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August 21, 2014

VIA E-MAIL

Simeon Papacostas
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654

Re: WesternGeco v. Petroleum Geo-Services et al., No. 13-H-2725 (S.D. Tex.)

Dear Simeon:

I write in response to your August 15, 2014 email concerning Geo's¹ privilege log.

First, Geo confirms that it has conducted a diligent search for documents responsive to paragraphs 1A-C of the Court's June 4, 2014 Order (D.I. 107), and either produced or logged all that was found. To the extent additional materials are discovered or were inadvertently omitted, Geo will promptly supplement its production or privilege log as appropriate.

Second, Geo's log complies with the law governing the privilege and the common interest doctrine. Please explain what you mean by your statement that "[t]here is no attorney client relationship between ION and Geo, the communications we have to date show a lack of common interest, and Geo's partial production of communications between ION and Geo regarding these purported topics Geo has listed waived any privilege that might have otherwise existed." The first clause does not seem relevant to the analysis and we see no factual or legal support for the latter two. Please explain the relevance and provide support for your statements. We can then meet and confer with you to discuss whether and how they impact the documents that Geo has logged.

Geo's privilege log already provides the author, recipient, and subject matter of the communications in sufficient detail for you to understand the basis for the privilege. In every instance, at least one ION or Geo attorney was involved in sending or receiving the logged communications. If you are seeking more detailed descriptions of the underlying communications, that is something we are willing to discuss within reason, so long as you

¹ As we have in other instances, we may use the term "Geo" merely because Western or the Court have done so as a shorthand without legal significance.

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agree that providing such additional detail does not itself result in a privilege waiver. In that same vein, we are also willing to discuss some means to show or provide you with examples from the logged items, but again would require assurance that Western will not use such disclosure to argue for a broader privilege waiver. Indeed, Western's letter demonstrates that Geo's efforts to cooperate and provide as much information as possible without waiving the privilege has merely emboldened Western to unfairly and incorrectly argue that Geo's candor in discovery results in a broad privilege waiver. We wish to avoid such improper assertions in the future. If you are in possession of any documents that you believe results in any privilege waiver of any kind, please immediately identify them and return them to us because any such waiver was inadvertent.

Third, the common interest doctrine is a firmly ensconced legal principle that protects confidential communications between current or potential litigants who share a common legal interest in threatened or active litigation. *See, e.g., In re Santa Fe Int'l Corp.*, 272 F.3d 705 (5th Cir. 2001). Western has at various times asserted or threatened to assert the same patents against both ION and Geo, indiscriminately referencing various Geo companies and alleging infringement based upon the sale or purchase of the same DigiFIN equipment. Western's litigiousness on the subject of DigiFIN gives rise to a common legal interest regarding the patent infringement assertions based on DigiFIN.

Finally, you have asked which "Geo entities" I represent. As you already know, the Court has dismissed Petroleum Geo-Services ASA from this litigation for lack of jurisdiction and my firm represented that company in its motion to dismiss. You also know that my firm has appeared on behalf of Petroleum Geo-Services, Inc. and PGS Geophysical AS in this litigation, both of which are entitled to claim privilege over logged communications. These companies also share a common interest regarding Western's inaccurate and undifferentiated infringement claims against various Geo companies based on ION's DigiFIN. No Geo company has waived any privilege it may have over any of the communications represented in the privilege log.

Sincerely,

/s/ Arka Chatterjee

Arka Chatterjee