

Loss of S/S EL FARO

Anatomy of the Response to a Tragedy



The Maritime Law Association of the United States
2018 Fall Meeting



TOTE



Fowler
White
Burnett
ATTORNEYS AT LAW



60 Minutes Segment On El Faro



U.S. Coast Guard

The Search



Routes to San Juan

NTSB

Marine Accident Report

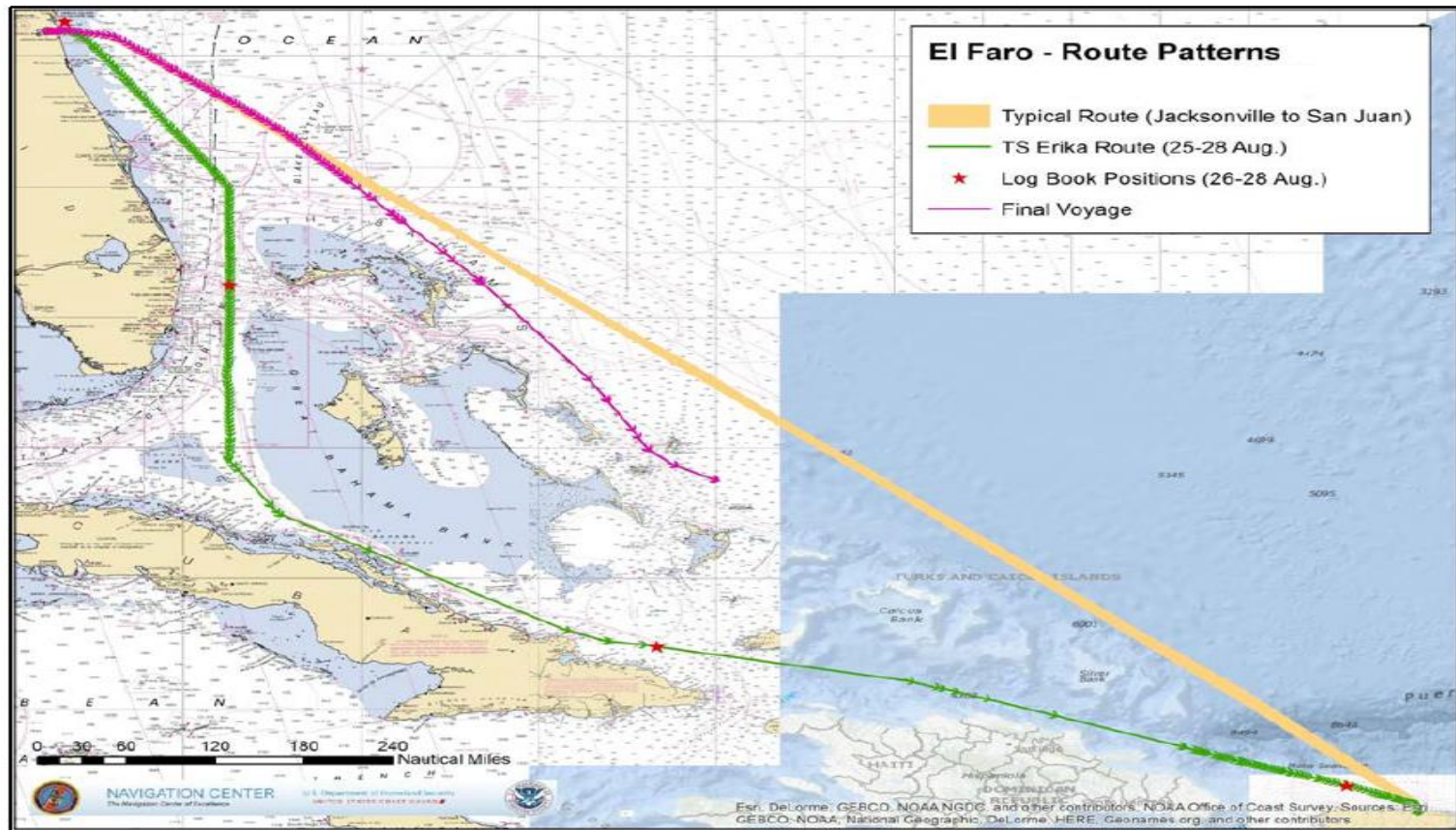
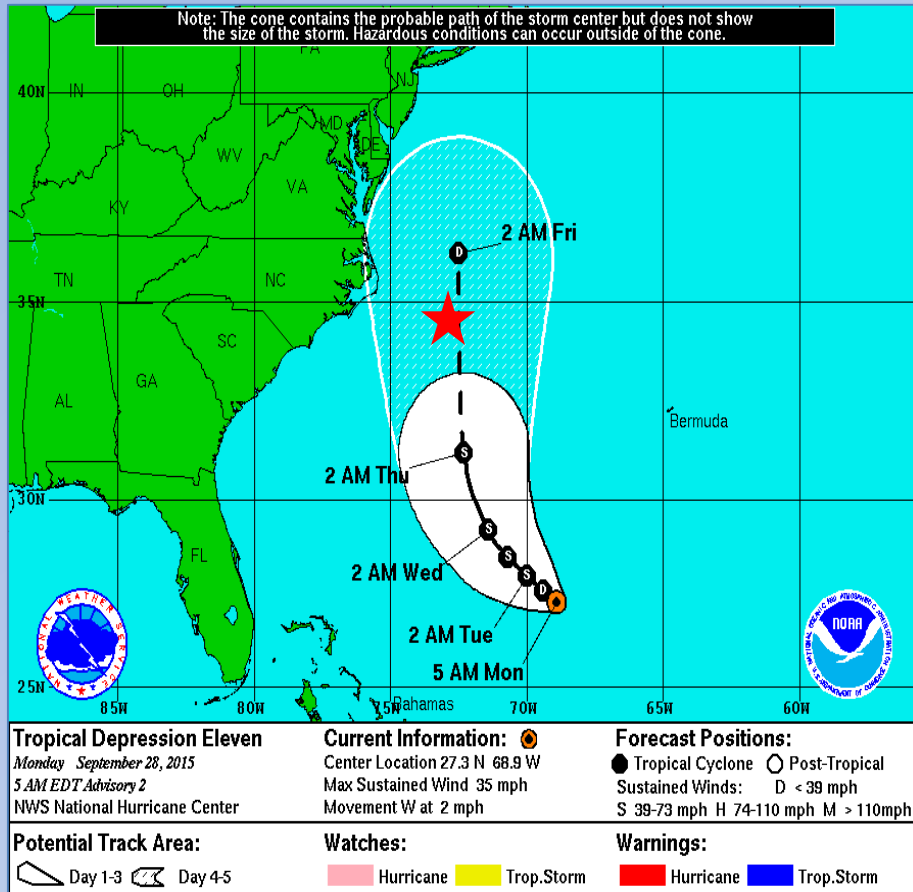
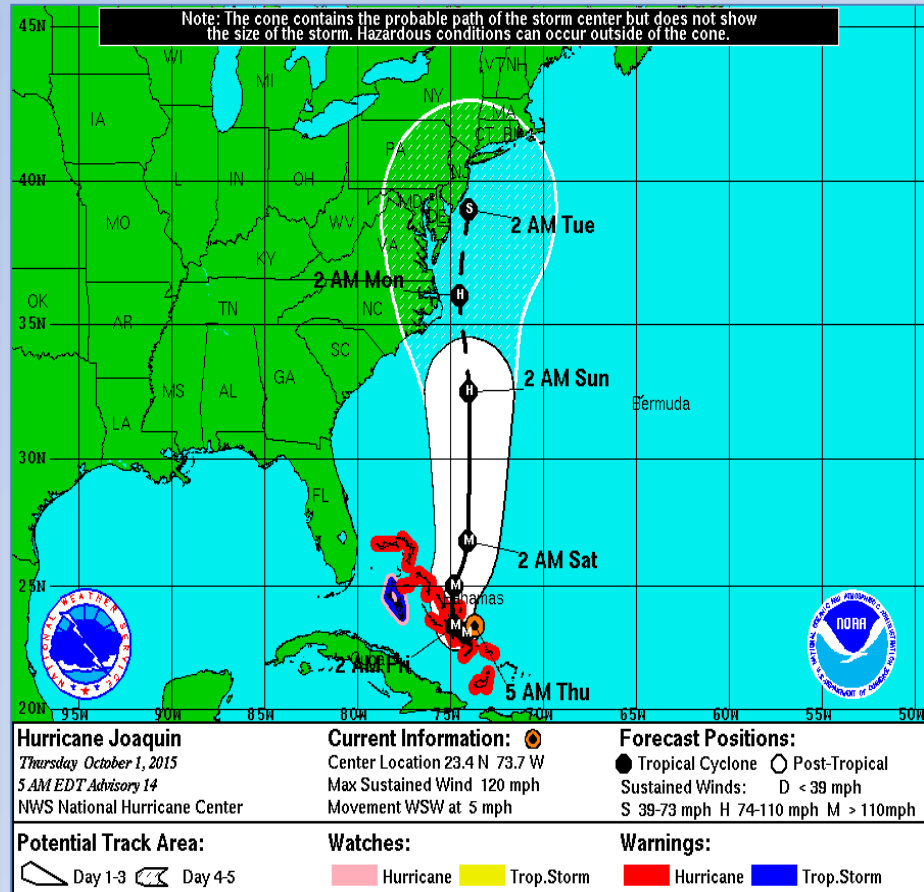


