



Transport Transports
Canada Canada

P.O. Box 8550
3rd Floor, Programs – Environmental Services
344 Edmonton Street
Winnipeg, Manitoba
R3C 0P6

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7075-70-1-452

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Heather Rasmussen
Senior Policy Advisor
Nunavut Impact Review Board
PO Box 1360
Cambridge Bay, NU
X0B 0C0

RE: Transport Canada Comments Regarding the Board's Recommendations in the Final Report for the Strategic Environmental Assessment in Baffin Bay and Davis Strait

Dear Ms. Rasmussen,

Transport Canada (TC) thanks the Nunavut Impact Review Board (NIRB) for conducting the Strategic Environmental Assessment (SEA) in Baffin Bay and Davis Strait and for subsequently providing recommendations to address comments, concerns, and recommendations of the SEA participants.

TC's roles and responsibilities related to marine shipping in the Arctic, are regulated by Acts and Regulations. These include; the *Canada Shipping Act, 2001*, the *Marine Liability Act*, the *Arctic Waters Pollution Prevention Act*, Arctic Shipping Safety and Pollution Prevention Regulations and the *Marine Transportation Security Act*, which combine to provide Canada's operational regulatory regime governing marine safety, security and environmental protection matters. TC reviews projects related to oil and gas activities under the environmental assessment processes in Nunavut and Northwest Territories, as per its regulatory mandate, roles and responsibilities and provides subject matter expertise as required.

The Canadian Energy Regulator (CER) is the lead federal agency for offshore arctic oil and gas activities including overseeing spill and emergency response capabilities, technologies, infrastructure and response plans for installations, vessels and equipment actively engaged in oil and gas activities (actively drilling drillships or platforms and any vessels within the safety zone).

TC provides a support role to the CER and other Government of Canada departments by utilizing National Aerial Surveillance Program (NASP) aircraft. Additionally, TC provides technical advice on vessels in case of an incident as well as advice on issues

related to vessel operations/stability and the Canada Labor Code for seafarers. Considering TC's role in regards to offshore oil and gas activities, NIRB's recommendations provide important considerations for TC. TC is already working to protect Canada's coasts and waterways through our participation in the Oceans Protection Plan (OPP). Key work under the OPP that may support NIRB's SEA recommendations includes the Cumulative Effects of Marine Shipping Initiative. In addition, TC's NASP supports the Government of Canada's detection of ship-source oil pollution. See Appendix A for additional details regarding the initiatives.

The following outlines what recommendations have been identified as aligning with TC's mandate and highlights some of the current activities TC is undertaking:

Recommendation 1: Building on the data collected in Recommendation #29, develop accessible public guidance on the roles and responsibilities of Nunavut stakeholders (Federal agencies, Government of Nunavut, Inuit organizations, and communities) for oil and gas spill response within the Nunavut Settlement Area and in the Canadian offshore adjacent to the Nunavut Settlement Area.

Recommendation 29: Assemble available information on emergency preparedness and response, including:

- *current regulatory oversight and responsibilities;*
- *current and required response capabilities for the Area of Focus;*
- *spill response technologies applicable to the Arctic (in both ice and open water);*
- *emergency response infrastructure; and*
- *best practices and measures for emergency prevention and response.*

Recommendation 32: Conduct baseline research to assess the capacity and infrastructure required to manage and respond to a well blowout or major spill in the Arctic and to determine whether an effective response can be mounted in remote locations under harsh weather conditions with periods of prolonged darkness and in the presence of ice.

TC Comments on Recommendations 1, 29, and 32:

As outlined in TC's Final Written Submission to NIRB in February 2019, TC's role specifically related to oil and gas activities is limited as the Canadian Energy Regulator (CER) is the lead federal department, however, we do have a role in emergency preparedness and response in relation to marine shipping. Through the OPP we continue to collaborate with our partners in strengthening existing emergency preparedness and response in the Arctic, and would be available to support the CER and others in undertaking these recommendations. As part of the Cumulative Effects of Marine Shipping Initiative under the OPP, TC is working with its partners and guiding an oil spill risk assessment process to identify potential gaps and potentially develop additional mitigation measures and/or identify areas of further study. Although the regional Cumulative Effects Assessment is focused on the Cambridge Bay area, it is possible that the assessment could contribute to a broader understanding of the regime in other regions of Nunavut.

Recommendation 5: All parties with responsibilities for emergency response in the Area of Focus, including the communities in the region, should establish relationships with other circumpolar nations and transboundary groups to support active and timely coordination with these groups to enhance transboundary emergency preparedness and response capabilities.

TC Comments on Recommendation 5:

TC supports this recommendation and recognizes the importance of these relationships. TC is currently a member of the Canadian delegation to various working groups established under the Arctic Council, which is the principal intergovernmental forum that works to promote the environmental, social and economic aspects of sustainable development in the Arctic region. In particular, TC is a long-time member of the Emergency Prevention, Preparedness and Response (EPPR) Working Group.

