

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
KEY WEST DIVISION

UNITED STATES OF AMERICA;	)	
BOARD OF TRUSTEES OF THE INTERNAL	)	
IMPROVEMENT TRUST FUND OF THE	)	IN ADMIRALTY
STATE OF FLORIDA; and THE STATE OF	)	
FLORIDA DEPARTMENT OF NATURAL	)	CIVIL ACTION NO.
RESOURCES	)	
	)	91-10067-Civ-NESBITT
Plaintiffs,	)	
	)	
v.	)	Magistrate Turnoff
	)	
M/V JACQUELYN L, (O.N. 965116)	)	(Order of Reference
her engines, apparel and tackle,	)	dated 10/31/91)
appurtenances, etc., <u>in rem</u> ; and	)	
JOSEPH MOGAVERO and BETHANY CLARK,	)	
<u>in personam</u> ,	)	
	)	
Defendants.	)	

STIPULATION FOR COMPROMISE SETTLEMENT AND RELEASE

IT IS HEREBY STIPULATED by and between Plaintiffs who are the UNITED STATES OF AMERICA, BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA and THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, FORMERLY THE DEPARTMENT OF NATURAL RESOURCES, and Defendants who are the M/V JACQUELYN L, (O.N. 965116), JOSEPH MOGAVERO and BETHANY CLARK, by and through their respective counsel, as follows:

1. That Plaintiffs hereby agree to settle and compromise all claims it has or may have against the Defendants in the above-entitled action, upon the terms indicated below.

2. That Plaintiffs have sued the Defendants for damages as a result of a grounding at Western Sambo Reef on or about July 7, 1991, by the JACQUELYN L, a vessel owned by Joseph Mogavero and Bethany Clark.

3. On or about July 26, 1991, the defendants were insured by GRE Insurance Group and Albany Insurance Company. In consideration for plaintiffs refraining from arresting, attaching or otherwise restraining the M/V "JACQUELYN L," or releasing the vessel and plaintiffs refraining from prejudgment arresting, attaching or otherwise restraining other assets or property belonging to Joseph Magavero or Bethany Clark who were the owners of the vessel on account of any claims arising from the grounding in the Florida Keys National Marine Sanctuary of the M/V "JACQUELYN L" on or about July 7, 1991 and/or in connection with any suit filed by plaintiffs for damages resulting from the grounding, GRE Insurance Group and Albany Insurance Company issued a letter of undertaking on July 26, 1991 to pay and satisfy any settlement or final judgment which may be entered in favor of the plaintiffs against the M/V "JACQUELYN L," Joseph Mogavero and/or Bethany Clark, based on any claims and/or penalties arising out of or in any way relating to the grounding up to and not exceeding \$300,000 which represents GRE Insurance Group and Albany Insurance Company's policy limits of P & I coverage for the M/V "JACQUELYN L." It was further understood that the execution of the letter of undertaking by Paul Ferguson shall not be construed as binding him personally, but that the letter of undertaking was binding only Albany Insurance Company and GRE Insurance Group. At the time of the grounding, the JACQUELYN L was insured by GRE Insurance Group, which issued a

letter of undertaking to pay any settlement of this claim in an amount up to \$300,000.

4. Based on the above representations, the Defendants will pay to Plaintiffs the sum of TWO HUNDRED, FIFTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$257,500.00), without interest or costs, which sum shall be in full settlement and satisfaction of any and all claims the Plaintiffs may have or hereafter acquire against the Defendants, its departments, employees, agents, or insurers including GRE Insurance Group and Albany Insurance Company, on account of the incident or circumstances giving rise to this suit. It is understood and agreed by all parties that no costs or fees will be taxed or owed by any party to this stipulation.

5. That payment by Defendants of this amount shall be in full and final settlement and satisfaction of any and all claims which Plaintiffs, its agents, employees, or officers may now have or hereafter acquire against the Defendants, its departments, employees, agents or insurers including GRE Insurance Group and Albany Insurance Company, arising from the circumstances giving rise to this suit, described above.

6. Defendants shall issue three checks as follows:

Draft in the amount of FIVE THOUSAND, NINE HUNDRED, FORTY-SIX DOLLARS (\$5,946.00), made payable to the "Ecosystem Management Trust Fund of the State of Florida", with the notation "CA No. 91-10067-Civ-NESBITT" appearing on the check. (This check is to be sent to undersigned counsel for the State of Florida.)