Figure 5. Alternate route via Old Bahama Channel (green) from Jacksonville to San Juan, compared with normal route (orange) and *El Faro's* route on accident voyage (purple). (Coast Guard diagram)

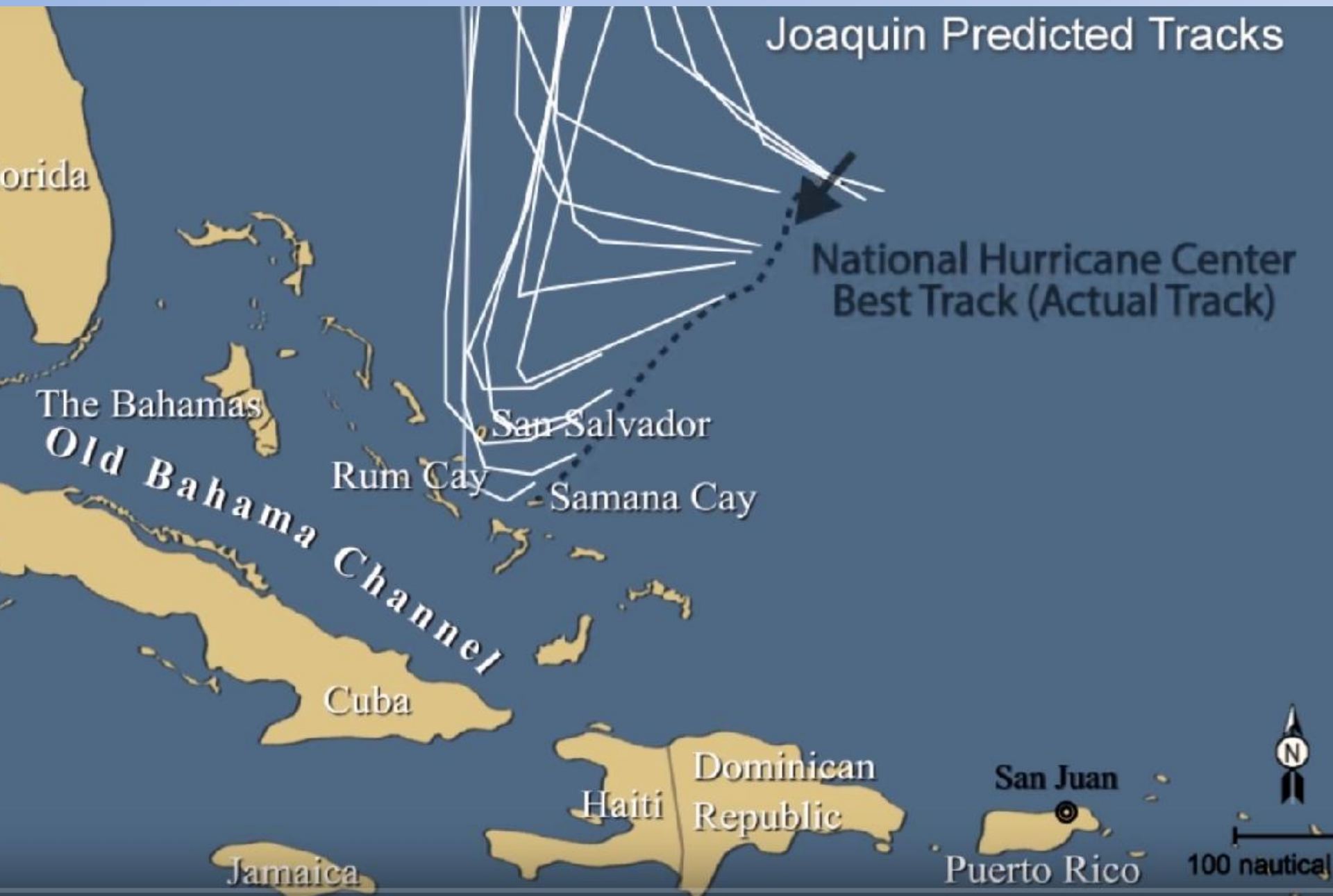
Heavy Weather Forecasting Issues



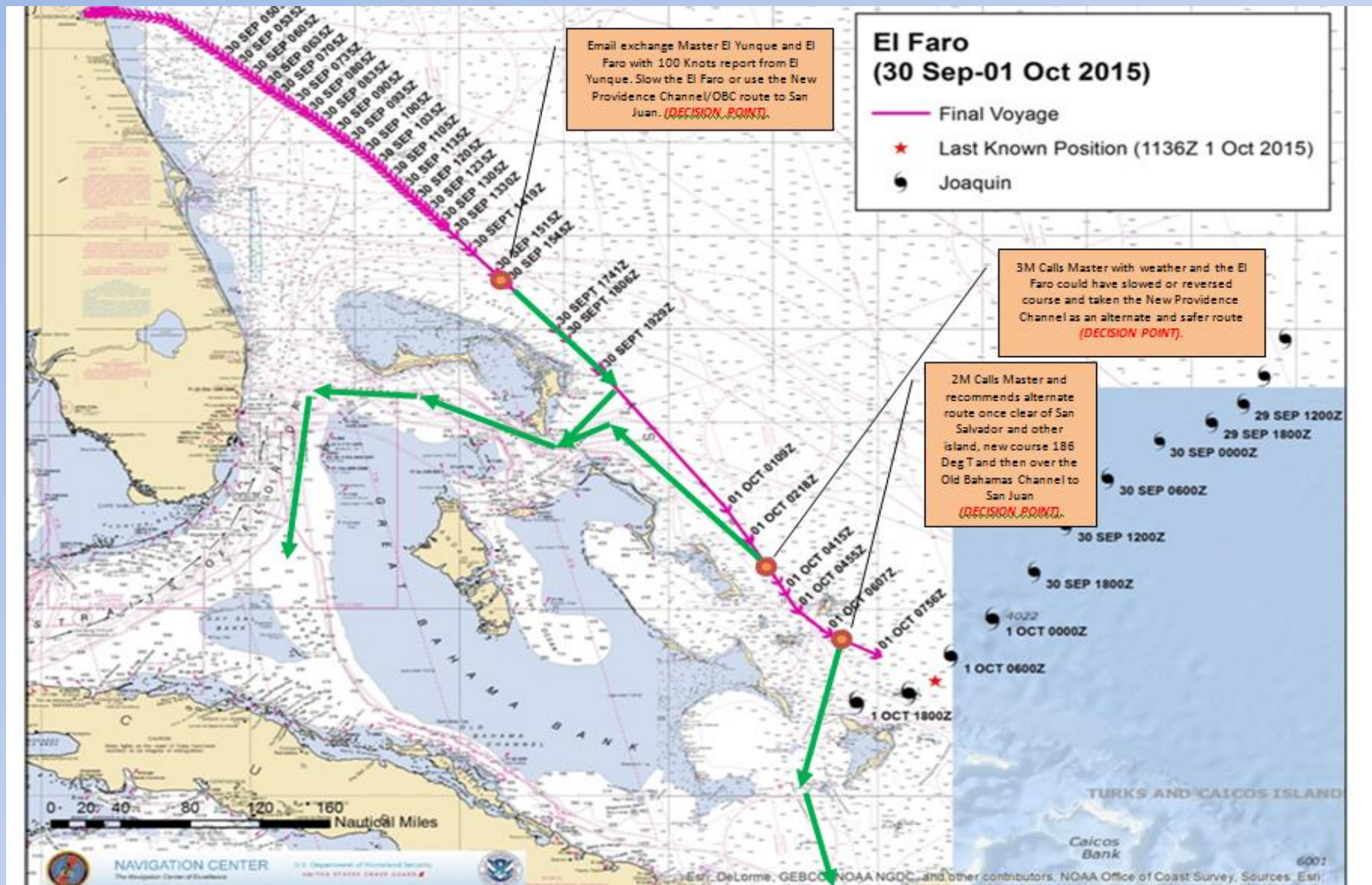
28 Sep (0500 EDT) TD Joaquin
forecast & position



