

AVAILABILITY OF NOAA REAL PROPERTY ON VIRGINIA
KEY, FLORIDA

SEPTEMBER 8, 2004.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 4027]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4027) to authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AVAILABILITY OF NOAA REAL PROPERTY ON VIRGINIA KEY, FLORIDA.

(a) **IN GENERAL.**—The Secretary of Commerce may make available to the University of Miami real property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center.

(b) **MANNER OF AVAILABILITY.**—The Secretary may make property available under this section by easement, lease, license, or long-term agreement with the University.

(c) **AUTHORIZED USES BY UNIVERSITY.**—

(1) **IN GENERAL.**—Property made available under this section may be used by the University (subject to paragraph (2)) to develop and operate facilities for multidisciplinary environmental and fisheries research, assessment, management, and educational activities.

(2) **AGREEMENT.**—Property made available under this section may not be used by the University (including any affiliate of the University) except in accordance with an agreement with the Secretary that—

(A) specifies—

(i) the conditions for non-Federal use of the property; and

- (ii) the retained Federal interests in the property, including interests in access to and egress from the property by Federal personnel and preservation of existing rights-of-way;
- (B) establishes conditions for joint occupancy of buildings and other facilities on the property by the University and Federal agencies; and
- (C) includes provisions that ensure—
 - (i) that there is no diminishment of existing National Oceanic and Atmospheric Administration programs and services at Virginia Key; and
 - (ii) the availability of the property for planning, development, and construction of future Federal buildings and facilities.
- (3) TERMINATION OF AVAILABILITY.—The availability of property under this section shall terminate immediately upon use of the property by the University in violation of the agreement under paragraph (2).
- (d) USE OF FACILITIES BY SECRETARY.—The Secretary may—
 - (1) subject to the availability of appropriations, lease facilities constructed by the University on property made available under this section; and
 - (2) participate with the University in collaborative research at, or administered through, such facilities.
- (e) NO CONVEYANCE OF TITLE.—This section shall not be construed to convey or authorize conveyance of any interest of the United States in title to property made available under this section.

PURPOSE OF THE BILL

The purpose of H.R. 4027 is to authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University of Miami for a Marine Life Science Center.

BACKGROUND AND NEED FOR LEGISLATION

Virginia Key, Florida, (located a few miles from downtown Miami) is the site of the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service Southeast Fisheries Science Center (SEFSC), NOAA's Office of Atmospheric Research Atlantic Oceanographic and Meteorological Laboratory (AOML), and University of Miami's Rosentiel School of Marine and Atmospheric Science (RSMAS). Due to their proximity and overlap in research interests, NOAA and RSMAS have had a close working relationship for many years. This legislation is designed to maintain and strengthen that relationship.

The SEFSC is responsible for scientific research on living marine resources that occupy marine and estuarine habitats on the continental southeastern United States, Puerto Rico, and the U.S. Virgin Islands. Projects address specific needs in population dynamics, fishery biology, fishery economics, gear development, and protected species biology. Environmental assessments for management plans and international negotiations are also prepared.

AOML conducts basic and applied research in oceanography, tropical meteorology, atmospheric and oceanic chemistry, and acoustics. Their research seeks to understand the physical characteristics and processes of the ocean and atmosphere, both separately and as a coupled system. Much of their efforts focus on understanding hurricanes and El Nino events.

RSMAS is located on 16 acres and supports a variety of academic and research programs on marine, atmospheric, and coastal topics. In fact, it is the only subtropical applied and basic marine and atmospheric research institute of its kind in the continental United States. More than 100 Ph.D. faculty members, 150 graduate students, and a research support and administrative staff of 250 com-

prise the academic community. The success of RSMAS in recent years has resulted in outgrowing their facilities, and there is consideration of moving the school to another site. This measure provides an alternative by allowing the University of Miami to build a facility on federal land.

H.R. 4027 stipulates that the Secretary of Commerce may make available property on Virginia Key, Florida, under the administrative jurisdiction of NOAA for use by the University of Miami for a Marine Life Science Center. Under this legislation the University is authorized to use the property to develop and operate facilities for multi-disciplinary environmental and fisheries research, assessment, management, and educational activities. The property may be made available to the University via easement, lease, license, or long-term agreement. In addition, NOAA is authorized to lease facilities constructed by the University on this property and participate in collaborative research at those facilities. The University is prepared to spend up to \$50 million dollars in non-federal funds to construct a 180,000 square foot Marine Life Science Center. As the author of the bill indicated, it “gives the Secretary the choice of granting a permit to the University only if the Secretary determines that this is in the best interests of the federal government.”

