



Friday, March 28, 2014

Copyright Tangle In Court

Natural Resources Canada has faced a federal judge over allegations it concealed records that would confirm multi-million dollar copyright violations by its own staff.

The Office of the Information Commissioner yesterday challenged the department in an Ottawa court to justify withholding records of what it did with an Alberta firm's licensed surveys.

The lawsuit followed complaints from a Calgary-based company that the resources department distributed its seismic data in breach of the *Copyright Act*, then invoked privacy in refusing to divulge files that would prove the fact.

"Principles mean nothing in a vacuum," said Justice Elizabeth Heneghan. Attorneys for the information commissioner asked Heneghan to compel Natural Resources to comply with the *Access to Information Act*.

"This case was brought forward by the information commissioner because it's a principle that's important to Canadians," said Paul Einarsson, chair and chief operating officer of **Geophysical Service Incorporated**. The company, largest owner of marine seismic data in the country, accuses the Department of Natural Resources of copying its underwater maps and distributing them to Geophysical's competitors without a license.



"It's the government disclosing my confidential and copyright information," Einarsson said. "I should be able to find out who is getting that so I can notify them it is confidential. For me to have to struggle this hard – it doesn't make sense and it's not fair."

Einarsson's company deposited its surveys with Natural Resources Canada as a condition of license. However when Einarsson filed a June 7, 2010 *Access to Information* request that the department explain what it did with the surveys, Natural Resources censored names on its mailing list that would have confirmed whether staff distributed the data without permission.

"The government is giving away the entire part of my business to prospective customers and my competitors," said Einarsson, who attended the Federal Court hearing. "I should be able to find this information in a very efficient and prompt manner as the *Access to Information Act* intended. I think the information commissioner recognizes the importance of this."

Geophysical has filed separate lawsuits for copyright breach against the National Energy Board; the Canada-Newfoundland Offshore Petroleum Board; and the Canada-Nova Scotia Offshore Petroleum Board for distributing its surveys without license or permission.

Several other lawsuits are pending against oil and gas exploration companies suspected of receiving the surveys without payment of licensing fees.

By Dale Smith  

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