RESPONSE TO SEC PROPOSED RULES

Date:	September 26, 2016	**Made by:**	Golder Associates, Inc.
Recipient:	Mr. Brent Fields Secretary Securities and Exchange Commission 100 F Street, NE Washington, D.C. 20549-1090		
Subject	**RE: COMMENTS ON PROPOSED RULE: MODERNIZATION OF PROPERTY DISCLOSURES FOR MINING REGISTRANTS – RELEASE NO. 33-10098; 34-78086; FILE NO. S7-10-16**		

Dear Mr. Fields:

Golder appreciates the opportunity to review and comment on the US SEC's proposed rule changes for property disclosures for US mining registrants. Golder's mining group has provided full-service mine management and operations consulting, geological/ geotechnical characterization, environmental services, and mining engineering expertise to the mining industry around the world for over 50 years. Golder routinely completes technical reports that meet the required standards for all major reporting agencies, including NI 43-101, JORC, and US SEC Industry Guide 7, for many commodity types.

Golder's comments and opinions stated below respond to some of the critical topics of the SEC's intended changes. Direct responses to selected SEC questions are shown in a different font color.

1.0 GENERAL COMMENTS

Golder appreciates the 30-day extension of the original 60-day comment period to September 26, 2016. Due to the complexity and long-term impact of these proposed changes, it would be beneficial to have comment periods that are a minimum of 90 days for any upcoming revisions to the SEC's modernization document.

Golder supports an update to disclosure requirements and polices found in Item 102 of Regulation S-K and in Guide 7, as these requirements have caused uncertainty in the industry and some companies may have refrained from a decision to register themselves within the United States because of the inconsistencies with accepted industry practice. Golder supports the principles and proposed rules related to qualified persons and their roles in disclosures of mineral resources and reserves.

However, the other proposed changes should be consistent with the nomenclature, definitions, rules and reporting standards as prepared and established by the international mining community and presented in

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the CRIRSCO template. As presented, this proposed S-K subpart 1300 will only increase uncertainty with the new reporting structure and responsibility requirements, since it is not aligned well with other CRIRSCO-based mining disclosure policies and will likely introduce more uncertainty and confusion.

Eliminating the instruction referring registrants to Guide 7 and replacing it with reference to Regulation S-K subpart 1300 would be appropriate only if the S-K subpart 1300 were significantly modified from its current form to better align with the guidelines, definitions and responsibilities presented in other CRIRSCO-based mining disclosure policies.

2.0 QUALIFIED PERSON AND RESPONSIBILITY FOR DISCLOSURE

20. Should we require, as proposed, that the determination of mineral resources, mineral reserves and material exploration results, as reported in a registrant's filed registration statements and reports, be based on and accurately reflect information and supporting documentation prepared by a qualified person?

Yes, a registrant's disclosure of such a determination should be based on information prepared by a QP.

Why or why not? For most of the reasons stated on pp. 35 – 38. In any event, use of QPs for the determination of resources and reserves typically follows standard industry practice. As well, this requirement in general is a fundamental principle of CRIRSCO-based mining disclosure policies, which provides a measure of consistency for international mining companies.

Would imposing a qualified person requirement help mitigate the risks associated with including disclosure about a registrant's mineral resources and exploration results in SEC filings, given that mineral resources and exploration results reflect a lower level of certainty about the economic value of mining properties? Yes, a QP requirement would help mitigate risks.

Why or why not? QPs with appropriate qualifications, training and experience who follow reasonable disclosure standards are generally able to describe relative risks of a property in a reasonable manner. Reasonable disclosure by QPs includes summaries of material facts including a property's history plus appropriate cautionary language proximate to forward-looking statements regarding estimates and future work.

21. Should the registrant be responsible for determining that the qualified person meets the qualifications specified under the new subpart's definition of "qualified person" as proposed? Yes.

Why or why not? Under the proposed rules, the registrant is free to use employees or independent contractors. In either case, standard industry practice is to engage employees, or companies with individuals, who are appropriately qualified and experienced. The registrant is fully empowered to conduct

a reasonable investigation of any proposed QP's qualifications and its failure to do so should result in consequences if such failure results in misrepresentations or material omissions in its disclosures. A registrant should not be absolved of responsibility for its disclosures because it fails to reasonably determine the qualifications of the QP acting on its behalf.

