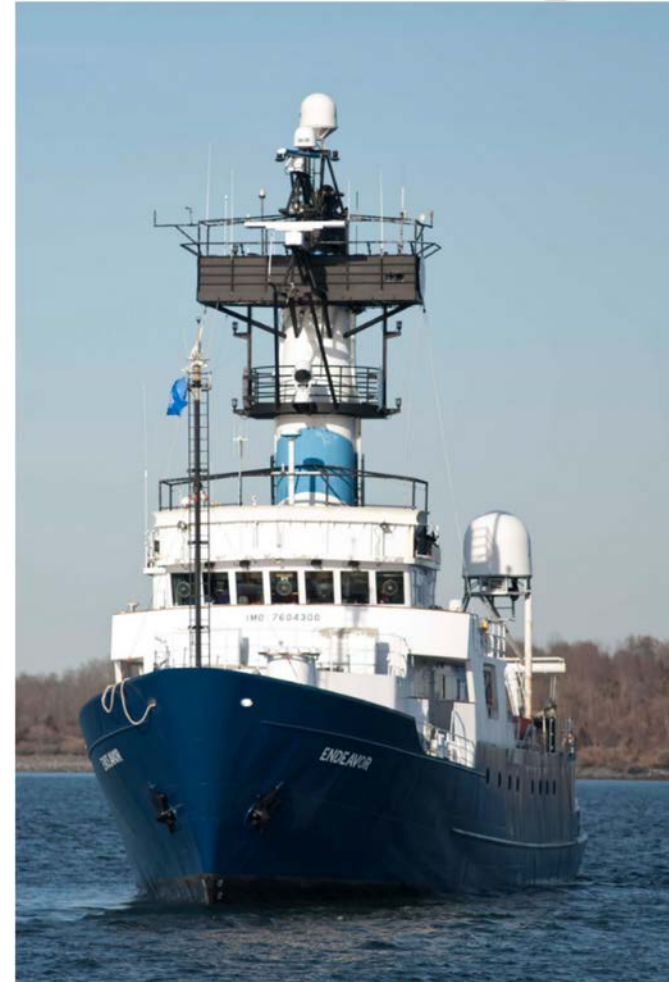


Admiralty Law & Marine Insurance Update





Outline

- World Insurance Market
- Comparison of UNOLS Vessels and Risks Covered
- Research Vessel News
- Regulatory News (Assisted by Morgan Tyrrell, NTSB)
- Relevant Legal Decisions (Comments from Zoltan Kelety)
- Conclusions

World Insurance Market

2016 Global Marine Underwriting Premiums

Annual underwriting premiums = \$27.5 billion

~ 9% reduction from 2015 total

~18% reduction from 2014 total

“The 2016 number follows a continuing downward trend in marine underwriting premiums” – *Astrid Seltsmann, IUMI*

Strong U.S. dollar vs. weak global economic conditions leads to mismatch between fleet growth and income levels

2016 Hull Sector

Premium Income = \$7 billion

~ 10% decrease from 2015 total

The global fleet is growing, but it is also aging

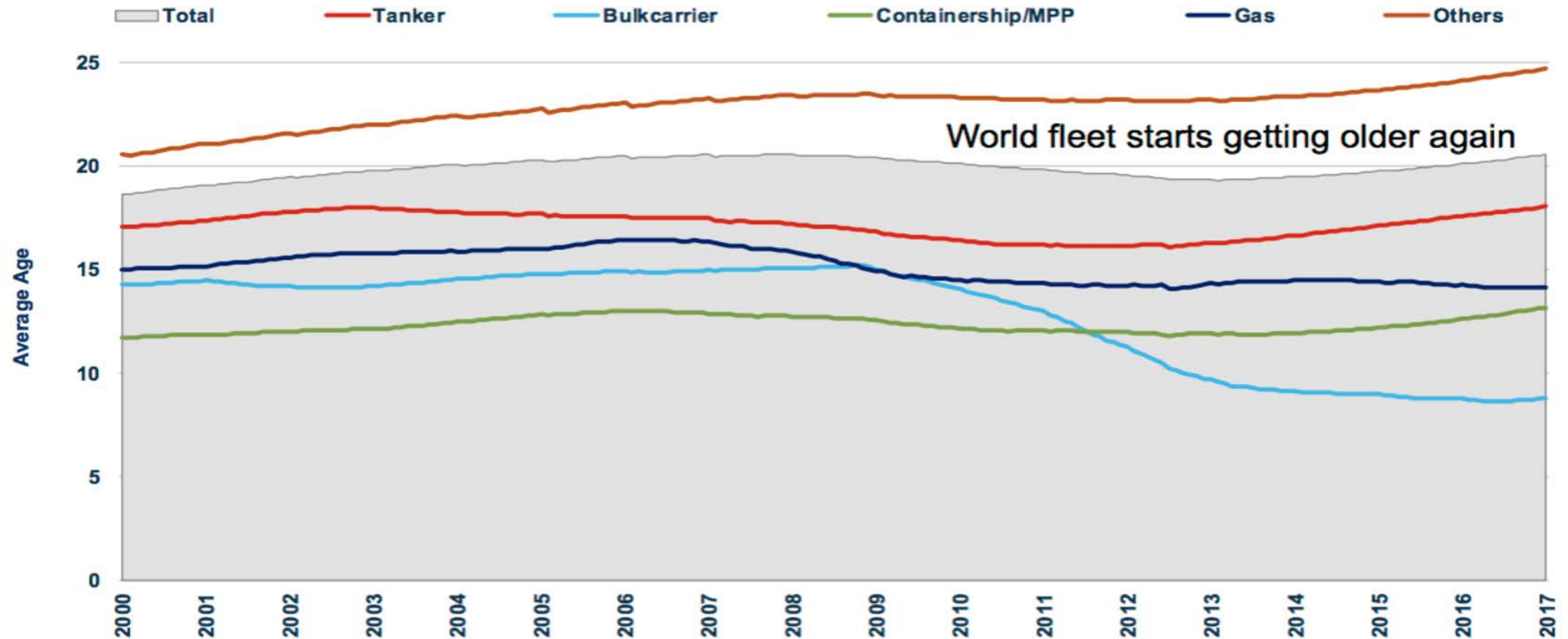
- Trend of gradual reductions in overall vessel values