Upon completion, it is anticipated that the Marine Life Science Center will add to the strong working relationship between NOAA and RSMAS. It will allow collaborative research efforts to continue, and foster an environment where innovative approaches to management issues can be developed. Furthermore, it will provide a venue to showcase NOAA’s and RSMAS’s research results and their benefits to the public.

COMMITTEE ACTION

H.R. 4027 was introduced on March 24, 2004, by Congresswoman Ileana Ros-Lehtinen (R-FL). The bill was referred to the Committee on Resources and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On May 13, 2004, the Subcommittee held a hearing on the bill. On June 3, 2004, the Subcommittee met to mark up the bill. Congressman Wayne T. Gilchrest (R-MD) offered an amendment in the nature of a substitute to clarify that NOAA retains full title to the land, it will revert back to NOAA if the University vacates the agreement in the future and any use of federal land at Virginia Keys must be subjected to a long-term agreement between the University and the Secretary of Commerce. It was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the Full Committee by unanimous consent. On July 14, 2004, the Full Resources Committee met to consider the bill. No further amendments were offered and the bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources’ oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Congressional Budget Office notes that the University could pay NOAA for the use of the site under a rental or licensing agreement, creating off-setting receipts, but these would be "minimal."

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 4027—A bill to authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center

H.R. 4027 would authorize the National Oceanic and Atmospheric Administration (NOAA) to allow the University of Miami to construct and operate a multidisciplinary marine life science center on federal land located on Virginia Key, Florida. Under the bill, NOAA would make the building site available to the university through a lease or other long-term agreement; no permanent conveyance of any federal land or other property interest would be authorized. Finally, the bill would authorize NOAA to lease from the university any facilities built at this site, subject to the availability of appropriations.

Based on information obtained from NOAA, CBO estimates that enacting H.R. 4027 would have no significant effect on the federal budget. We expect that the marine life science center would be constructed at no cost to the federal government. It is possible that NOAA might lease some of the facilities in the new center once it has been built, but CBO expected that such future transactions would have no significant effect on the agency's operating budget and would depend on appropriation of the necessary amounts. It is also possible that the University of Miami could pay NOAA for the

use of the site under a rental or licensing agreement, but we estimate that any resulting offsetting receipts would be minimal. Enacting H.R. 4027 would have no effect on federal revenues or other direct spending.

H.R. 4027 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, August 25, 2004.

Hon. SHERWOOD BOEHLERT,
*Chairman, Committee on Science,
Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I request your assistance in expediting consideration of H.R. 4027, to authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center.

This worthwhile bill authored by Congresswoman Ileana Ros-Lehtinen was referred solely to the Committee on Resources. However, because the property in question is also utilized by the National Oceanic and Atmospheric Administration Office of Atmospheric Research Atlantic Oceanographic and Meteorological Laboratory, programs under your Committee's jurisdiction may also be affected. Therefore, the Committee on Science has a colorable claim for a sequential referral of the bill. Due to the very limited number of days remaining in the 108th Congress, I ask that you not seek this sequential referral and allow the bill to be considered by the House of Representatives when we return from our August District Work period.

By not seeking this referral, the Committee on Science has not waived its jurisdiction over the measure, nor should this action be taken as precedent for other bills. In addition, if a conference on H.R. 4027 becomes necessary, I would support the Committee on Science's request to be represented on that conference for those matters within its jurisdiction. Finally, I would be pleased to include this letter and any response you might have in the Committee report on the bill.

Thank you for your cooperation on this matter, and I look forward to seeing H.R. 4027 enacted soon.

Sincerely,

RICHARD W. POMBO,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, September 8, 2004.

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources, House of Representatives,
Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for writing to me about H.R. 4027, to authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center.

The Committee on Science supports passage of this bill but, as you indicated in your letter, the property in question is utilized by the NOAA Office of Atmospheric Research's Atlantic Oceanographic and Meteorological Laboratory, an Office under the jurisdiction of the Committee on Science. Based on conversations with the Office of the Parliamentarian, the Committee on Science understands it has jurisdiction over H.R. 4027.

Recognizing your wish that the House of Representatives consider this bill, I will not exercise the Committee's right to a referral of H.R. 4027. This decision to forgo a sequential referral does not waive the Committee's future jurisdiction over these provisions.

I ask that you include our exchange of letters on this matter in the legislative report of H.R. 4027. I also ask that you support our request to be conferees during any House-Senate conference.

Thank you for your consideration regarding this matter.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.