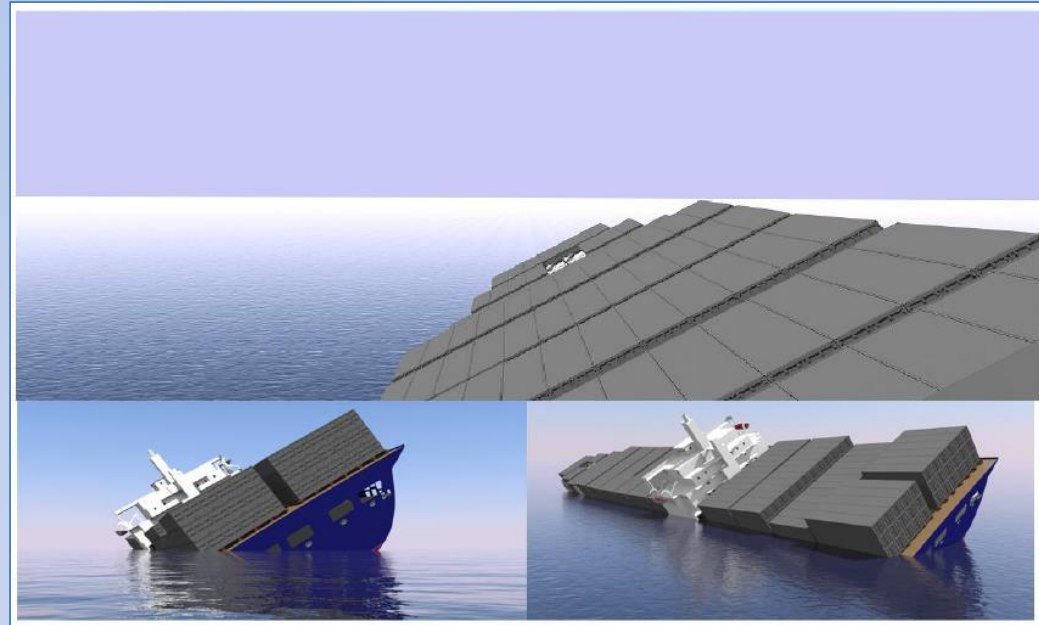
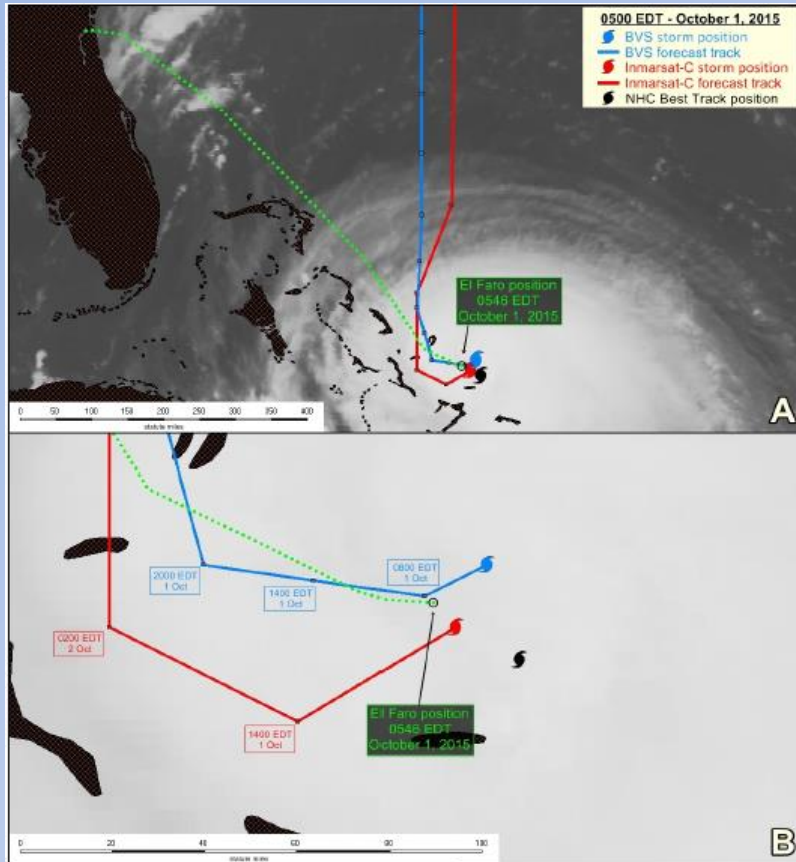
01 Oct (0500 EDT) Hurricane
Joaquin forecast & position



