

National Energy
Board



Office national
de l'énergie

NEB File: 9180-W730-2

MVEIRB File: EA02-002

19 December 2003

Mr. Steve Whidden
Project Manager
WesternGeco Canada
Suite 2300, 645 - 7th Ave S.W.
Calgary, Alberta T2P 4G8
Facsimile (509) 694-2878
Email: swhidden@calgary.westerngeco.slb.com

Dear Mr. Whidden:

**WesternGeco Canada (WesternGeco) Mackenzie/Liard Rivers, NT 2D Seismic Program,
2003 Request for Project Status Update**

Pursuant to our obligations under the *Mackenzie Valley Resources Management Act* (MVRMA), the National Energy Board (NEB) is entering into consultation to modify the recommendation made by the Mackenzie Valley Environmental Impact Review Board (Review Board) in its Report of the Environmental Assessment dated 30 June 2003 on WesternGeco's proposed Mackenzie/Liard Rivers, NT 2D Seismic Program 2003. Attached is a copy of the NEB's proposed modifications to the Review Board's recommendation in the above mentioned report. WesternGeco is requested to provide its comments on the NEB's proposed modifications to the Review Board's recommended measures. In addition please indicate what level of support WesternGeco is willing to provide to facilitate potential additional studies as discussed in recommended measure two.

The application for a Geophysical Operation Authorization (GOA) that we have on file from WesternGeco reflects a proposed program date of mid June through August 2003. The estimated applied for program size is 1800 km. Please provide the undersigned with a letter updating the GOA application indicating any changes to the proposed start date of WesternGeco's proposed 2D seismic program and identify any potential changes to the proposed program length.

Subsection 5.2(2) of the *Canada Oil and Gas Operations Act* states:

(2) No approval of a development plan shall be granted under subsection 5.1(1) and no authorization of any work or activity shall be issued under paragraph 5(1)(b), until the Minister has approved, or waived the requirement of approval of, a benefits plan in respect of the work or activity.

Please provide confirmation that the above benefits plan requirement has been or will be met. The Indian and Northern Affairs Canada contact for the benefits plan is Andy Graw who can be reached at (867)669-2618.

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We request that you provide your response to our above requests by 6 January 2004 to Mr. Terry Baker, NEB and to the individuals copied below. Should you have any questions or require more time regarding the attached request for information, please contact Mieke Vander Valk at (403) 292-5048 or at <mvandervalk@neb-one.gc.ca>.

Yours truly,



T.M. Baker
Exploration and Production

mv/Attachment

c.c. Mr. Vern Christensen, Mackenzie Valley Environmental Impact Review Board,
email VChristensen@mveirb.nt.ca
Ms. Maria Healy, Indian and Northern Affairs Canada, email healym@inac-ainc.gc.ca
Mr. Bruce Hanna, Department of Fisheries and Oceans, email hannab@dfo-mpo.gc.ca
Andy Graw, Indian and Northern Affairs Canada, email grawa@inac-ainc.gc.ca

ATTACHMENT 1

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,

(original signed)

T. M. Baker
Chief Conservation Officer

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 9th, 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.