If not the registrant, who should be responsible for this determination? The QP is also responsible for reasonably assessing his/her qualifications to perform the particular work requested. Furthermore, the personal assessment of qualifications by each individual qualified person involved in the preparation of the disclosure should be documented in the form of a structured qualified person certificate/declaration that should be included as part of the disclosure documentation.

22. Should we, as proposed, require a registrant to obtain a technical report summary from the qualified person, which identifies and summarizes the information reviewed and conclusions reached by the qualified person about the registrant's exploration results, mineral resources or mineral reserves, before it can disclose those results, resources or reserves in SEC filings? Yes.

Why or why not? A technical report summary ensures that facts, forward-looking statements and cautionary language considered to be material by the QP(s) involved are fully disclosed and in full context.

Should we instead require a registrant to obtain an unabridged technical report, rather than a technical report summary, before it can disclose exploration results, mineral resources or mineral reserves in SEC filings? No. In many cases an unabridged technical report is not necessary. It is reasonable to rely on one or more QP(s) to take responsibility for the technical report summary and ensuring it contains the material information and cautionary language required to support a disclosure and subsequent evaluation by potential investors.

Should we require the technical report summary to be dated and signed, as proposed? Yes.

Why or why not? Yes, the requirements for providing formal consent and for signing and dating the technical report summary ensure that the disclosure is based on and accurately reflects information and supporting documentation prepared by the qualified person. This also provides a reasonable protection for the qualified person with respect to establishing the correct timing of report filing, effective or cutoff dates of data and observations used and other timing-related issues.

23. If we require, as proposed, that a registrant obtain a technical report summary from the qualified person, should we also, as proposed, require that the registrant file the technical report summary as an exhibit to the relevant registrant statement or other Commission filing when one is required? Yes, as proposed it should be a requirement that the registrant obtain from and formally file, with consent from the qualified person(s), a technical report summary.

Why or why not? As described in Q22, a technical report summary ensures that facts, forward-looking statements and cautionary language considered to be material by the QP(s) involved are fully disclosed and in full context.

24. Should we require, as proposed, a registrant to file the technical report summary when the registrant is disclosing mineral reserves, mineral resources or material exploration results for the first time or when there is a material change in the mineral reserves, mineral resources or exploration results from the last technical report filed for the property? Yes.

Why or why not? This requirement ensures that all material considerations for the property/project are disclosed and current, and allows for ease in identifying when and what material changes have occurred that that trigger an updated filing.

Should we instead require a registrant to file the technical report summary more frequently, such as with every Commission filing, or less frequently? No, a registrant should not be required to file a technical report on a more frequent, or regularly scheduled basis if there have been no material changes and the technical report of record is still considered current and material. More frequent filing will add unnecessary cost and will also mask when material changes/updates have actually taken place on the property/project by potentially flooding the filing system with a large volume of technical reports containing no new material information.

25. Should we require, as proposed, a registrant to obtain the written consent of the qualified person to the use of the qualified person's name and any quotation or other use of the technical report summary in the registration statement or report prior to filing the document publicly with the Commission? Yes.

Why or why not? This is a key component in the disclosure regulations and ensures that all disclosure documents accurately reflect the data, observations, conclusions and recommendations prepared by the qualified person and that no material revisions, omissions or other potential modifications have been made to the disclosure document(s).

26. Should we require that a registrant identify the qualified person that prepared the technical report summary and disclose whether the qualified person is an employee, as proposed? Yes.

Why or why not? A QP's independence or employment and relationship with the registrant are material factors in any investor's assessment of the disclosure.

Should we also require a registrant to name the qualified person's employer if other than the registrant, and disclose whether the qualified person or the qualified person's employer is an affiliate of the registrant or another issuer that has an ownership, royalty or other interest in the property that is the subject of the technical report summary, as proposed? Yes.

Why or why not? Again, this is a material factor to an existing or potential investor because it can have an impact on how disclosure documents are evaluated based on the degree of independence between the qualified person and the registrant.

27. Should we require a registrant to state whether the qualified person is independent of the registrant? Yes.

Why or why not? As described in the questions above, A QP's independence and relationship with the registrant are material factors in any investor's assessment of the disclosure. Also, identifying the degree of independence between qualified person(s) and registrant is a fundamental principle of CRIRSCO-based mining disclosure policies.

