

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: December 1, 1997.

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*Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Notice of Settlement Agreement on the R/V Columbus Iselin Grounding Between the United States on Behalf of the National Oceanic and Atmospheric Administration (NOAA) and the University of Miami

**AGENCY:** The U.S. Department of Justice of behalf of NOAA, Department of Commerce.

**ACTION:** Notice of settlement between the United States, on behalf of NOAA acting as the natural resource trustee, and the University of Miami.

**SUMMARY:** The United States, on behalf of NOAA, and the University of Miami (collectively referred to as the "Parties") enter into this Settlement Agreement ("Agreement") to settle civil claims for damages for injury to Sanctuary resources, civil penalties, response costs, and forfeiture arising from the August 10 to 12, 1994, grounding of the R/V COLUMBUS ISELIN ("ISELIN") in the Looe Key National Marine Sanctuary, now part of the Florida Keys National Marine Sanctuary. This settlement is entered into by the Parties pursuant to section 312 of the National Marine Sanctuaries Act (NMSA), 16 U.S.C. § 1431 *et seq.*

#### Proposed Action

Notice is hereby given that on November 22, 1997 a settlement has been entered into between the Parties to resolve claims against the University of Miami and the R/V COLUMBUS ISELIN for destruction or loss of, or injury to, Sanctuary resources pursuant to section 312 of the NMSA, as amended, as a result of the August 10 to 12, 1994, grounding of the R/V COLUMBUS ISELIN in the Looe Key National Marine Sanctuary. The Agreement provides for

cash payments to NOAA for implementation of structural and biological restoration of the grounding site, compensatory restoration, and long term monitoring, and to reimburse NOAA for damage assessment costs and emergency response costs incurred by NOAA.

#### A. Cash Payments

(1) The University of Miami shall pay to NOAA, two million and nine hundred thousand dollars (\$2,900,000.00). This sum will pay for the implementation of restoration, monitoring, damage assessment costs, compensatory restoration for interim losses of sanctuary resources, permitting and environmental compliance costs, as a result of the ISELIN grounding. (2) The amount identified in A. (1) above is in addition to payment already received by NOAA from the University of Miami in the amounts of: (a) Two hundred thousand dollars (\$200,000) in civil penalties; (b) one hundred and forty six thousand, forty seven dollars and sixty cents (\$146,047.60); and one hundred and fourteen thousand, ninety nine dollars and seventy-seven cents (\$114,099.77) for response and damage assessment costs; and (c) six hundred thousand dollars (\$600,000.00) for restoration planning.

#### B. Use of Funds

(1) *Restoration of Natural Resources.* Funds received by NOAA identified in A.(1) above will be used for (a) structural and biological restoration of coral reef injured at the grounding site, (b) biological monitoring, (c) off-site compensatory restoration, and (d) project management and oversight. Restoration activities at the grounding site will include: (i) Stabilizing the underlying physical structure of the coral reef habitat; (ii) re-creating the physical structure of the coral reef habitat; and, (iii) enhancing the rate of recovery of the biological community through the transplantation of coral, sponges, and sea fans. Biological monitoring will be used to evaluate the effectiveness of the restoration at the site and design any mid-course corrections to those restoration measures. Off-site compensatory restoration projects will be designed to enhance the long-term health of the coral reefs. The projects will include field and lab-based methods for enhancing the recovery rates of coral and other benthic invertebrates through the transplantation and culture of corals and benthic invertebrates. Projects also will be designed to minimize the risk of

future major vessel groundings in the vicinity of coral reef habitats.

(2) *Restoration of Cultural Resources.* Artifacts which were dislodged by the vessel during the grounding and subsequent rubble and ship debris removal activities have been conserved by NOAA. The parties agree that NOAA shall be the permanent custodian and conservator of the cultural resources. Funds received from the University will reimburse NOAA for costs incurred to conserve the artifacts as well as to ensure long-term curation.

(3) *Reimbursement of Costs Incurred by the Government.* Funds identified in A.(2) above will be used to reimburse NOAA for costs incurred for emergency response activities during the grounding, rubble and ship debris removal, and damage assessment costs.

#### Public Comment

NOAA will receive comments from the public on the settlement agreement for a period of thirty (30) days from the date of this publication. Comments on the settlement agreement should be addressed to Sharon Shutler, Office of General Counsel for Natural Resources, NOAA, 1315 East-West Highway, SSMC#3, Silver Spring, MD 20910-3282.

#### Effective Date of the Agreement.

The effective of the settlement agreement will be upon completion of the public comment period, notification to the University from NOAA that it has accepted the settlement agreement, and payment by the University to NOAA of \$2.9 million. Payment from the University will be made within 15 days of receipt of such notice.

*For Further Information Contact:* Copies of the settlement agreement may be obtained from Harriet Sopher, Sanctuaries and Reserves Division, National Ocean Service, NOAA, SSMC#4, 11th floor, 1305 East-West Highway, Silver Spring, MD 20910; or Billy Causey, Marathon office of the Florida Keys National Marine Sanctuary, P.O. Box 500368, 5550 Overseas Highway, Main House, Marathon, FL 33050.

Dated: November 22, 1997.

**Monica Medina,**

*General Counsel, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.*

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