Total losses are continuing on a positive trajectory

- Falling vessel values increase probability of constructive total losses
- Newer, high-value vessels increase single-risk exposure + cost of single casualties

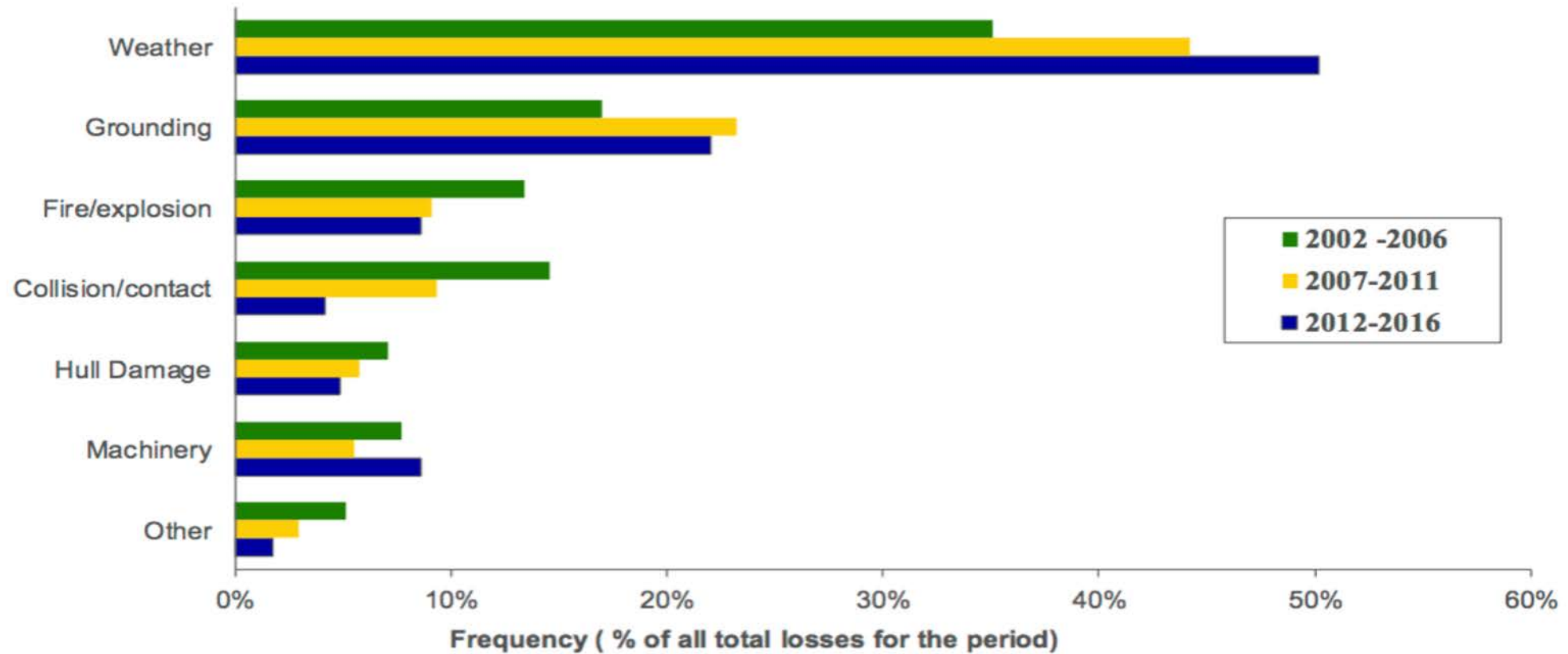
WORLD FLEET – AVERAGE AGE

VESSELS > 100 GT A. Seltmann



Total Losses 2002 – 2016

A. Seltmann
by cause, all vessel types, vessels > 500 GT



ISSUES TO MONITOR

A. Seltmann



High-value risks

Human factor/
Qualification

Oil price, fuel quality

Climate change

Changes in regulation (liabilities)