Recommendation 11: Future assessments and marine planning should include comprehensive transboundary effects assessments of valued environmental components and collaboration with Inuit residents in transboundary areas outside the Nunavut Settlement Area (e.g., Nunavik, Greenland, etc.) should occur whenever practical.

TC Comments on Recommendation 11:

As indicated above, TC is a member of the EPPR Working Group of the Arctic Council. In 2020, the EPPR Working Group developed and released a *Guideline for Arctic Marine Risk Assessment*, which is a web based tool for conducting Arctic marine risk assessments. The guideline aims to improve and ease the process of conducting Arctic-specific risk assessments by creating a common ground and incorporating unique Arctic risk factors.

Recommendation 14: Potential impacts to Inuit harvesting and Inuit rights (including threats to food security) should be considered when developing and implementing compensation frameworks for impacts on marine fish, waterbirds, and marine mammals.

TC Comments on Recommendation 14:

TC administers the *Marine Liability Act*, which is a mechanism to provide compensation for economic impacts due to an oil spill from ships, including subsistence fishing and harvesting. If an Indigenous group or person can't access the resources they need for food, social and ceremonial purposes because of ship-source oil pollution, they may submit a claim for compensation.

For additional information regarding marine liability and compensation for oil spills, please refer to the following link:

<https://www.tc.gc.ca/eng/marinesafety/liability-compensation-ship-source-oil-spills-4512.html>

As well, please see Appendix B, which includes an infographic about marine liability and compensation.

Recommendation 21: In consultation with the Qikiqtani Inuit Organization and communities in the Area of Focus, ongoing research programs should be prioritized to continue the gathering of Inuit Qaujimaqatuqangit and Inuit Qaujimaningit regarding the marine environment and offshore areas in Baffin Bay and Davis Strait from Inuit knowledge holders in the communities in the Area of Focus.

TC Comments on Recommendation 21:

Tallurutiup Imanga National Marine Conservation Area (TINMCA) is in the Area of Focus for the Baffin Bay and Davis Strait SEA. TC is a signatory of the TINMCA Inuit Impact and Benefit Agreement, which came into force August 1, 2019. As well, TC is a member of the Aulattiqatigiit Board, which is a joint Inuit and Canada management board, where the Parties work together in reaching consensus to guide management of TINMCA.

Recommendation 22: Conduct additional bathymetry research to identify navigational hazards in the Area of Focus and to improve the safety of shipping in the region.

TC Comments on Recommendation 22:

While TC does not conduct bathymetry surveys, should additional bathymetry research be undertaken by another organization, such as Canadian Hydrographic Services, TC could evaluate the proposed research in regards to navigational risks.

Recommendation 31: Building on the data collected in Recommendation #29, initiate a formal review of the existing capacity to respond effectively to a major spill of oil in the Area of Focus, highlighting the expected role of communities and community capacity in responding to emergencies. The Government of Nunavut, Designated Inuit Organizations, and Nunavut communities should be actively engaged through the review process.

Recommendation 33: Conduct additional research to identify the potential effects of oil and gas activities and unplanned events (e.g., ice breaking, vessels, spills) on sensitive areas, including consideration of changing conditions associated with climate change.

Recommendation 54: Conduct baseline studies to understand potential effects of an oil or gas spill/release on:

- ***the Arctic environment and wildlife (including migratory species of marine fish, waterbirds and marine mammals);***
- ***the Inuit way of life, and northern economy, including tourism and fisheries, and food security; and***
- ***preparedness for handling any spills that could occur.***
- ***Studies should consider potential effects of oil or gas spill/release under-ice and during the open water season.***

TC Comments on Recommendations 31, 33, and 54:

TC supports these recommendations and notes that although the ongoing Cumulative Effects of Marine Shipping Initiative (discussed in Appendix A) will not focus on oil and gas activities, the information gathered during the assessment could contribute to a broader understanding of the impacts of shipping on marine mammals as well as the response regime.

Recommendation 45: Conduct research regarding the potential for cumulative effects on marine fish, waterbirds, and marine mammals with consideration of:

- ***associated oil and gas activities combined with existing and potential future activities, including mining, marine transportation, commercial fishing, Inuit harvesting and traditional land use, and practices;***
- ***direct project interactions;***
- ***changes to water quality;***
- ***habitat alteration or loss including disturbance of ice habitat; underwater noise;***
- ***oil spills, including chronic leaks from platforms; and the release of sewage and grey water.***

TC Comments on Recommendation 45:

Although the ongoing Cumulative Effects of Marine Shipping Initiative (outlined in Appendix A) will not focus on oil and gas activities, the information gathered during the assessment could contribute to a broader understanding of the impacts of shipping to assist in future cumulative effects assessments. TC would support and provide input to whichever organization(s) lead(s) this recommendation, including reviewing it per TC's regulatory mandate, roles and responsibilities.

While the above focusses on specific recommendations, we will continue to consider all of the recommendations provided by the NIRB as we develop new priorities and initiatives and we will provide updates as they become available.

