

Minister of Indian Affairs  
and Northern Development

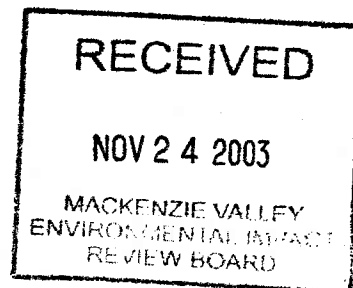


Ministre des Affaires  
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

NOV 18 2003

Mr. Todd Burlingame  
Chair  
Mackenzie Valley Environmental Impact  
Review Board  
PO Box 938  
YELLOWKNIFE NT X1A 2N7



Dear Mr. Burlingame:

As the Federal Minister, and on behalf of the Responsible Ministers (RM) with jurisdiction related to the Report of the Environmental Assessment on the **WesternGeco** Mackenzie and Liard Rivers 2D Seismic Program, I would like to thank you for providing us with the report dated June 30, 2003.

We would like to initiate consultation with the Mackenzie Valley Environmental Impact Review Board (MVEIRB) as provided for in subparagraph 130(1)(b)(ii) of the *Mackenzie Valley Resource Management Act* (MVRMA).

The RM and I note that the National Energy Board (NEB), as the Designated Regulatory Agency, would issue the sole authorization required for this project. As the recommended measures in the Environmental Assessment Report are linked to the NEB authorization and approval of the project, the NEB will take the lead on the consultation process. We understand the NEB will be concurrently initiating consultation with the MVEIRB under subparagraph 131(1)(b)(ii) of the MVRMA.

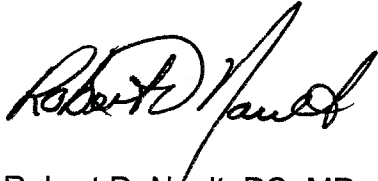
To facilitate the consultation process with the MVEIRB, the NEB and the RM have discussed the recommended measures and have prepared the enclosed suggested modifications, with supporting rationale.

We are prepared to commence the consultation process with the MVEIRB at your earliest convenience.

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I look forward to receiving the MVEIRB's views on the proposed modifications.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Nault". The signature is stylized with a large, looped "R" and a long, sweeping "N" that extends to the right.

Robert D. Nault, PC, MP

Encl.

**Responsible Ministers and the National Energy Board suggested  
modifications to the Mackenzie Valley Environmental Impact Review  
Board's recommended measures for the Report on Environmental  
Assessment for the WesternGeco Ltd. and Mackenzie and Liard  
Rivers Seismic Program 2003**

**MEASURE 1**

**Suggested modification:**

The Mackenzie Valley Environmental Impact Review Board (MVEIRB) recommends that WesternGeco submit a revised monitoring and mitigation plan, designed in consultation with Fisheries and Oceans (F&O), to assess and minimize the potential for the air gun operations to result in significant adverse environmental effects on fish for the National Energy Board (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, 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 NEB has indicated that 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's approval have been removed.

The NEB and F&O understand that the MVEIRB 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 shutdown of seismic operations in the sensitive areas identified by F&O. However, the final decision, whether or not to include mandatory shutdown 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 a 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 shutdown of the seismic program until significant impacts to fish can be properly mitigated and/or prevented.

## **MEASURE 2**

### **Suggested modification:**

The MVEIRB 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 MVEIRB's 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 NEB has indicated that the above modified measure would be included in a covering letter attached to a 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 Research Fund can be secured.

## **MEASURE 3**

### **Suggested modification:**

The MVEIRB 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 NEB has indicated that 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.