Draft in the amount of ONE HUNDRED, TWENTY-FIVE THOUSAND, ONE HUNDRED, TWENTY-SEVEN DOLLARS (\$125,127) made payable to "NOAA, Department of Commerce," with the notation "JACQUELYN L, 8K8D03" appearing on the check. NOAA and the State of Florida have a joint interest in these funds. Such funds will be received by NOAA but will be used in accordance with the terms of the restoration plan approved by NOAA and DEP. (This check is to be sent to undersigned counsel for the United States.)

Draft in the amount of ONE HUNDRED, TWENTY-SIX THOUSAND, FOUR HUNDRED, TWENTY-SEVEN DOLLARS (\$126,427) made payable to the Treasurer of the United States. (This check is to be sent to undersigned counsel for the United States.)

7. Plaintiffs agree to accept said total sums in full settlement and satisfaction of any and all claims and demands plaintiffs may have against defendants, its agents, heirs, employees, or insurers including GRE Insurance Group and Albany Insurance Company, on account of the incident or circumstances giving rise to the subject action.

8. This agreement shall not constitute an admission of fault or liability on the part of any party or on the part of any party's agents, servants, employees or insurers.

9. Upon receipt of the above sums, Plaintiffs hereby fully and forever release any and all claims which plaintiffs, its agents, employees or officers, have or may hereafter acquire against the Defendants its agents, heirs, employees, or insurers including GRE Insurance Group and Albany Insurance Company on

account of the incidents or circumstances giving rise to the above action.

10. In exchange for the payment of the total sums stated above, plaintiffs will file with the Clerk of the above Court a dismissal of the subject action, with prejudice, and without costs or interest, and will mail a conformed copy of a notice of such dismissal to the undersigned attorney representing the Defendants.

SO STIPULATED AND AGREED.



DEBRA J. KOSSOW
Senior Admiralty Counsel
Torts Branch, Civil Division
U.S. Department of Justice
Post Office Box 14271
Washington, DC 20044-4271

Attorney for Plaintiff,
United States of America

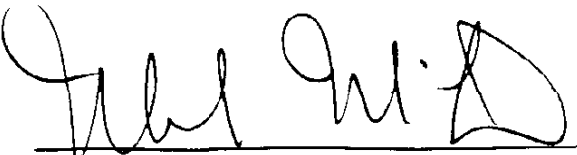
August 4, 1997
Date



MAUREEN M. MALVERN
Assistant General Counsel
Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, FL 32399-3000

Attorney for Plaintiff,
Board of Trustees of the Internal
Improvement Trust Fund of the State of Florida and the
State of Florida Department of Natural Resources

August 14, 1997
Date



CHRISTOPHER FERTIG
MICHAEL W. MCLEOD
Fertig and Gramling
200 S.E. 13th Street
Ft. Lauderdale, FL 33316

8/11/97
Date

Attorneys for Defendants,
M/V JACQUELYN L, Joseph Mogavero,
and Bethany Clark

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JOSEPH MOGAVERO and BETHANY CLARK,	)	Judge Nesbitt
<u>in personam</u> ,	)	
	)	
Defendants.	)	
	)	

VOLUNTARY DISMISSAL WITH PREJUDICE

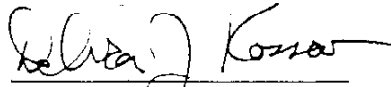
The Plaintiffs United States of America and Board of Trustees of the Internal Improvement Fund of the State of Florida and the State of Florida Department of Environmental Protection, formerly the Department of Natural Resources, hereby voluntarily dismiss their claims against Defendants M/V JACQUELYN L, Joseph Mogavero and Bethany Clark, with prejudice, each side to bear its own attorney's fees and costs.

Dated: 9/5/97

FRANK W. HUNGER
Assistant Attorney General

KENDALL B. COFFEY
United States Attorney

LISA HOGAN
Assistant United States Attorney



DEBRA J. KOSSOW
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Torts Branch, Civil Division
U. S. Department of Justice
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Washington, D. C. 20044-4271
Telephone: (202) 616-4070
Attorneys for the United States

Dated:

9/10/97



MAUREEN M. MALVERN
Assistant General Counsel
Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, FL 32399-3000

Attorney for Board of Trustees of the Internal Improvement
Fund of the State of Florida and the State of Florida
Department of Environmental Protection, formerly the
Department of Natural Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by regular U.S. Mail this 16th day of September, 1997, to:

Christopher R. Fertig, Esq.
Michael W. McLeod, Esq.
FERTIG AND GRAMLING
200 S.E. 13th Street
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Civil Division
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Attorney for Florida Plaintiffs