Key Storm Voyage Decision Points

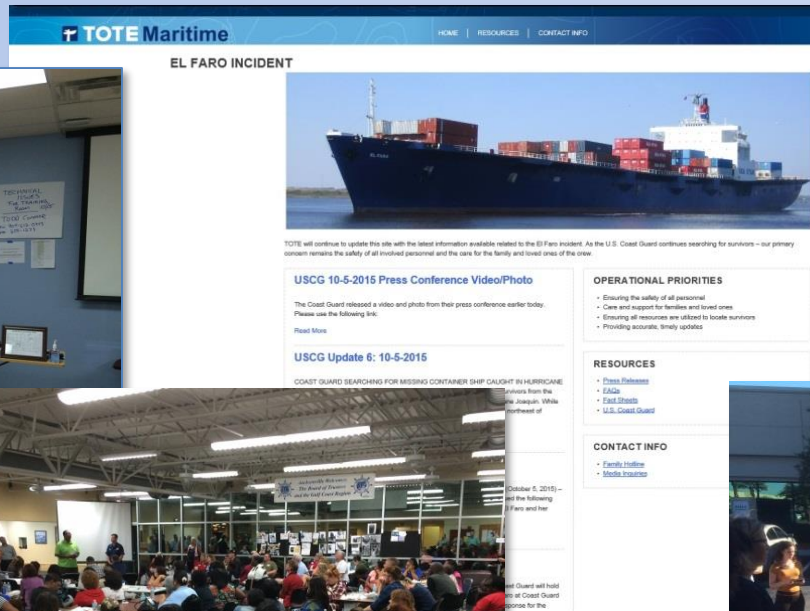
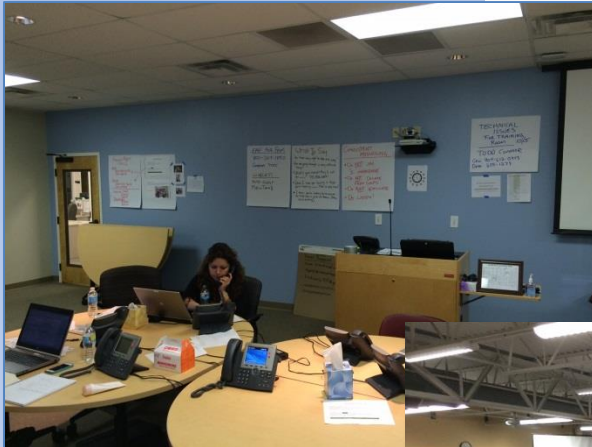


Sinking of the S.S. EL FARO

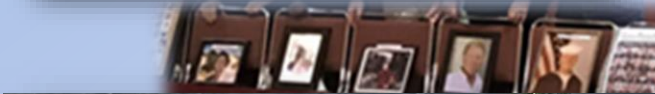


Tote's Initial Response

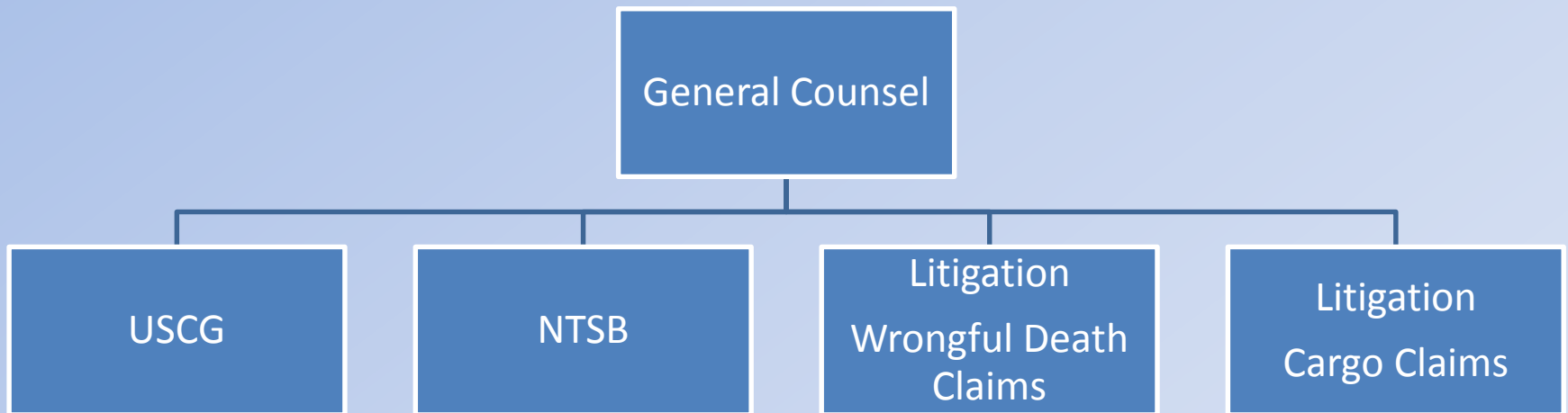
- Response & initial actions
- Addressing immediate questions & concerns raised by crewmembers' families



Engagement with Family Members



Organizing the Team



Limitation Action & Government Investigations

Case 3:15-cv-01297-HES-MCR Document 1 Filed 10/30/15 Page 1 of 8 PageID 1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

IN ADMIRALTY

----- X
In the Matter of The Complaint :
 :
 :
 of :
 :
 :
 Sea Star Lines, LLC, d/b/a TOTE Maritime :
 Puerto Rico, as Owners; and TOTE Services, :
 Inc., as Owner *pro hac vice* of the S.S. EL :
 FARO for Exoneration from or Limitation of :
 Liability :
----- X

VERIFIED COMPLAINT

Plaintiffs, Sea Star Lines, LLC, d/b/a TOTE Maritime Puerto Rico, and TOTE Services, Inc. (hereafter collectively "Plaintiffs"), by their attorneys Holland & Knight LLP, for their Verified Complaint seeking exoneration from or limitation of liability, allege upon information and belief as follows:

1. This is a case of admiralty and maritime jurisdiction, as hereafter more fully appears, and is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure, and the Supplemental Rules for Admiralty or Maritime Claims.

2. Venue is proper in this district pursuant to Rule F(9) of the Supplementary Rules for Admiralty or Maritime Claims of the Federal Rules of Civil Procedure. Plaintiffs have been sued in the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida, within the geographical district of the United States District Court for the Middle District of Florida, in the United States District Court for the Middle District of Florida, Jacksonville Division, and in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida for claims with respect to which Plaintiffs seek exoneration from or limitation of liability.