Fire on RoRo & Container vessels



Arctic risks

Value accumulation

New technology

Cyber risk

Internet of things/complex technologies

Navigation

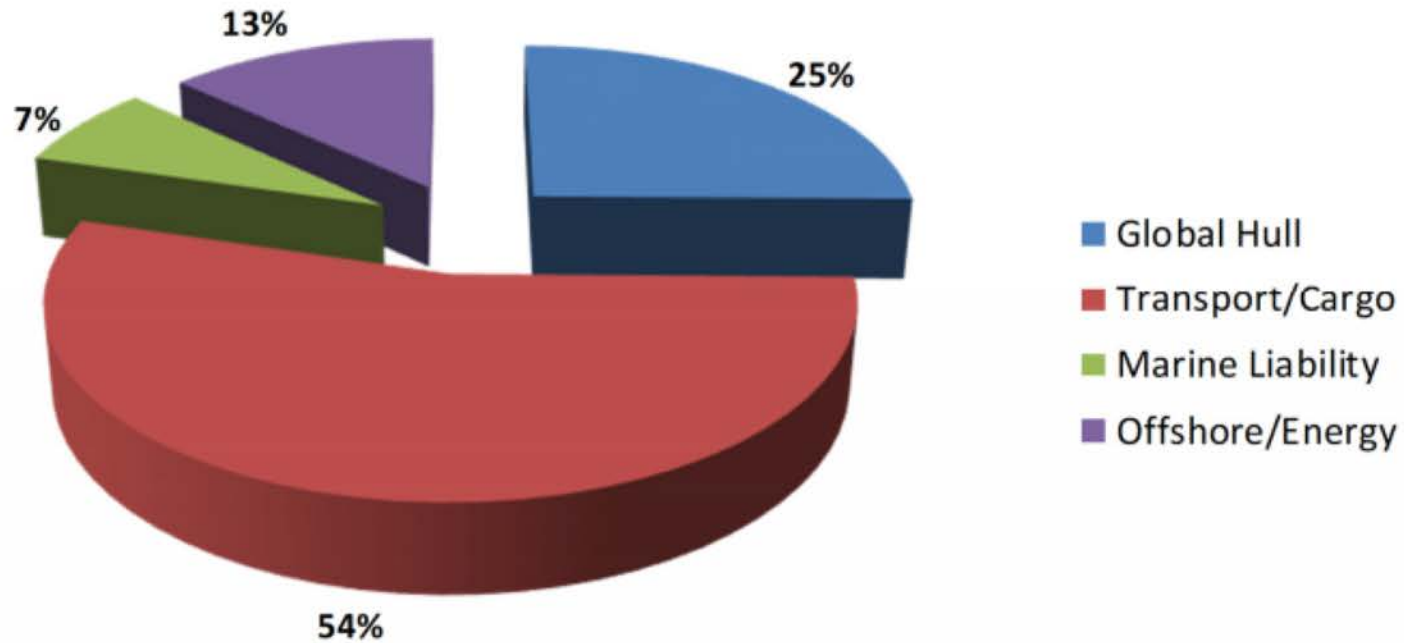


Marine Premium 2016

by line of business

Total estimate 2016: 27.5 USD billion / Change 2015 to 2016: -9%

NB: Exchange rate effects due to recent strong USD!



Offshore energy share down 2%, Cargo up 2%.