If we were to require the registrant to state whether the qualified person is independent of the registrant, should we define "independent" for purposes of that requirement? Yes.

If so, how? For example, should we base the definition of independence on comparable provisions under Canada's NI 43-101? Similar to the Canadian provisions, should we provide examples of when a qualified person would not be considered to be independent? Yes, the definition of independence as applied in NI 43-101 is an appropriate basis for defining qualified person(s) independence.

If so, what examples should we provide? The same examples of when a qualified person(s) would not be considered to be independent as presented in NI 43-101 should be provided as they are clear and well established.

Alternatively, similar to the Commission's rule regarding when an accountant is not independent, should we provide that a qualified person is not independent if the qualified person is not capable of, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the qualified person is not capable of, exercising objective and impartial judgment on all issues encompassed within the qualified person's engagement? The determination of "… not capable of …" is subject to broad interpretation and may be viewed or interpreted very differently depending on the QP's degree of independence and the attitude of a 'reasonable investor'.

Are there any other alternative standards on which we should base a definition of independence for the purpose of the qualified person requirement? A better approach may be to provide the examples referred to above and a disclosure requirement on the QP similar to professional engineering codes of conduct that are already required of many engineering practitioners; e.g.,

> *"(10) Licensees shall make full disclosure, suitably documented, to their employers or clients of potential conflicts of interest, or other circumstances which could influence or appear to influence their judgment on significant issues or the unbiased quality of their services."* See MO 20 CSR

2030-2.010 Code of Professional Conduct, see http://www.sos.mo.gov/cmsimages/adrules/csr/current/20csr/20c2030-2.pdf.

28. Should we require that a registrant's disclosure of exploration results, mineral resources or mineral reserves in a SEC filing be based on the determination of a qualified person that is independent of the registrant? No, provided the disclosure requirements are clear regarding a QP's degree of independence and potential conflicts of interest with regards to the registrant and work performed in support of the disclosure. If so, should we impose such a requirement only under certain circumstances, such as when the filing discloses resources or reserves by the registrant for the first time; a material change in previously disclosed resources or reserves that has occurred or is likely to occur; or a 100% or greater change in the total mineral resources or reserves on a material property, when compared to the last disclosure? In each case, why or why not? Under most professional codes, a QP has an obligation to render his/her independent judgement with regards to their work product and actions in engaging in their professional practice. Merely being an employee of a registrant should not, alone, be sufficient to disqualify such a professional from being a QP for the purposes of disclosure under the new rules. In the vast majority of cases, QPs employed by registrants should be the most informed and knowledgeable persons about a particular property, and therefore in the best position to prepare documents and information in support of disclosures. So long as the employee's relationship to the registrant and the material facts are fully disclosed related to a QP's potential conflicts of interest then, a reasonable investor can evaluate the disclosure in full context. Also, the registrant may also find an independent QP to conduct a review or other assessment of any employee QP's work and include those findings in the technical summary report.

29. Alternatively, rather than requiring the qualified person to be independent, should we require, when the qualified person is affiliated with the registrant or another entity having an ownership or similar interest in the property, that a person independent of the registrant and qualified person review the qualified person's work? If so, what qualifications should the independent reviewer possess? If we require an independent review when the qualified person is affiliated with the registrant, should the review be for all disclosures of mineral resources, mineral reserves and material exploration results, or only those that are related to material properties? Should this review be required only in certain circumstances, such as when the filing discloses resources or reserves by the registrant for the first time; a material change in previously disclosed resources or reserves that has occurred or is likely to occur; or a 100% or greater change in the total mineral resources or reserves on a material property, when compared to the last disclosure? Should we instead adopt an independent review requirement for the work of an affiliated qualified person in all circumstances? In each case, why or why not? No, for the reasons described above. The use of an independent reviewer should be at the option of the registrant. So long as the QP's relationship and potential conflicts are disclosed, a reasonable investor may include such facts in his/her assessment of the disclosure. If the registrant chooses to use an independent reviewer, such a reviewer and any related disclosure should be fully subject to the revised rules related to QPs and disclosures.

30. Should we require the registrant to disclose any material conflicts of interest that could reasonably affect the judgment or decision making of the qualified person, such as material ongoing business relationships between the registrant and the qualified person or the qualified person's employer?

