

Clarifying Dataroom Confusion

J. Douglas Uffen P. Geoph (APEGA), P. Geo (APEGBC)

President and Managing Partner, Geo-Reservoir Solutions Ltd., Calgary, Alberta, Canada

Introduction

Geophysical datarooms are an important element of business in the resource industry. They are staged for many reasons such as: when a company undertakes a sale process of assets or properties, during a Show & Tell presentation, or a farm-in process to attract new investors. Confidentiality Agreements (CAs) are often put in place to protect the data and competitive information of the disclosing party. The geophysical dataroom is often appended to the primary business activity at hand. As such, it may often be handled separately in another meeting, is implemented with a variety of non-standard procedures across industry, and may involve a broad mix of entities. Those involved in the dataroom can vary from internal land departments, internal exploration / development business groups, third party property divestiture houses, third party consulting houses, financial institutions, and investment houses. Over the years, an informed geophysical person has not always been involved in the process, leaving the opportunity for inadvertent poor practices to evolve and become entrenched in industry.

In May of 2010, APEGA published a guideline entitled, "The Ethical Use of Geophysical Data" in an effort to assist professional members in dealing with the use of licensed geophysical data within the oil and gas industry (APEGA, 2010). The document was general in nature, but it did provide a few scenarios as examples in an effort to give context regarding what constituted ethical behaviour. However, of particular interest to APEGA members are what activities can or cannot be done in a dataroom. In turn, how does one go about setting up a dataroom in compliance with the APEGA guideline? The purpose of this article is to focus on the specific subject of datarooms.

Background on data ownership, competition, and applicable law

The original stakeholders who acquire the geophysical data are said to possess the "trading rights" to the data, much akin to an author holding the copyright or ownership to a book. Multiple parties could be involved in the original field operation, often tied together only with an AFE (Authority For Expenditure) document. This document may become the sole record denoting who the original participants in the geophysical data acquisition were. Hence, adequate management of data records is vital to prevent the potential loss of this historical record and to identify what data sets possess what ownership classification. Data of varying data ownership classes possess different privileges. The greatest freedoms are associated with 100% ownership of proprietary data because it involves only one entity. In this scenario, any harm created by offering the geophysical data to another third party is solely related to the entity making the decision. With partnered data, there is another entity to consider. Licensed data, speculative survey data and participation survey data all have

license agreements, subject to varying terms, obligations and conditions. Keeping track of data ownership classes and the ensuing agreements that govern them, such as Joint Venture (JV) agreements, and AMI (Area of Mutual Interest) agreements, is a vital precursor to identifying what geophysical data could be used to stage a dataroom.

Within industry, seismic data is an asset which can be bought and sold. The data can be sold by one of two methods. Most commonly, a license to the data can be granted by the original acquirers of the data by means of a license agreement. The license may disclose terms or conditions with respect to the ongoing protection of the confidential nature of the data and its use by the licensee. Hence, once again, suitable records management practices are required to keep track of this important documentation. It is industry standard practice for any geophysical data to be released for potential sale that unanimous stakeholder approval be granted. Any one party possessing the trading rights, regardless of their working interest, can prevent the data from being released for sale. This is related to the fact that geophysical data is often thought to be confidential information that offers a competitive advantage regarding the potential acreage involved to the party that possesses the data. When dealing with seismic data one needs to understand the common law (including how it applies to contracts), applicable legislated law such as copyright law, and the laws governing confidential information (Hunt et al, 2012). These aspects of law are in place to protect the competitive interests of all parties involved, including the data owners. Some third party seismic data licensing agreements can be quite liberal regarding the use of the data by the licensee while other agreements can be quite restrictive. These difference in licenses, and the uses they allow, often become relevant when dealing with a geophysical dataroom scenario. Knowing what privileges a license permits is essential for setting up a dataroom as license agreements are not standardized across industry between vendors and have often changed over the years by the same vendor.

