



NEB File: 9180-W730-2  
MVEIRB File: EA02-002  
19 November 2003

Mr. Todd Burlingame  
Chairperson  
Mackenzie Valley Environmental Impact Review Board  
Box 938  
Yellowknife, NT X1A 2N7  
Facsimile (867)766-7074

Dear Mr. Burlingame:

**Report on Environmental Assessment for the WesternGeco Ltd.  
Mackenzie and Liard Rivers Seismic Program 2003**

The National Energy Board has considered your Report on Environmental Assessment for the WesternGeco Ltd. Mackenzie and Liard Rivers Seismic Program 2003 (the Report), dated 30 June 2003. The NEB, as a Designated Regulatory Agency, requests a consultation with the Mackenzie Valley Environmental Impact Review Board, pursuant to subsection 131(1) of the *Mackenzie Valley Resource Management Act* with respect to all three of the recommended measures included in the Report.

The NEB notes that the first two of the three recommended measures are directed to Fisheries and Oceans (F&O) and/or the NEB. Accordingly, the NEB has consulted with F&O in preparing the attached, suggested modifications to the recommended measures. The NEB and F&O have agreed on the proposed wording of measures one and two. Recommended measure number three is outside of the regulatory mandate of the NEB and, consequently, we are unable to address the measures as intended. However, we have provided an alternative in the attached.

The NEB is prepared to commence the consultation process with the Review Board at your earliest convenience. We request that the consultation be held jointly with the representatives for the federal Minister of Indian Affairs and Northern Development and the Responsible Ministers. We have provided our comments with respect to the measures in the attachment to this letter. Please contact Ms. Mieke Vander Valk at (403) 292-5048 to discuss the attachment or to make arrangements to commence the consultation process. We would like to thank the Review Board and its staff for their work on this Program.

Yours truly,

T. M. Baker  
Chief Conservation Officer

444 Seventh Avenue SW  
Calgary, Alberta T2P 0X8

444, Septième Avenue S.-O.  
Calgary (Alberta) T2P 0X8

Canada

Telephone/Téléphone : (403) 292-4800  
Facsimile/Télocopieur : (403) 292-5503  
<http://www.neb.gc.ca>

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cc: The Honorable D. Robert Nault, fax: (819) 953-4941  
Mr. Steve Whidden, WesternGeco Canada fax: (403) 509-4217  
Ms. Maria Healy, DIAND Yellowknife, fax: (867) 669-2701  
Mr. Bruce Hanna, F&O Yellowknife, fax: (867) 669-4940

### Attachment

## **RM and NEB suggested modifications to the Review Board recommended measures for the Report on Environmental Assessment for the WesternGeco Ltd. Mackenzie and Liard Rivers Seismic Program 2003**

### **MEASURE 1**

#### **Suggested modification:**

The Review Board recommends that WesternGeco submit a revised monitoring and mitigation plan, designed in consultation with F&O, to assess and minimize the potential for the air gun operations to result in significant adverse environmental effects on fish for NEB approval prior to commencement of the seismic program. As a component of the development of the plan, WesternGeco and F&O will complete a site-by-site assessment of the routing of the seismic program in relation to sensitive areas identified by F&O in its Technical Report of June 9<sup>th</sup>, 2003 to determine where it may not be necessary (because of channel width, presence of islands or other reasons) to shut down seismic activities.

The above modified measure would be included as a condition of a NEB approval (should the program be approved).

#### **Rationale:**

There are legal considerations associated with the NEB delegating the approval of a program to another regulatory body, therefore, references to F&O approval have been removed.

The NEB and F&O understand that the Review Board would like to take a precautionary approach with this program and protect fish from any potential adverse impact from exposure to air gun operations. The NEB and F&O acknowledge that scientific uncertainty remains about the potential impacts to fish associated with the seismic program as proposed by WesternGeco. The NEB believes that a revised monitoring and mitigation plan should include a site-by-site assessment of the need for a shut-down of seismic operations in the sensitive areas identified by F&O. However, the final decision whether or not to include mandatory shut-down as mitigation would be made by the NEB in consultation with F&O after the site-by-site assessment was completed.

In the event of fish kill, F&O has the option to stop the harmful activity and charge the company under Section 32 of the *Fisheries Act*. In such an event the NEB would support F&O and concur in the shut down of the seismic program until significant impacts to fish can be properly mitigated and/or prevented.

### **MEASURE 2**

#### **Suggested modification:**

The Review Board recommends that F&O and WesternGeco consider a joint research study to address some of the key information gaps regarding the potential impacts on fish resulting from riverine seismic operations. Should a study be conducted it should be designed in consideration of the comments raised in the Review Board environmental assessment regarding research design and methodology. The study should allow for adaptive management of the development as it proceeds. F&O's participation should include providing quality assurance, advice and involvement with the development and implementation of the study.

The above modified measure would be included in a covering letter attached to an NEB approval (should the program be approved).

**Rationale:**

In consideration of the Research Test Program conducted already by WesternGeco at a significant cost to the company, the NEB believes that imposing a follow-up program on the company would result in undue economic hardship. It would also not be appropriate to impose a research program on F&O as it may not be possible for F&O to secure funds to conduct such a research program. As such the option we are proposing involves suggesting a joint research program whereby WesternGeco provides logistical support to a F&O study if outside funding such as Panel on Energy Research and Development /Environmental Science Research Funds (PERD/ESRF) funds, can be secured.

**MEASURE 3**

**Suggested modification:**

The Review Board recommends that WesternGeco develop an agreement with the Deh Cho First Nation to compensate harvesters for any fish harvesting losses suffered as a result of the proponent's activities at current market rates. A copy of the agreement signed by representatives from both parties must be filed with the NEB prior to commencement of seismic operations.

The above modified measure would be included as a condition of a NEB approval (should the program be approved).

**Rationale:**

It is not within the regulatory mandate of the NEB to address compensation issues in association with oil and gas development in the Northwest Territories. The solution suggested above allows the developer and the Deh Cho to develop an agreement to address potential harvesting losses that will be tailored to this project and the specific needs of the Deh Cho region. The finalization of such an agreement would be a condition of regulatory approval.