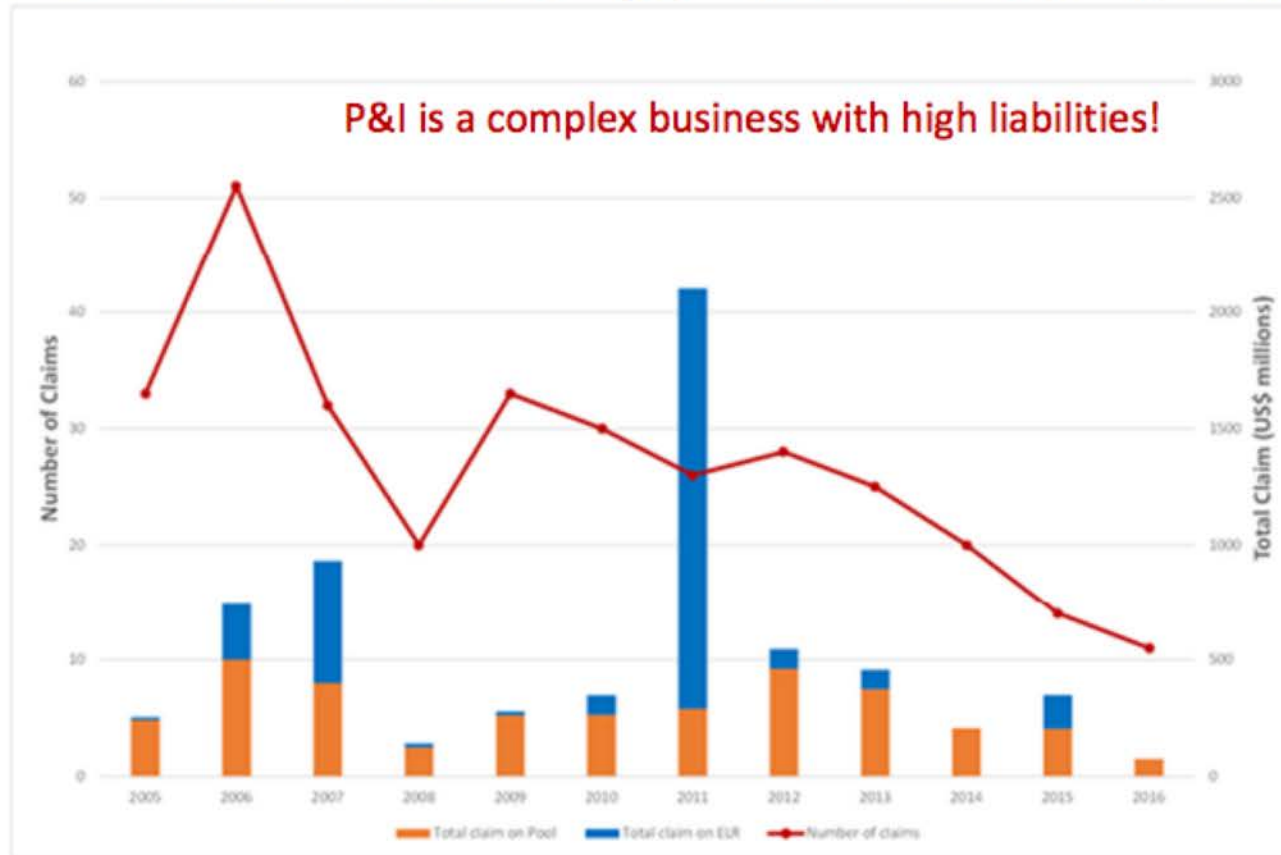


P&I Pool claims by policy year

Source: Annual Review of the International Group of P&I Clubs

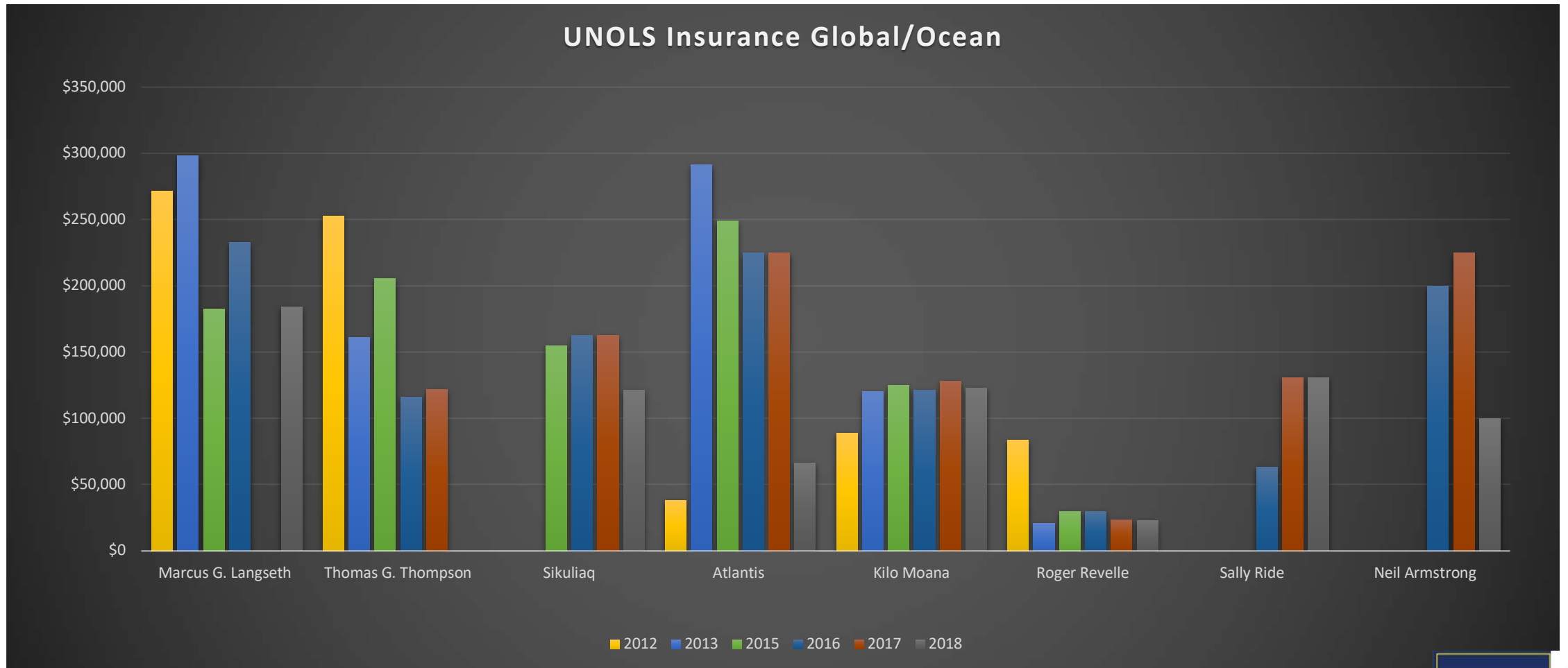
Pool claims on 2016/17 policy year reduced compared to 2015/16.

IG P&I: "This continues the encouraging trend of more benign large claims..."