The second method to convey ownership of the data is to sell the trading rights possessed by the original acquirer(s) of the data. Working interest entitlements cannot be subdivided in order to accomplish this. For instance, if two parties owned a dataset equally with a fifty (50%) working interest, one party could not "cut-in" an additional third party by reducing their interest to 25% and granting 25% ownership to the third party without the consent of the other 50% partial owner because this creates a third entity who would be entitled to the data. Due to the confidential nature of geophysical data, the first partner possesses the right and ability to have a say in the creation of a third license. Within industry, trading rights can be sold without the consent by a partner in the dataset, but this can only be accomplished by "stripping" the previous partnered owner of all instances of the data so as to ensure that a new license is not created. "Stripping" an entity of all instances of the data does not stop at just simply removing it

Continued on Page 49

Clarifying Dataroom Confusion

Continued from Page 48

from a storage house, but removing it from the interpretive workstations, map racks and all other instances of occurrence. For datasets that have permeated an organization for years, this becomes an almost impossible task hence these deals occur much less frequently due to the nature of this obligation. They are often restricted to 100% proprietary data transactions only.

Setting Up a Dataroom

One of the first aspects to consider is to determine what classes of data would be involved in a dataroom. If 100% proprietary data is involved, the host company may choose to permit a review of the data along with their accompanying interpretation or they may wish to permit the act of interpretation. Interpretation is the "process of deriving a geological model or concept from geophysical data". It includes the creation of derived products by measurements made on processed data and the maps and other displays made from the data. It also includes conclusions or inferences made by the interpreter, such as geologic edges or fluid contacts (APEGA, 2010). A review of an existing interpretation is a general assessment of the information as presented, without active manipulation of geophysical data.

If third party licensed data is placed in a dataroom, the act most likely to be permitted is that of a review rather than an interpretation. This is also true for partnered data, but sometimes the partner will permit the act of interpretation if so asked. Regardless of whether the act of interpretation or a review is permitted, maintaining Direct Control of a dataroom environment is paramount. Direct Control is the ability to prevent copying or other unauthorized use of a licensor's data (APEGA, 2010). Direct Control can be exercised in numerous ways, sometimes employing multiple methods simultaneously. Read only workstation access can be granted that restricts the visiting party from conducting an interpretation, even if they tried. The USB ports can be disconnected, thereby preventing any copying or loss of the data and the ensuing interpretation. A "babysitter" who monitors the visiting party activities or who actively drives the workstation for the attendee is another way to maintain Direct Control. It is the obligation of the hosting party of a dataroom to make sure that third party licensors or partners are not harmed in any way. This obligation does not extend just to the professionals licensed by APEGA, but the companies that possess a permit to practice from APEGA. When acting on behalf of a company disclosing geophysical data, a professional member is obligated to advise any visitors about their requirement to comply with applicable licenses.

Based upon ownership classifications and any license agreements, one of the first decisions to make is whether the dataroom will have an interpretive approach or a review only approach. License agreements need to be checked to make sure that the data being placed in the dataroom environment is permitted to be there. One should also check to see if there are any Area of Mutual Interest (AMI) documents, Joint Venture (JV) documents or other partner agreements that prevent the data from being viewed by other third parties. Many properties being sold in a divestiture process have not been worked on for years. It is prudent to access the most recent workstation project(s) and clean up the interpretations to tell a uniform story. Nothing is more frustrating for the dataroom attendee than to try to sift through

years of history on a project to discern what horizons have been uniformly interpreted over the project area. An interpretive "clean-up" is often a good investment of time and money. After all, don't you wash and wax your car before you try to sell it? Companies with limited resources may find this an onerous task. Options exist for companies experienced in dataroom set up, to "clean-up" existing interpretations prior to staging a dataroom.

Attending a Dataroom

Visitors to a dataroom are obligated to inquire about the ownership status of the data in order to guide their own conduct. "When geophysical data, information and knowledge derived from the data is being disclosed, all professional members must be aware of their professional responsibilities. Professionals must be aware of and honor any restrictions associated with the disclosure of the data" (APEGA 2010). Before knowingly interpreting any third party trade data, the visitor must have the data owner's consent or have acted with diligence in determining that such activity is specifically provided for in the license agreement.

What Is Appropriate Conduct

In a dataroom environment, none of the data may be removed or copied. Sketches, notes and diagrams may be made but nothing can constitute a tracing of an image on the screen. The hand drawn diagrams cannot make reference to any measurable numbers derived from the data itself. The taking of a camera image via a cell phone camera or any recording device is strictly forbidden. Some datarooms may even request that cell phones or any electronic device that contains a camera be surrendered in advance of entering a dataroom. If the dataroom is set up as a review only option, the attending party and professional are obligated to conduct themselves accordingly.