TC appreciates the opportunity to contribute to the SEA process to date and we look forward to continued collaboration.

Should you have any questions regarding TC's submission, please feel free to contact Anita Gudmundson at anita.champagnegudmundson@tc.gc.ca or by telephone at (204) 983-3388.

Regards,

Shari Currie

Shari Currie
Regional Director General, Prairie and Northern Region

Appendix A - Initiatives which may support SEA Recommendations

Cumulative Effects of Marine Shipping

The Cumulative Effects (CE) of Marine Shipping is a national initiative with pilot locations on all three coasts including in Cambridge Bay, Nunavut. The objectives of this initiative are to create a National Cumulative Effects Assessment Framework (the Framework) for marine shipping; undertake regional cumulative effects assessments in pilot sites; compile existing data to inform the assessments; and identify regional and/or national tools that can be applied to mitigate the cumulative effects of existing vessel movements or future project developments.

The key activities can be broken down into 4 phases:

Phase 1 – Understand national context and initiate development of the national CE Framework

Phase 2 – Understand the regional context of the pilot sites

Phase 3 – Conduct the regional CE assessments and develop the National Cumulative Effects Assessment Framework

Phase 4 – Identify management strategies or mitigation needed

The Victoria Island Waterway Safety Committee (Committee) has prioritized four types of vessel activities and their potential impacts to be included in the regional Cumulative Effects Assessment in Cambridge Bay:

- Ice breaking activities and impacts on caribou migration, food security and hunter safety;
- Vessel movements causing impacts on local marine mammals from underwater noise;
- Vessel movements causing impacts on coastal environments from vessel wake; and
- Vessel discharges of oil causing impacts on marine mammals and coastal cultural sites.

Each set of pathways and their assessment is currently being worked on under the direction of the Committee, with a projected end date of 2022. The results of this regional assessment will include the identification of regional mitigation or management measures that respond to the impacts found, and that can be applied to existing vessel movements or future project developments.

In relation to the 4th bullet above, as part of assessing the potential impact of an oil spill, TC is guiding the committee through a risk management framework to screen for vessels that are contributing to risk within important areas identified through a participatory mapping exercise. The assessment will increase the committee's level of situational awareness of what types of vessels are travelling in the area, how frequently

they are transiting through important areas, and current risk mitigation measures employed by the Canadian Coast Guard (CCG) and the marine industry. This information will allow the committee to develop recommendations for additional mitigation measures or identify areas for further study.

National Aerial Surveillance Program

Through our National Aerial Surveillance Program (NASP), TC provides aerial surveillance over Canadian waters. Regular aerial surveillance flights occur through this program and have contributed significantly to the decrease in oil discharges at sea, as ships are increasingly aware that polluting activities can be detected. Transport Canada's NASP and Environment and Climate Change Canada's Ice Services program work together to monitor ice conditions along Arctic waterways and look for evidence of pollution.

The CCG monitors the response to ship-source marine pollution in the Arctic. If the polluter is unwilling or unable to respond, or is unknown, the CCG takes the lead in responding to ship-source pollution on behalf of the Government of Canada. TC conducts compliance inspections and will take appropriate actions based on those results.

Appendix B – Marine Liability and Compensation Infographic



HOW DO I GET COMPENSATION FOR A SHIP-SOURCE OIL SPILL

In Canada, the polluter pays. The ship and cargo owner are responsible even if the pollution is accidental. After an incident, a claim can be made to the shipowner or their insurer. If a shipowner's liability doesn't cover all eligible claims, international and domestic funds funded by the oil industry are available. Anyone in Canada who has suffered damage or experienced losses from ship-source oil pollution can file a claim with Canada's Ship-source Oil Pollution Fund. If your claim is eligible, you will be compensated.

What is an eligible claim?



Eligible claims include:

- pollution prevention measures
- clean-up costs
- property damage
- fishing and tourism losses
- subsistence losses (i.e. food sources)
- environmental remediation costs

My fishing gear and catch were damaged by a spill, what can I claim?



You can claim damage to your gear, the cost of your lost catch, and loss of fish you would have caught. If your ability to fish, or obtain fish for food, social or ceremonial purposes is impacted, you can submit a claim.

How long do I have to submit a claim?



Claims are accepted up to 2 years from the date of damage, but no more than 5 years after the incident. If your claim is under \$35,000 and is submitted within 1 year after the incident, you can be compensated within 60 days.

What do I need to submit a claim?



Your claim must describe the incident and your loss or damage. Your claim should include documents, like:

- Invoices
- Photographs
- Explanatory notes
- Account ledgers



Where does the money come from?



Canada's Ship-source Oil Pollution Fund is funded by the oil industry. Once a claim is paid, the amount is recovered from the polluter and returned to the Fund for future claims.

If we determine that a ship-source spill is a crime, meaning that the ship intentionally polluted or acted carelessly, the shipowner can be taken to court and fined.

For more information, visit: www.tc.gc.ca