continues to urge NOAA to establish licensing and permitting processes for deep seabed mining on the seabed of the high seas that ensure submarine cable protection and coordination between submarine cables and mining at the earliest stages of project proposals and planning, when compromise and project adjustment are more feasible. As outlined in its earlier submission,[15] NASCA would prefer that NOAA address such matters by rule, as such an approach would promote regulatory certainty and transparency as compared with *ad hoc* requirements adopted in individual licensing proceedings. Such processes would address by rule:

- Protection plans and spatial separation for existing submarine cables
- Coordination with respect to future submarine cables and protection of preexisting mining activities
- Stakeholder engagement
- Use of advanced technologies
- Interagency coordination

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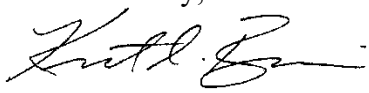
[15] *See* NASCA DSHMRA Comments at 5–6.

NASCA appreciates the opportunity provided by NOAA to comment on these applications and urges NOAA to adopt specific measures in relation to these applications to ensure protection of submarine cables on the seabed of the high seas.

Yours sincerely,



Kent Bressie
Colleen Sechrest

Counsel for the
North American Submarine Cable Association

cc: Denise Coca (FCC)
Thomas Sullivan (FCC)
Greg O'Brien (Department of State)
Aris Kourkomelis (DHS)
Joseph Alm (DHS)
Dillon McGregor (DHS)
David Brodian (NTIA)