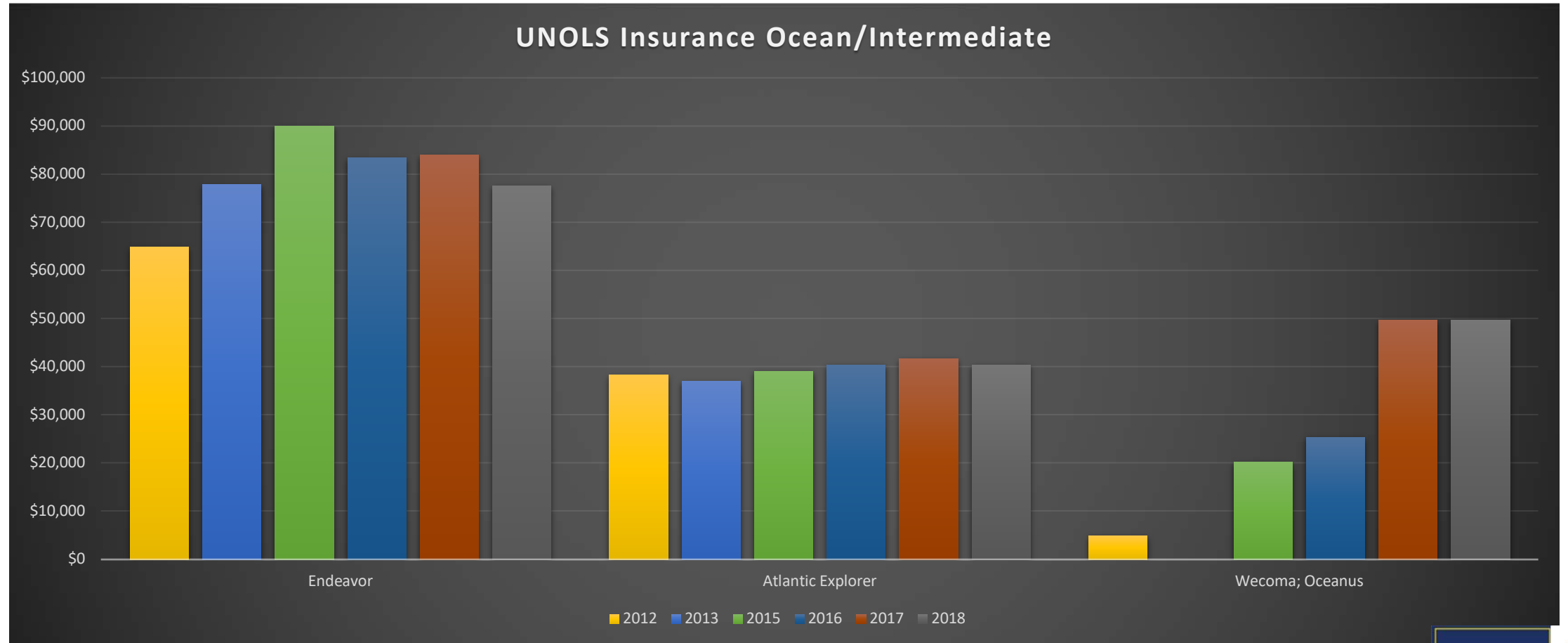


Check Annual Review of the Int. Group of P&I Clubs to understand complexity of exposure under P&I liability:
https://static.mycoracle.com/igpi_website/media/adminfiles/IGPI_Annual_Review_16-17_nSXn9m4.pdf

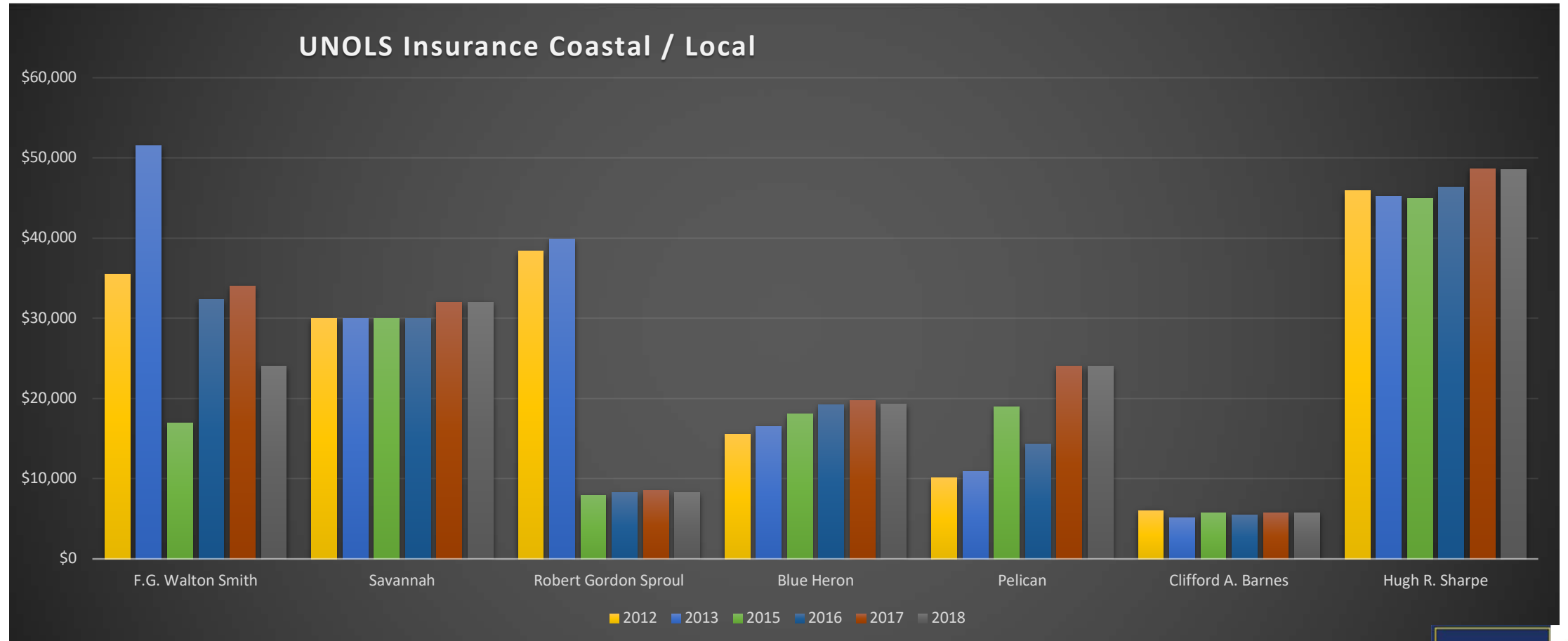
UNOLS Global Insurance 2018



UNOLS Ocean/Intermediate Insurance 2018



UNOLS Local/Coastal Insurance 2018



Vessel News

NOAA Partners with Microsoft co-founder Paul Allen



NOAA Deep Argo Float

Allen AUV Helps Locate *USS Indianapolis* Wreck



U.S. Coast Guard Medivacs Chinese Patient from Icebreaker



U.S. Coast Guard

Spanish R/V Fatality – Man Overboard

- Spanish Navy Captain Javier Montojo Salazar fell overboard in Antarctic waters from the R/V Hesperides
- His body was recovered after a six hour search
- No further details available at this time



Duterte and Philippines RV Clearances

- On Jan. 15, 2018, Philippine President Rodrigo Duterte personally made a decision to let China conduct scientific research on Benham Rise (renamed in 2017 as the Philippine Rise) in concert with the University of the Philippines
- On Feb. 6, 2018, Duterte banned all scientific research off their coast and told the navy to chase away any unauthorized vessels, deeming it “a national security issue”
- The military was ordered to deploy unmanned aerial surveillance vehicles to protect the area