Summary

Companies are allowed to make use of their geophysical data to facilitate their business. They are not allowed to harm a third party in the process. The creation of a geophysical dataroom can be a worthwhile exercise to showcase the upside potential of the assets being sold or divested. Care must be taken that the dataroom be set up in compliance to the APEGA guidelines and any third party license agreements of partner agreements. The type or



Doug Uffen P.Geoph (APEGA), P. Geo (APEGBC) is the President and Managing Partner of a consultancy called, Geo-Reservoir Solutions Ltd. He is a seismic interpreter with over 30 years of experience. Doug has extensive experience and knowledge with respect to seismic licensing issues and dataroom conduct. Doug teaches a course to industry

which focuses upon the rules associated with various classifications of seismic data ownership in different business situations. He was also a member of the APEGA committee that created the guideline document regarding the ethical use of geophysical data. He is a Past President of the Canadian Society of Exploration Geophysicists (CSEG) and is a member of APEGGA, APEGBC, CSEG, SEG, EAGE and the Calgary Petroleum Club.

Continued on Page 51

CSEG Symposium

Continued from Page 50

Five dimensional interpolation is of great interest to me so I particularly enjoyed connecting two fields that consider the spatial sampling of seismic data in different ways. I am very grateful to the CSEG Foundation for this funding. It provided the chance to hear many interesting technical presentations on topics that are closely related to my own research, and the mixer at the end of the day was a welcome opportunity to meet with fellow geophysicists from industry and academia.”

Aaron Stanton, University of Alberta

“I’m a graduate student in Geophysics from the University of Alberta. On March 7th, I attended the 2013 CSEG Symposium in Calgary. The trip was funded by the CSEG Foundation. The Symposium honored Bill Goodway, a famous geophysicist who

contributed to a variety of fields in applied geophysics. Several excellent speakers from industry gave interesting talks on data acquisition, AVO inversion and interpretation, etc. The topic of 3D data acquisition especially attracted me. It’s very useful for my current and future research work. I think the trip to the 2013 CSEG Symposium is a very important experience. Firstly, I learned a lot from all the interesting talks. Secondly, it provided me the opportunity to meet with people from industry and academia, which is very important for my future career. Thirdly, I learned presentation skills from the excellent speakers in the Symposium. I greatly appreciate the CSEG Foundation for providing the funding for this trip.” **R**

Ke Chen, University of Alberta

Upcoming CSEG-F Outreach events in 2013

June 6-8	Geophysics Industry Field Trip	Calgary/Canmore, AB
September 24	U of C Science and Engineering Career Fair	Calgary, AB
September 25	U of A Careers Day	Edmonton, AB
October 1-3	Seismic in Motion for Students (with CAGC)	Waiparous, AB
October 4-5	Alberta Employment and Career Fair	Edmonton, AB
October 17-19	Atlantic Universities Geoscience Conference	St. Francis Xavier University, NS
October 17-20	Canadian Undergraduate Physics Conference	McMaster University, ON
October 25	BC Science Teachers Association Catalyst 2013	Vancouver, BC
November 4-5	See Your Future career fairs	Saskatoon & Regina, SK
November 14-16	Science Teachers’ Association of Ontario Conference	Toronto, ON
November 14-16	Alberta Teachers’ Association Science Council Conference	Edmonton, AB



Clarifying Dataroom Confusion

Continued from Page 49

style of dataroom must be considered along with what action (interpretation or a review) will be allowed in a dataroom setting. Taking a bit of time and effort to clean-up the project can add considerable value to the sale or divestiture process. **R**

Acknowledgements

I wish to recognize and thank Doug Pruden P. Geoph. (APEGA) and Lee Hunt P. Geoph. (APEGA) for their contributions associated with editing this article.

References

Guideline for Ethical Use of Geophysical Data, V1.0, May 2010, APEGGA. <http://www.pegga.org/pdf/Guidelines/EthicalUseOfGeophysicalData.pdf>
 Hunt, L., B. Palmiere, H. den Boer, J. Boyd, M. Sykes, D. Uffen, C. Welsh, 2012, *A Practical perspective on APEGGA’s Guideline for Ethical Use of Geophysical Data*: CSEG Convention Abstracts, 1-4.