#37469599_v4



The Coast Guard MBI & NTSB Investigation



GlobalTrade
The Authority For US Companies Doing Business Globally. Latest Issue

DAILY - FEATURES - LOGISTICS - SITE SELECTION - BANKING - DEPARTMENTS - GLO

OCEAN CARRIERS August 25th, 2016 | Written by Peter Buxbaum

EL FARO VOYAGE DATA RECORDER: 26 HOURS OF INFORMATION RECOVERED

NTSB CONVENES TECHNICAL GROUP TO DEVELOP TRANSCRIPT



NTSB HAS RELEASED RESULTS OF PRELIMINARY EXAMINATION OF EL FARO VDR: A technical group will continue reviewing the entire recording, including crew discussions regarding the weather situation and the operation and condition of the ship before it sank. (Image: NTSB)

SHARELINES

f t in 26 hours of information recovered from El Faro VDR.

f t in El Faro's loss of propulsion was mentioned on the bridge audio.

f t in El Faro master sounded abandon ship alarm 7:30 AM, October 1.

The National Transportation Safety Board announced yesterday the convening of a voyage data recorder group to develop a detailed transcript of the sounds and discernible words captured on the El Faro's bridge audio, following the audition of the ship's VDR.

[The voyage data recorder from the El Faro, a US flagged cargo ship that sank during Hurricane Joaquin in October 2015, was successfully recovered from the ocean floor](#) August 8 and transported to the NTSB's laboratory in Washington, D.C., on August 12. [Information from the El Faro's VDR](#) was successfully recovered August 15.

About 26 hours of information was recovered from the VDR, including bridge audio, navigational data, onboard radar images, and wind data. Investigators examined the VDR, found it to be in good condition, and downloaded its memory module data.

Related Content: Numerous events leading up to the loss of the El Faro are heard on the VDR's audio



NTSB

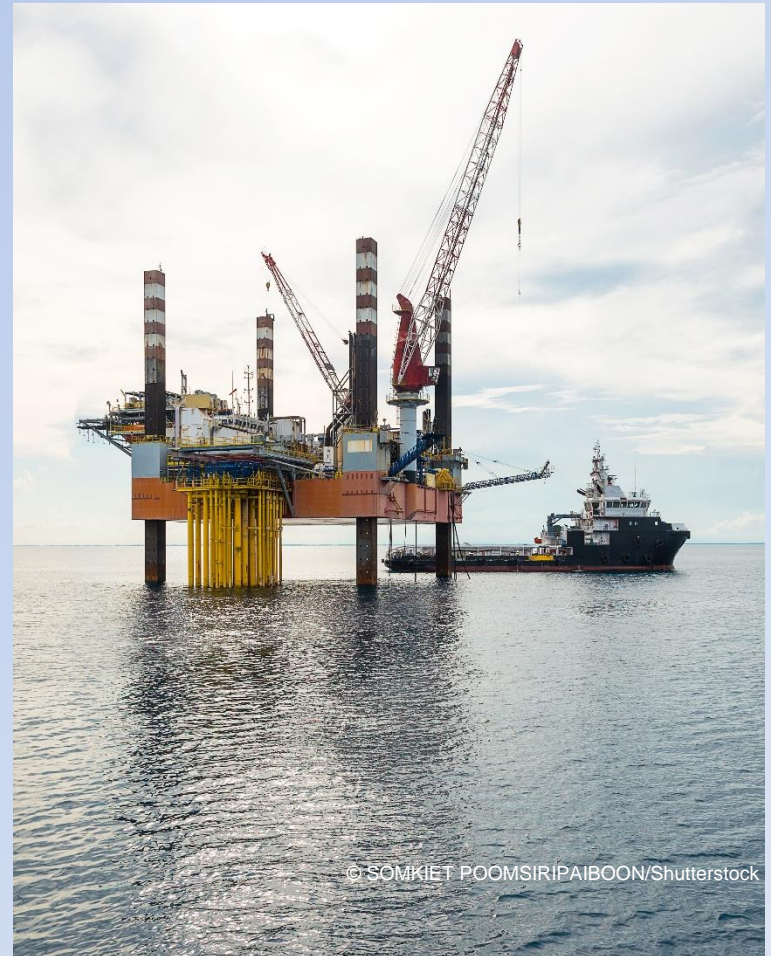
ABS Named as a Party in Interest: Coast Guard MBI & NTSB Investigations

- Classification: Process/Role
 - Class societies establish and apply technical standards for the design, construction and survey of marine related facilities, including vessels and offshore structures
 - Maintain a Register of Vessels and Offshore Structures



ABS Named as a Party in Interest: Coast Guard MBI & NTSB Investigations (cont'd)

- Classification is a Process
 - Technical standards (Rules and Guides) are not design codes
 - Technical plan review and design approval according to Rules
 - Surveys during new construction and equipment certification according to the Rules
 - Subsequent, periodic surveys for maintenance of class
 - Survey of damages, repairs and modifications



