

***Regulating the Resource Exploitation of the Deep: Environmentalists, Deep-Sea Mining
and a Global Regime of the Oceans in the Long 1970s***

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Deep-sea mining is often framed as a totally new phenomenon. However, there is a long historical trajectory that has led to this current situation. Even if, to this day, no fully-fledged commercial deep-sea mining operation has taken place, the 1970s already saw another frenzy for deep-sea mining led by multinational consortia of companies. Moreover, the very institution of the International Seabed Authority—which regulates deep-sea mining in the waters beyond national jurisdiction—is itself a consequence of the protracted negotiations over deep-sea mining at the negotiations of the third United Nations Convention on the Law of the Sea (UNCLOS III) (1973–1982) and its mandate is enshrined in this treaty. These negotiations and the final Law of the Sea Convention (1982) that emerged from it still form the basis of our current legal international regime of the ocean. However, we know markedly little about the negotiations around deep-sea mining, and what we know gives us little insight into how they were thinking about a new extractive industry as it related to the protection of the ocean environment.

The existing literature is scarce, and it is unclear whether environmental concern around deep-sea mining was significant in the 1970s and early 1980s. My research project will seek to remedy this gap in our understanding. Based on archival research already conducted (and one additional archival trip that will be conducted before October 2024), I aim to trace the emergence of environmental concerns around deep-sea mining to the early 1970s, when, in the United States, activists and environmental lawyers from the Sierra Club and the Center for Law and Social Policy (CLASP) started to worry about the potential environmental impact of this new extractive industry.

Furthermore, I will show that these non-state actors played a crucial role in bringing attention to the potential of environmental degradation caused by deep-sea mining. As companies were racing to make polymetallic nodule mining a reality, these activists were cautioning policymakers to consider their concerns and make sure that deep-sea mining would not develop into an environmentally destructive industry. They geared their efforts towards influencing the emerging deep-sea mining legislation not only internationally through the UNCLOS III negotiations but also domestically as the United States sought to institute national deep-sea mining legislation (Deep Seabed Hard Mineral Resources Act, 1980). Their efforts challenged deep-sea mining companies, who reiterated (recently disproven) understandings of the deep ocean as “barren and lifeless” to depict deep-sea mining as a harmless activity. To try to counteract this narrative, the activists emphasized the uncertainty of the impact of deep-sea mining. Instead, they argued the deep sea was an area so far relatively untouched by humans—albeit in no way truly isolated from it—and therefore, the impact of any activity there should be carefully monitored and regulated. This would allow us to proceed with caution and avoid the environmental degradation already experienced terrestrially and coastally.