Boaty McBoatface AUV record

- The latest version of the Autosub, named in an internet poll conducted by NERC in 2016 deployed in its first under-ice Antarctic mission
- Deployed from January-February 2018 in the southern Weddell Sea, Boaty traveled 108 km, reached water depths of 944 m and spent 51 hours under the Antarctic ice



- The research team had no communication with the device during 90% of its underwater mission

World's First Deepsea Mining Vessel Launched

- The Nautilus New Era was launched at the Mawei Shipyard in China on March 29, 2018
- It is expected to begin operations in the Bismarck Sea off Papua, New Guinea in approximately one year
- Resources to be exploited include 1 million tons of polymetallic sulfides that are rich in copper and gold



- Three large collecting and cutting machines will work on the ocean floor at a depth of 1500 meters

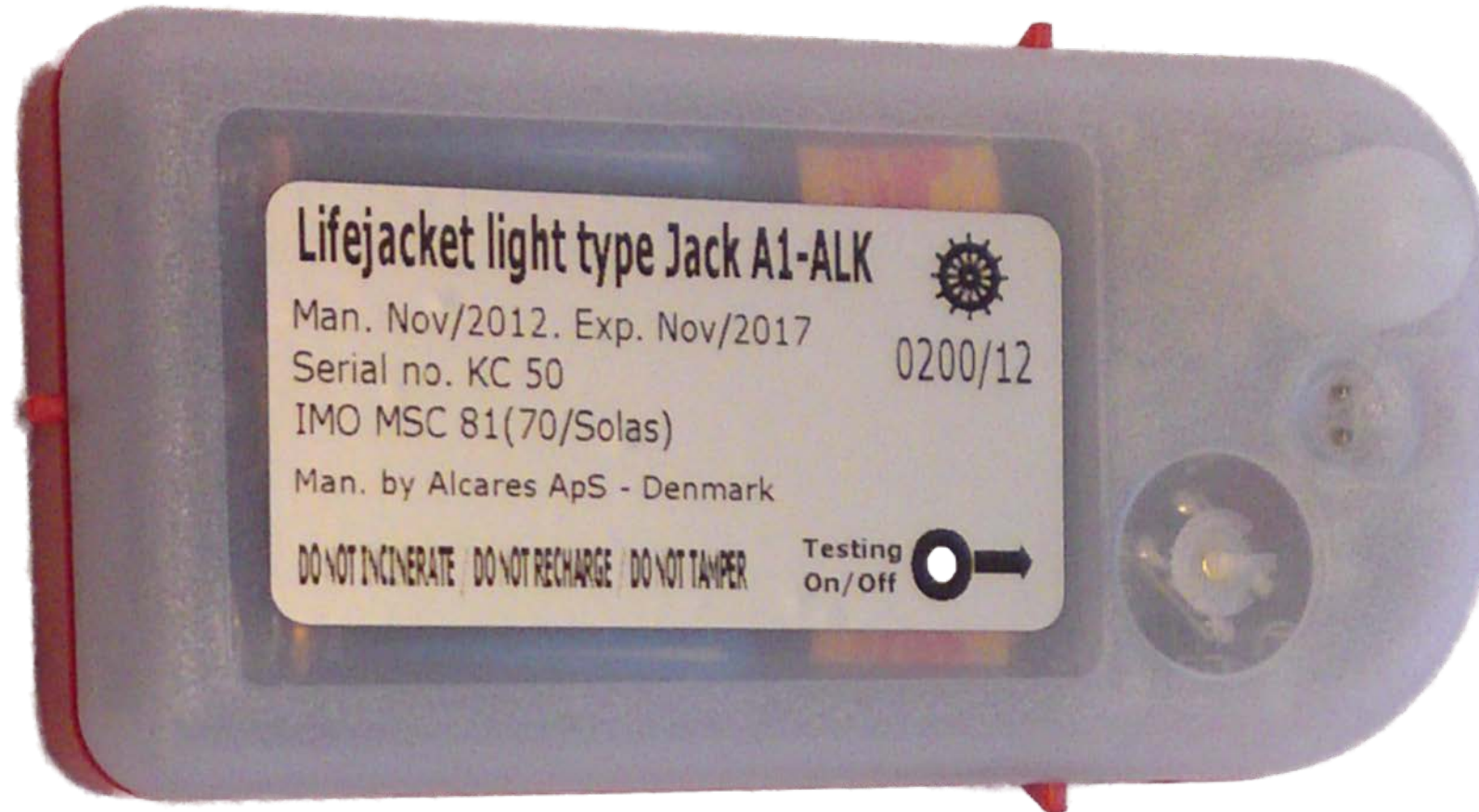
Regulatory News

U.S. Coast Guard Releases Final Report on *El Faro*



United States Navy

U.S. Coast Guard Issue Warning on Leaky Lifejacket Lights



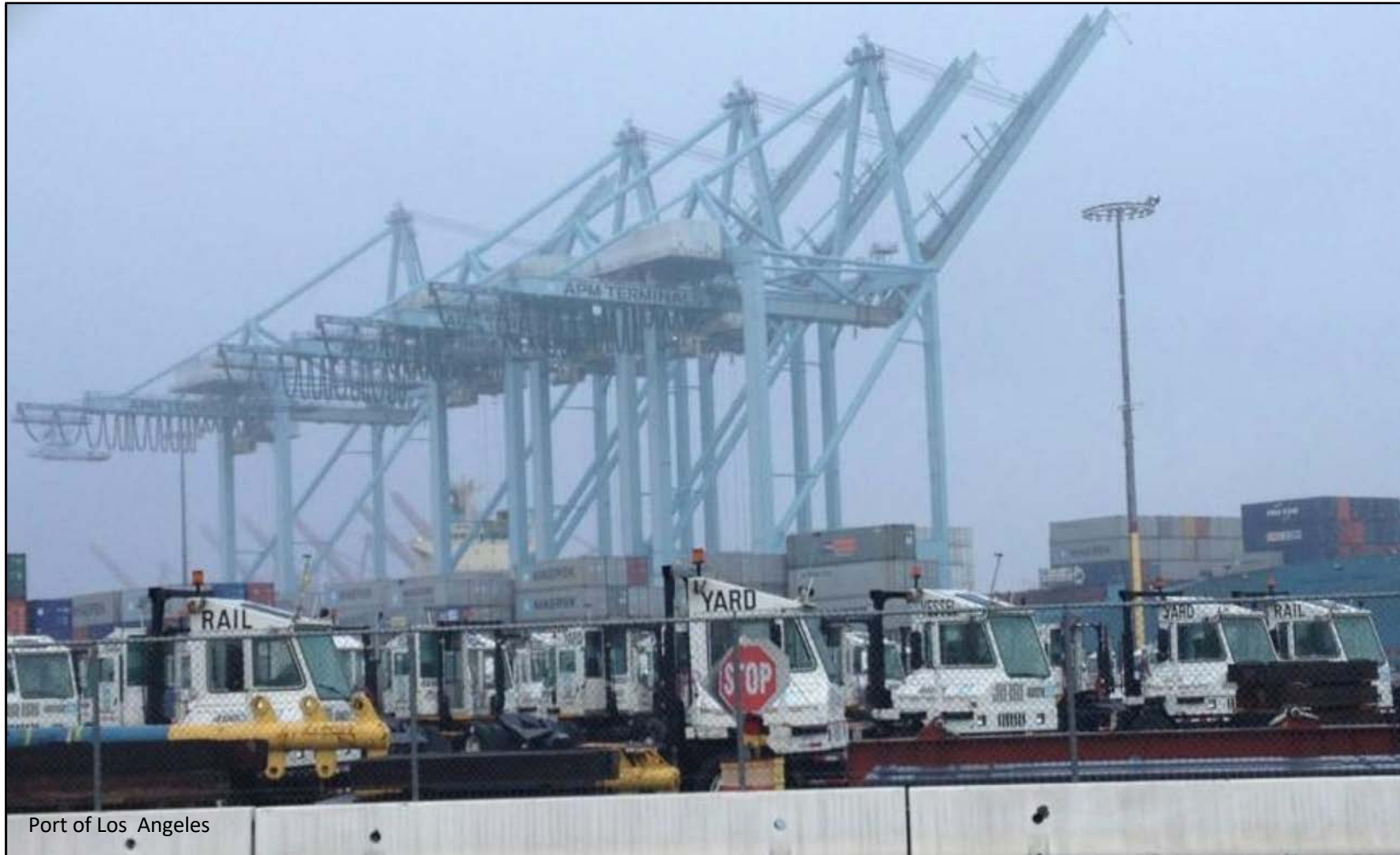
Alcares Lifejackets

U.S. Coast Guard Issue Safety Alert on Engine Room CO²



U.S. Coast Guard

Questions Surround California Emissions Standard Goals and IMO 2020 Deadline



Ballast Water Convention Enters Force in September, 2017



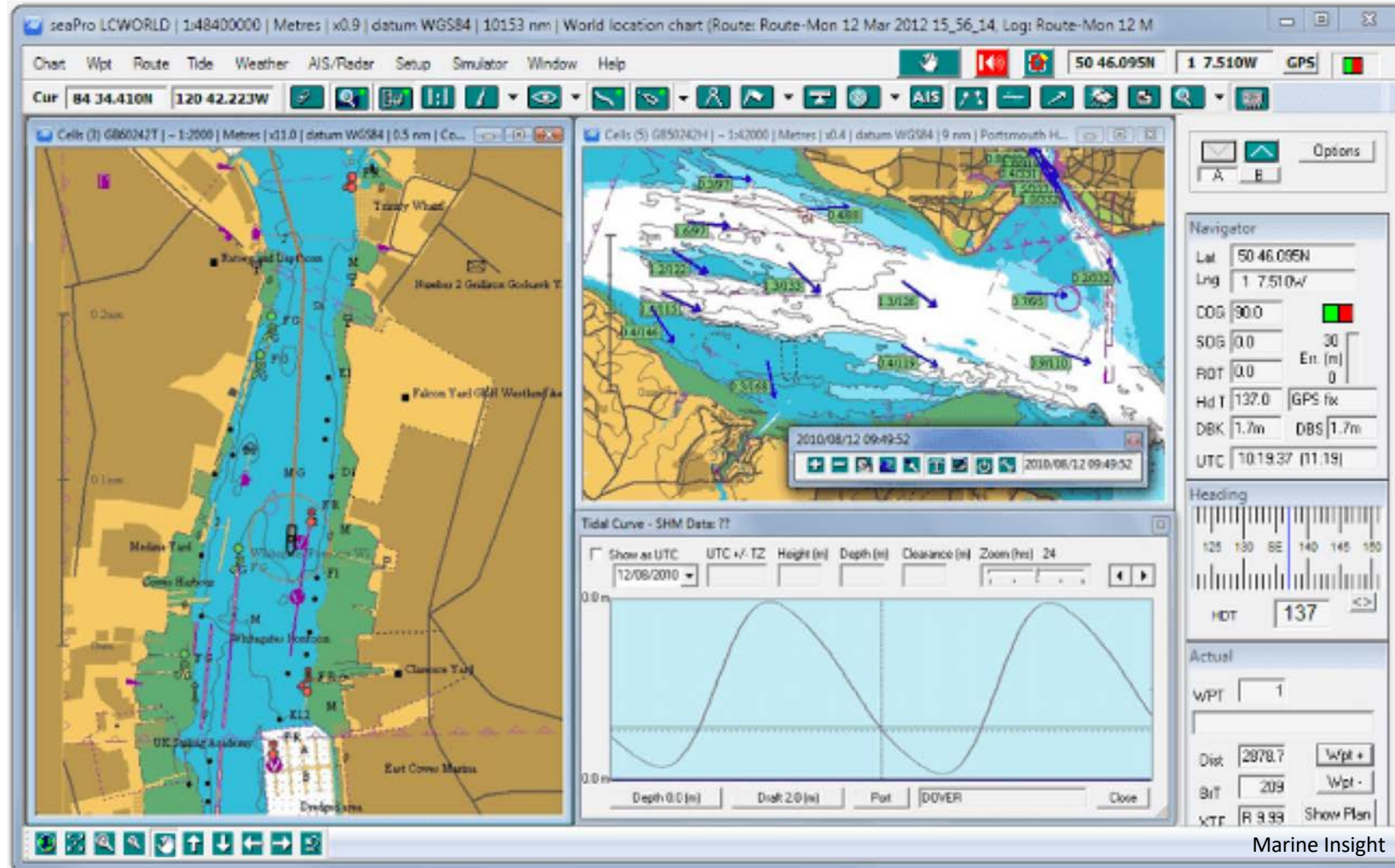
Maritime Executive

Tsunami Debris Enhances Rafting of Invasive Species



New York Times

Over Reliance on GPS Systems Lead Ships to Danger



Recent U.S. Naval Collisions Raise Concern



U.S. Navy Warships to Begin Transmitting AIS



Public vessel status for US ORVs?

- At our meeting in New Orleans last year, I reviewed the legal status of UNOLS vessels owned by the federal government
- This prompted a lengthy discussion and request for further study led by Mike Prince on behalf of UNOLS and Read Porter from the Rhode Island Sea Grant Legal Program
