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VIA EMAIL (rule-comments@sec.gov)

Mr. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: File Number S7-10-16 Modernization of Property Disclosures for Mining Registrants

Dear Mr. Fields:

The Society for Mining, Metallurgy and Exploration, Inc. (SME) submits the attached addendum to our comments originally filed on August 4, 2016. These comments reflect a change in position regarding page 53, Section 10.5 "Technical Report Summaries for Royalty Companies" in the SME comments filed August 4.

After careful consideration of SME's original stated position regarding royalty companies, SME believes the Proposed Rule requiring these companies to provide all applicable mining disclosure and to file a technical report summary should be withdrawn. Previous SME support for those companies filing technical report summaries was incorrect for the following reasons that are detailed in our attached addendum:

- Holders of royalty interests are not mine operators and have very limited access to the technical data and other information underlying the operator's technical report.
- The additional property, exploration and other detail required by the Proposed Rules is not the key material information to a royalty company's stockholders.
- The qualified person of a royalty company should not be required to be named and subject to securities law liability.

We appreciate the opportunity to clarify our position regarding royalty companies and would be pleased to discuss them further with the Commission or its staff. Any questions regarding our comments may be directed to John Hayden, Deputy Executive Director, [redacted] or [redacted]

Respectfully yours,

David L. Kanagy, CAE
Executive Director, SME

1.1 Technical Report Summaries for Royalty Companies[1]

SME believes that the Proposed Rule requiring royalty companies to provide all applicable mining disclosure and to file a technical report summary should be withdrawn.

1. **Holders of royalty interests are not mine operators and have very limited access to the technical data and other information underlying the operator's technical report.**

Companies holding royalty interests generally have no executive or operational interest or other participation in the mineral properties to which the royalties relate. Consequently, they typically have no access to the operation or property, or to the extensive technical data and other information generated by or available to the operator.

Further, royalty holders' rights to information regarding the underlying mineral properties are defined by contract terms and are typically limited to mill production, marketing and sales data used to confirm calculation of the royalty payments over time.

Therefore, a royalty holder generally lacks sufficient information to prepare a current technical report summary.

A royalty holder will have access to the public disclosure of those of its operators that file '34 Act reports, foreign prospectuses, registration statements, technical report summaries, periodic reports, press releases, and/or information posted on the operator's website. However, these disclosures are often not detailed enough to meet the requirements imposed by the proposed rule, are limited by considerations of materiality to the operator (rather than the royalty holder), may not be available where the operator does not publicly report and, in any event, are not independently verifiable by the royalty holder.

While the royalty holder might voluntarily repeat such information of the operator, such disclosure is not and cannot be considered a technical report summary prepared by or independently for the royalty holder.

SME considered the approach of the Canadian Securities Administrators (CSA) in NI 43-101, Section 9.2, pursuant to which royalty holders are instructed to "disclose the source and scientific and technical information that is provided by the operator of the project or mine or is publicly known that is material to the registrant". SME has concluded that adopting the Canadian approach for a royalty holder that has no ability to verify such information, ignores the U. S. securities law liability regime and the litigation environment in the U. S. A royalty holder should not face liability for information it cannot verify.

The Proposed Rules' suggestion that royalty companies formally incorporate by reference technical report summaries or other information of the operator is equally unworkable. This

[1] Requests for Comment 12, 13, 14 and 15.

would require the operator to provide technical report summaries for the areas of its mineral properties that relate to the royalty which might be less than its entire project, and the royalty company would have no legal right to require the operating company to provide this information in any case. Further it would impose '33 Act and '34 Act securities law liability on the royalty company for a third party's technical or other information for which it had no responsibility nor ability to review or verify.

In order for a royalty company to verify a technical report summary or provide a technical report summary of its own, the royalty company would need to acquire extensive information and access rights from the owner or operator of a mineral property. It is highly unlikely that owners and operators would be willing to provide such additional rights to royalty holders for a myriad of reasons, including the proprietary value and confidential nature of the information, potential disruption of the operator's business, and the possibility of the royalty company reporting information or conclusions that conflict with those of the operator. Further, negotiating for such additional rights and access in respect of existing royalty agreements would disadvantage U.S. royalty companies, compared to non-U.S. competitors who would not need such extensive information and intrusive access rights.

2. **The additional property, exploration and other detail required by the Proposed Rules is not the key material information to a royalty company's stockholders.**

The Proposed Rules for royalty companies focus primarily on information about the subject properties and operations rather than the information that is most important to the royalty company's stockholders.

A royalty company should have no greater obligation to provide detailed disclosure or technical report summaries for another business on which it depends for revenue than any other business whose disclosure is subject to the rules of the SEC. (By way of example, industrial companies are not required to incorporate by reference details of their 10% customers' businesses into their own securities law filings. In that case, the Commission has been satisfied that the details of the 10% customer's business are either publicly available, and if they are not, there is no similar requirement that an industrial company provide disclosure regarding the business of its material customers absent something directly related to its contractual relationship.)

The key and material information for a royalty company stockholder are the revenues and production provided by a particular royalty interest and the terms of that royalty agreement.

This information is within the direct knowledge of the royalty company. It would be reasonable to require this information in the royalty company's SEC reports, as acknowledged on page 137 of the Proposed Rules.

3. **The qualified person of a royalty company should not be required to be named and subject to securities law liability.**

Regardless of the level of disclosure required of a royalty company, the qualified person of the royalty company would not have participated in preparation of, nor have access to, the technical data and other information supporting the operator's technical report summary incorporated, nor, for the reasons noted above, would the qualified person of the royalty company have sufficient

technical data and other information to prepare a the technical report summary on behalf of the royalty company.

Therefore, it is not appropriate for the qualified person of a royalty company to be named or be made subject to liability as an expert.

There is certainly a likelihood that a royalty company's qualified person would be involved in determining any disclosure by a royalty company of technical information but it is not appropriate in our view to require this exposure especially in light of the Proposed Rules prohibition on disclaiming responsibility for the report, opinion or statement of another.