CORAL REEF DAMAGES AUTHORIZATION

SOUTHEAST FLORIDA DISTRICT

Investigator: John Doe

Date Submitted:

1. VIOLATOR(S): Florida Casino Cruise Lines, Ltd.

2. LOCATION OF VIOLATION: Coastal Waters off Broward County, Florida

3. NATURE OF VIOLATION:

On December 2, 2011 the marine vessel USS Double Down (“Double Down”) reported to the Coast Guard that it had grounded on a reef in coastal waters near Port Everglades, Broward County, Florida.

 As a result of the grounding, Double Down damaged approximately 367 square meters of coral reef off the Broward County coast. Florida Casino Cruise Lines, Ltd. has been identified as the manager of Double Down and pursuant to Section 403.93345(2)(h) a “responsible party” for the damage to the coral reef.

4. DAMAGES RATIONALE:

 Section 403.93345(6) F.S. provides that the Department may recover all damages from a responsible party, including, but not limited to:

(a) compensation for the cost of replacing, restoring, or acquiring the equivalent of the coral reef injured and the value of the lost use and services of the coral reef pending its restoration, replacement, or acquisition of the equivalent coral reef, or the value of the coral reef if the coral reef cannot be restored or replaced or if the equivalent cannot be acquired;

(b) the cost of damage assessments, including staff time;

(c) the cost of activities undertaken by or at the request of the Department to minimize or prevent further injury to coral or coral reefs pending restoration, replacement, or acquisition of an equivalent;

(d) the reasonable cost of monitoring the injured, restored, or replaced coral reef for at least 10 years, with such monitoring not being required for a single occurrence of damage to a coral reef damage totaling less than or equal to 1 square meter;

(e) the cost of enforcement actions undertaken in response to the destruction or loss of or injury to a coral reef, including court costs, attorney’s fees, and expert witness fees.

The Department may use habitat equivalency analysis as the method by which the compensation described in Section 403.93345(5), F.S., is calculated. The parameters for calculation by this method may be prescribed by rule adopted by the Department.

Based on the violations described above, the Department seeks $1,145,161 in damages for 367 square metersof coral damage pursuant to Section 403.93345(6)(a)-(d), F.S. Such damages are itemized as follows:

1. Compensation for the cost of replacing, restoring, or acquiring the equivalent of the coral reef injured and the value of the lost use and services of the coral reef pending its restoration, replacement, or acquisition of the equivalent coral reef, or the value of the coral reef if the coral reef cannot be restored or replaced or if the equivalent cannot be acquired. $952,551
2. The cost of damage assessments, including staff time. $47,731
3. The cost of activities undertaken by or at the request of the department to minimize or prevent further injury to coral or coral reefs pending restoration, replacement, or acquisition of an equivalent. $48,578
4. The reasonable cost of monitoring the injured, restored, or replaced coral reef for at least 10 years. $96,301

The Department will also be seeking recovery of court costs, expert witness fees, and attorney’s fees as those costs and fees are defined as damages pursuant to Section 403.93345(6)(e).

5. DAMAGES RECOMMENDATION:

The District seeks authorization to pursue the full amount of damages, for $1,145,161.

The violations have legal merit and the damages calculations are consistent with Florida Law.

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Kirk White Approved Disapproved

Deputy General Counsel

Office of General Counsel

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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John Truitt Approved Disapproved

Deputy Secretary, Regulatory Programs

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Noah Valenstein Approved Disapproved

Secretary

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_