- Although there was strong evidence, particularly in recent case law, that our federally owned fleet meets the definition for public vessel status, Navy and NSF announced at the November 2017 UNOLS Council meeting that they would continue their current policy. NOAA, on the other hand, has embraced the concept

Relevant Legal Decisions

Kyle Halle v. Galliano Marine Services, LLC.

- Halle was employed by C-Innovation as an ROV technician and supervisor from 2009 to 2015. Halle sought to recover unpaid overtime wages, liquidated damages, and attorney's fees and costs under the Fair Labor Standards Act (FLSA).
- Seaman are exempt from FLSA requirements. The Act does not define “seaman” and employer Galliano Marine Services claimed that Halle as an ROV technician falls under water-based category of seamanship.
- The court found Halle to be a seaman, considering the ROV as an appurtenance of the vessel and critical to the overall mission. Halle's FLSA claims were denied in full.

Shell Offshore v. Tesla Offshore

- Tesla was was conducting an archeological survey, and deployed a towfish on 14,000 feet of cable
- The towfish hit a mooring line holding in place a Shell mobile offshore drilling unit
- The case arose because of the damage caused by the allision
- The challenge was what law to apply because the allision occurred on the high seas with vessels of US and Vanuatu registry
- Final outcome not yet certain

Orion Marine Construction, INC. v. De Leon

- Seaman De Leon fell while working on board an Orion Marine Construction, INC. vessel. The fall caused injuries that required shoulder and back surgeries as well as additional physical therapy treatments.
- The area on board where the fall occurred lacked handrails and the surrounding non-skid surface paint was worn and not maintained. Ironically, the plaintiff's responsibility was maintaining those same non-skid surfaces. Orion Marine also failed to maintain sufficient record of vessel inspection or accident prevention.
- A jury awarded De Leon with past lost income, lost future wages and anguish under the Jones Act and General Maritime Law totaling \$700,000

Diamond Offshore Services v. Williams

