



Calgary, AB Canada April 2014

Government policies should not compromise basic rights.

By Paul Einarsson
COO and Chairman
GSI Calgary, Alberta

What if the Canadian government was to tell Microsoft that, to do business in Canada, it will now have to allow the government free copies of all of its software with no license restrictions?

Doesn't sound right, does it?

But this is what is happening in Atlantic Canada.

My firm, Geophysical Service Incorporated creates seismic data which is used to image the earth, in our case thirty thousand feet under the oceans for oil and gas exploration. It's much the same technology used in a sonogram or ultra sound, which most people are familiar with.

Our work has contributed to some of the biggest discoveries of oil and gas fields off the coast of Canada like Hibernia, Amauligak in the Beaufort Sea and Sable Island. Seismic data is extremely valuable to exploration companies in finding these potential oil and gas reserves.

The data we collect was created by us and is registered copyrighted intellectual property, much the same as computer software. We are in the information business and have been for decades, investing hundreds of millions of dollars to collect marine seismic data around the world.

In Alberta and in other provinces and territories if you invest in a seismic survey you pay seismic permit application fees, and so forth but the data is kept confidential, so you own it forever.

For that reason there is a healthy trade in this valuable commodity of seismic data in Alberta.

But a dangerous precedent has been set in Atlantic Canada by government and by offshore regulators known as the Canada Nova Scotia Offshore Petroleum Board and the Canada Newfoundland Offshore Petroleum Board; both were created by legislation in the early 2000's.

My company was required to submit the results of our non-exclusive or speculative marine seismic surveys done offshore Newfoundland and Labrador, and Nova Scotia to the CNLOPB and CNSOPB for regulatory purposes and resource management.

It is also a requirement of the approval to obtain the permits needed for our seismic vessels to conduct the surveys in those offshore jurisdictions.



Much of the work was done from 1971 through 2008.

Providing the data for these strict regulatory internal purposes was something GSI did not necessarily object to.

But after a government created confidentiality period, I discovered both governments had arbitrarily and systematically expanded disclosure of the data into the public domain, free to anyone to use without having to pay license fees.

GSI never agreed to relinquish ownership of this data. Most people would understand no one would agree to give something away that they have invested time, money, expertise and hard work in to create.

The CNLOPB for one maintains GSI waived its copyright to the data under terms of the application to conduct the work offshore Newfoundland and Labrador.

My response to this is absolutely not!

Unfortunately bureaucrats in Newfoundland, Nova Scotia and Ottawa act as if the data is not available at all for license from the lawful owner, when in fact it has and continues to be.

Without respect for the very framework of fair play and standards of accountability they feel they have a right to give away our intellectual property in the name of the "greater good" and as an unproven necessity to promote the offshore of Canada.

But for decades GSI, the largest owner of marine seismic data in Canada promoted the offshore, attracting billions of dollars in investment from oil and gas companies, employed hundreds of people in Atlantic Canada and owned two seismic vessels.

We have been the most important company in the Canadian offshore, but now our Canadian revenues have been devastated, our ships have been sold and I had to lay off only but a few of the hundreds of people GSI employed. That marine division of our company is now out of business due to the government actions and the failure of some oil companies to abide by the agreements with GSI.

Such expropriation without compensation will only destroy any incentive for businesses to invest in future seismic data offshore because the policy takes from small Canadian data owners, giving millions of dollars' worth of data to very wealthy, mostly foreign owned oil companies.

I have also found in access to information responses the government paid our licensees tens of millions of dollars to hand over their licensed copies of GSI data and breach their agreements.

It begs the question; if they want the data and are improperly paying GSI licensees for it, why not pay the owner GSI to buy the rights?

Those oil companies and many other third parties are now improperly in possession of this data, having used it illegally and without paying for it. I had no option but to launch lawsuits against many of these companies where this has happened. It has of course damaged my customer relationships. Most of these companies have stopped doing business and even stopped honouring license agreements with GSI.

There is no logic in bringing in these regulations which are not an incentive and unnecessary when wells cost hundreds of millions of dollars to drill with a five percent chance of success, and to license the seismic data would cost a few hundred thousand dollars or perhaps a million, to license large amounts of data.

When GSI challenged these government agencies about what was going on, my pleas fell on deaf ears.

Worse yet when GSI resisted these government agencies, they apparently broke the law to assist our foreign competitors, funded our foreign competitors with tens of millions in tax dollars, bought GSI data from piracy firms, and assisted piracy firms to distribute GSI data to GSI clients and potential clients.

It is truly shocking!

We expect government policies to protect our rights, protect Canadian private property and treat everyone fairly. Not to attack individuals when they try to defend their rights.

The most disturbing aspect is the way governments and government agencies can trample on the rights of Canadians.

As I said, it has forced my company into a number of legal actions to protect and recover that intellectual property.



Governments are spending taxpayers' money, using their resources to fight these lawsuits, and ignoring the law, when they could simply use all of this to do the right thing, compensate GSI for its property and do away with these damaging policies.

There is no evidence it has created the promised influx of investment, economic benefits or confidence of industry players in doing businesses with these governments.

In fact how would a GSI victory affect the way that governments in Atlantic Canada do business with oil and gas industry players, and especially seismic companies?

Oil firms might be unwilling to explore the offshore in Atlantic Canada if they are forced to pay for damages. Seismic investors will think twice about investing in surveys when their own intellectual property could be confiscated in the same way.

The chilling truth is that this could happen to any individual or family owned business in Canada all in the name of the greater common good. It leaves me to believe that government has lost its way especially in how it justifies these policies and actions.

It is the wrong way to do things, because people and business owners are going to be afraid to create anything, for fear the rules will be changed and the rug pulled out from under them.

My view is that being honest, not stealing, not using other people's property for one's gain, and not attacking the victim of crime is the true greater good.

I am from Alberta and proud of it. I will seek justice from those that seek to take Canada in the wrong direction. This is something I am doing for all Canadians because it could happen to you!

Paul Einarsson, GSI

I appreciate hearing from you! Send me your comments [click here](#)