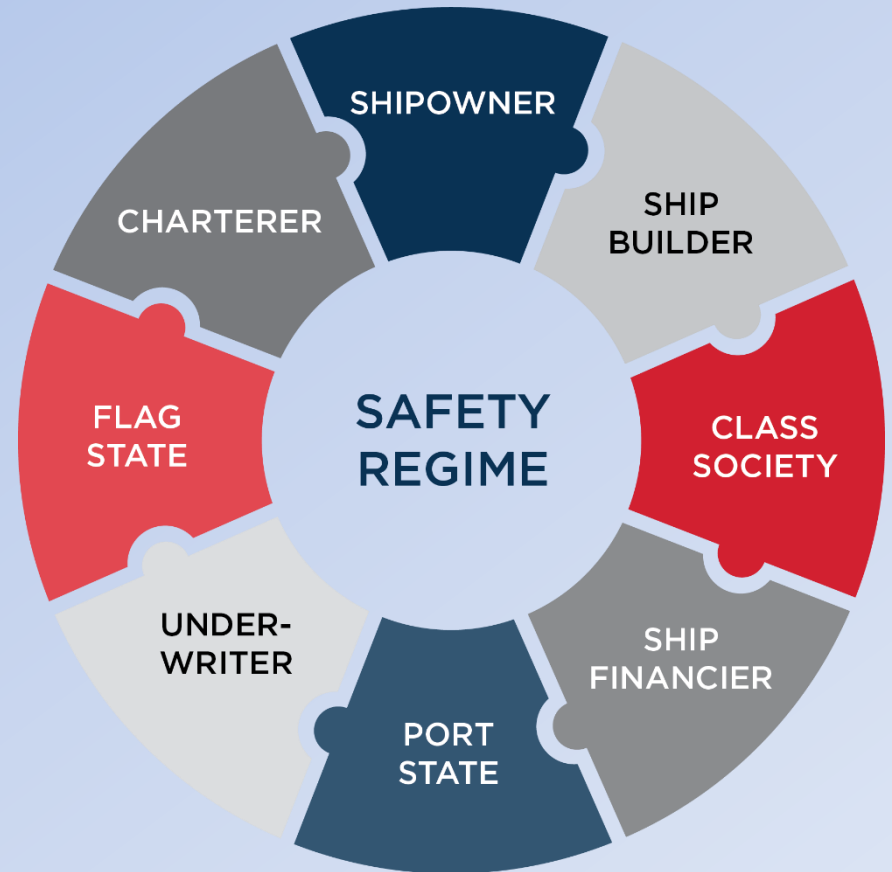
Classification and Statutory Services

- Class Societies perform delegated certification services on behalf of:
 - Governmental Agencies/Flag States
 - National Requirements
 - International Maritime Organization (IMO) – Conventions
 - SOLAS/MARPOL /LOADLINE
 - ISM/ISPS/CODES/MARITIME LABOUR CONVENTION
- Referred to as Recognized Organizations



Class Role in Marine and Offshore Safety

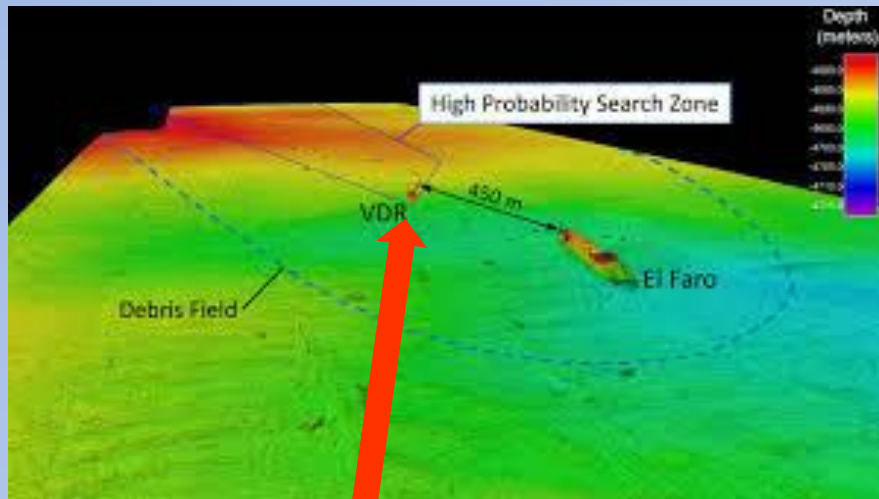
- A stakeholder in the safety network
- Independent Third-Party Review
- Involved in joint industry and government research and development
- Complete lifecycle approach to projects
 - Safety Performance
 - Risk Reduction



ABS – Marine Board of Investigation/NTSB Investigation

- ABS named a Party In-Interest pursuant to 46 CFR Part 4 along with Tote, the Captain's estate and Herbert Engineering.
- ABS performed inspections on behalf of USCG of Tote vessels in the Alternative Compliance Program (ACP).
- The S/S El Faro met all Class and Statutory Requirements at the time of the Casualty.


Voyage Data Recorder



Government Investigation Reports

- Articulating the Cause: Release of the USCG & NTSB Reports

U.S. Department of Homeland Security
United States Coast Guard



Commandant
United States Coast Guard

2703 Martin Luther King Jr Ave SE
Washington, DC 20555-7501
Staff Symbol: CG-INV
Phone: (202) 372-1030
Fax: (202) 372-1998

1633
DEC 19 2017

STEAM SHIP EL FARO (O.N. 561732) SINKING AND LOSS OF THE VESSEL WITH 33 PERSONS MISSING AND PRESUMED DECEASED NORTHEAST OF ACKLINS AND CROOKED ISLAND, BAHAMAS ON OCTOBER 1, 2015


ACTION BY THE COMMANDANT

The record and the report of the Formal Investigation convened to investigate the subject casualty have been reviewed. The record and the report, including the findings of fact, analysis, conclusions, and recommendations are approved subject to the following comments and the enclosure.