- Williams was a mechanic on an offshore drilling rig owned by Diamond; while repairing an elevator, he sustained a serious back injury requiring surgery and rehabilitation
- Despite surveillance video that showed he was able to do a variety of lifting tasks around his home after rehabilitation without any apparent pain, a jury awarded him \$8.5 million in compensatory damages
- A Texas Appeals Court affirmed his award. (Remember, Jones Act cases can also be filed in state courts).

Loftus v. Horizon Lines

- Unusual case under the Seaman's Protection Act, a “whistleblower” statute designed to protect merchant seamen
- Loftus, a captain in the Horizon fleet, was very safety-conscious and reported all problems with his vessel to Horizon
- When Horizon failed to act, he also reported the problems to the Coast Guard and ABS – which prompted Horizon to fire him
- Loftus was awarded over \$1 Million: 655,000 in back wages, 225,000 in punitive damages, and 200,000 in attorney's fees

Batterton v. Dutra Group

- Batterton was a deckhand on a vessel owned by Dutra
- While working on a vessel, a hatch cover blew open and crushed his left hand; pressurized air was being pumped into the compartment below and the vessel lacked an exhaust mechanism to relieve the pressure when it got too high. He suffered a permanent disability.
- In this interlocutory appeal, the court found that Dutra would be liable for punitive damages for the unseaworthy condition of the vessel

Weeks Marine, INC. v. Rodney Watson

- Watson worked as galley cook on board dredge *M/V B.E. Lindholm*, owned by Weeks Marine, INC. During meal preparation in rough seas, he was injured when a 400-lb. stainless steel table toppled onto him, leaving him with serious hip and head injuries.
- Weeks Marine terminated Watson's maintenance and cure 4 months later despite continued medical treatment and discomfort. Watson was ordered to return to work and was fired after his refusal.
- The court found Weeks was "arbitrary and capricious in terminating Watson's benefits, ordered punitive damages of \$1,139,828

Conclusions

