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7075-70-1-73

February 27, 2012

Ryan Barry
Executive Director
Nunavut Impact Review Board (NIRB)
P.O. Box 1360
Cambridge Bay, NU, X0B 0C0

**Re: Request for Public Comment Received Regarding Baffinland's January 2012
Application for NLCA 12.10.2(b) Exceptions**

Dear Mr. Barry,

Transport Canada received the Nunavut Impact Review Board (NIRB) letter dated January 13th, 2012 which outlined a new application from Baffinland Iron Mines Corporation (Baffinland) in support of the Mary River Iron Ore project proposal and a request for comments regarding determinations of proposed infrastructure, activities and review of the water license application. The Baffinland application was submitted for consideration of proposed activities as possible allowable exceptions to the NIRB's review of the project, as pursuant to Section 12.10.2(b) of the *Nunavut Land Claims Agreement*. Transport Canada appreciates the opportunity to respond to this NIRB request and offers comments on this application that pertain to our marine safety mandate.

Currently, there are no specific Transport Canada (TC) regulatory prohibitions on over-wintering barges that serve as bulk fuel storage. There are, however, regulations under the *Canada Shipping Act, 2001* and the *Arctic Waters Pollution Prevention Act* that the vessel owner must follow. These regulations are designed to ensure that fuel is stored and transported safely and apply whether barges/vessels are anchored or transiting a waterway.

Transport Canada – Marine Safety advises that the proponent take the following actions:

- Share the above information with the permitting agency;
- Develop a risk-based case to the authorizing government department for an alternate / temporary arrangement;
- Consult the Government of Nunavut, the Nunavut Impact Review Board, any potentially impacted communities, the Nunavut Tunngavik Inc., Environment Canada, and Aboriginal Affairs and Northern Development Canada in order to understand concerns and any other regulatory parameters surrounding the practice in the area.

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- Carry out a spill risk analysis with considerations given to any/all sensitive species and special environmental / oceanographic conditions in the area. An engineering study looking at ice movement, ice pressures, lateral hull strength, and a mooring plan should also form the basis for the spill risk analysis.
- Provide analysis on utilizing either land-based or barge-based storage and identify with justification which form of storage will be undertaken.

Transport Canada would like to specifically draw your attention to the following 'best practices':

- Development of an enhanced spill contingency plan, with spill clean-up materials on hand, given the time for Canadian Coast Guard (CCG) to respond mid-winter and the challenge of response should oil get into the sea ice.
- Maintenance and tank monitoring plan.
- Developing and adopting safe fuel transfer procedures, to minimize spills from tanker trucks and pumping operations.
- Strong consideration should be given to utilizing a double-hulled vessel, designed to operate within the arctic environment. It is important to point out that recently a mining operation in the Keewatin District chose to use a modern double hull tanker in lieu of a barge for the 2010 winter.

Transport Canada - Marine Safety will require review and advisement on the required Oil Pollution Emergency Plans (OPEP), as they are compiled. At this time, Transport Canada will review the regulatory guidelines in an effort to provide direction for the respective practices of overwintering and inform the NIRB of the progress of these updates as they become available.

Should you have any questions regarding Transport Canada's comments concerning this project, please contact me via email at john.cowan@tc.gc.ca or by telephone at (204) 983-1139.

Regards,



John Cowan
Environmental Affairs

cc: Jaideep Johar, TC – Marine Safety