COMMENTS ON THE REPORT

1. The loss of the EL FARO and all 33 persons aboard was a tragic and preventable accident. I offer my sincere condolences to the families and friends of the mariners whose lives were lost. The Coast Guard will take appropriate action on all that we have learned from this investigation.
2. I thank the members of the Marine Board of Investigation (MBI) for their exhaustive work and independent recommendations. The MBI conducted nearly their entire investigation in public view via live video, audio and online forums, providing an unprecedented degree of transparency to their proceedings. As a result, some vessel owners and operators were able to apply lessons learned in near real time, enhancing the safety of their own operations.
3. While many factors contributed to this marine casualty, by far the most prominent was the Master's decision to sail the ship in close proximity to a Category 3 hurricane. There were multiple opportunities to take alternate, safer routes as the storm approached. There was adequate information available regarding the threat posed by hurricane Joaquin, despite the unusually unpredictable nature of the storm's path and intensity. There were warnings and recommendations from the mates on successive watches to alter course to avoid the storm, but they were not heeded. The combination of these actions and events placed the EL FARO in harm's way near the eye of the storm, and subjected her to wind and sea conditions that prudent mariners avoid. In the case of the EL FARO, those conditions led to a chain of events, the effects of which were irreversible.
4. The ROI notes numerous failures on the part of TOTE Services, Inc. (TSI) to properly fulfill its obligations under the International Safety Management (ISM) Code. These include substandard materiel conditions aboard EL FARO's sistership, failure to provide basic safety training to the onboard riding gang, failure to conduct proper lifeboat drills, among others.

Sinking of US Cargo Vessel SS *El Faro*
Atlantic Ocean, Northeast of Acklins and Crooked Island,
Bahamas
October 1, 2015



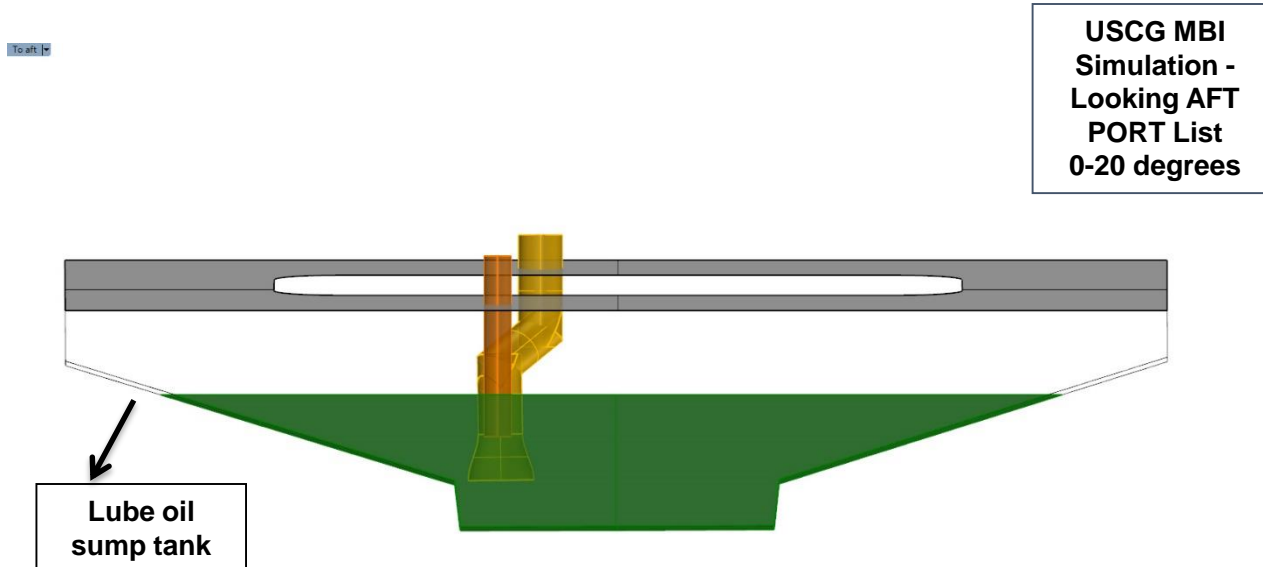
Accident Report
NTSB/MAR-17/01
PB2018-100342



**National
Transportation
Safety Board**

Click mouse or arrow on
keyboard to start animation

LOSS OF PROPULSION ~ 0600



LOOKING AFT

EL FARO Lessons Learned

Questions



In Memoriam

Louis Champa -- Palm Coast, Florida
Roosevelt Clark -- Jacksonville, Florida
Sylvester Crawford Jr. -- Lawrenceville,
Georgia

Michael Davidson -- Windham, Maine
Brookie Davis -- Jacksonville, Florida
Keith Griffin -- Fort Myers, Florida
Frank Hamm -- Jacksonville, Florida
Joe Hargrove -- Orange Park, Florida
Carey Hatch -- Jacksonville, Florida
Michael Holland -- North Wilton, Maine
Jack Jackson -- Jacksonville, Florida
Jackie Jones, Jr. -- Jacksonville, Florida
Lonnie Jordan -- Jacksonville, Florida
Piotr Krause -- Poland
Mitchell Kuflik -- Brooklyn, New York

Roan Lightfoot -- Jacksonville Beach, Florida
Jeffrey Mathias -- Kingston, Massachusetts
Dylan Meklin -- Rockland, Maine
Marcin Nita -- Poland
Jan Podgorski -- Poland
James Porter -- Jacksonville, Florida
Richard Pusatere -- Virginia Beach, Virginia
Theodore Quammie -- Jacksonville, Florida
Danielle Randolph -- Rockland, Massachusetts
Jeremie Riehm -- Camden, Delaware
Lashawn Rivera -- Jacksonville, Florida
Howard Schoenly -- Cape Coral, Florida
Steven Shultz -- Roan Mountain, Tennessee
German Solar-Cortes -- Orlando, Florida
Anthony Thomas -- Jacksonville, Florida
Andrzej Truskowski -- Poland
Mariette Wright -- St. Augustine, Florida
Rafal Zdobych -- Poland