Yes, the degree of independence and disclosure of any material conflicts of interest that could reasonably affect the judgment or decision making of the qualified person, such as material ongoing business relationships between the registrant and the qualified person or the qualified person's employer must be required and should be presented clearly in the signed qualified person certificate.

31. Would the proposed technical report summary filing requirement impose a significant burden on registrants? Yes. If so, which registrants and why? All registrants that are required to comply. Because the current standards do not require the time and effort that will be required under the proposed rules. There is no doubt that NI 43-101 and JORC requirements imposed on registrants have substantially increased the costs and time required of public companies to make disclosures of mineral resources and reserves. These added costs includes direct costs of fieldwork, testing and related analyses to meet published standards of resource and reserve classifications plus indirect costs of reporting, legal review and filing. Not to mention governmental oversight and administrative costs. Are there changes that we could make to this proposed requirement to alleviate any such burden? No. The issue is whether these additional costs and disclosure truly protect the investing public or merely open an avenue for investors who make bad or uninformed decisions to potentially sue mining companies and QPs. It is easily argued that 43-101 or JORC or any of the disclosure rules would not have prevented Bre-X or any other mining scam. So the question becomes who/what are these rules really designed to protect and what are the benefits? And do these benefits outweigh the costs of the regulations? There appears to be very little hard data to support the added benefits as compared to the costs. It would be useful to provide such data, if it exists.

32. Should we define a qualified person in part to be a mineral industry professional with at least five years of relevant experience in the type of mineralization, as described here and in the proposed rule, and type of deposit under consideration and in the specific type of activity that person is undertaking on behalf of the registrant, as proposed? Why or why not? Should we specify the particular type of professional, such as a geologist, geoscientist or engineer, required under the definition? The years of experience required under the proposed definition is consistent with the CRIRSCO-based codes. Is five years the appropriate number of years to constitute the minimum amount of relevant experience required under the definition in our rules? Should we require a lesser or greater number of years of relevant experience (e.g., 3, 7, or 10 years)?

Yes, the definition of a qualified person in part to be a mineral industry professional with at least 5 years of relevant experience in the type of mineralization, type of deposit and specific type of activity that the person is undertaking is appropriate. The proposed definitions also allow for appropriate consideration of relevant

experience in similar styles of mineralization and related deposits. No, it isn't necessary to define the particular type of professional required under the definition. The minimum requirement of 5 years relevant experience is appropriate and as stated is consistent with the other CRIRSCO-based mining disclosure codes.

33. Should we define a qualified person to be an individual, as proposed? Yes, but the registrant should be free to use one or more QPs as required for the particular disclosure. As discussed above, an independent reviewer may be used or for a reserve disclosure, there may be one overall QP or separate QPs for Resources and Reserves. And there may be additional QPs if the registrant seeks to add weight or credibility to the technical report summary. This is all information that is useful to a potential investor in assessing the reliability of the disclosure and its contents. Each such QP should be subject to the rules and should be required to clearly disclose his/her area of responsibility, qualifications, and degree of independence and potential conflicts. Or should we expand the definition, in cases where the registrant engages an outside expert, to include legal entities, such as an engineering firm licensed by a board authorized by U.S. federal, state or foreign statute to regulate professionals in mining, geosciences or related fields? No. Why or why not? The QP responsibility is highly personal in all material respects. NI 43-101 makes a relevant distinction. Although the "Author" of a Technical Report may be a firm, the responsibility for the TR contents remains with the individual QPs who must supervise the preparation of the individual sections and provide Certificates and Consents personally. In this way, the professional firm may take responsibility for its work and its employees and the standard of care related to the preparation of the report, but the individual QPs remain responsible for each of their parts. If we expand the definition in this manner, should the firm or the responsible individual sign the technical report summary and provide the required written consent? Similarly, what professional experience should be required and how would a firm satisfy the professional experience requirement? Should we adopt qualified person requirements for firms that are different than the proposed requirements for individual qualified persons? If so, what should these requirements be? As described above, any firm should be allowed to produce a technical report summary; however, the QP or QPs preparing all parts of the summary should be clearly identified with individually documented disclosure and consents as described above. And again, the use of a firm to produce such reports again provides a reasonable investor with material information regarding the likely reliability and credibility of the report. And again, the QPs for such a firm should be very clear about their firm's affiliation with the registrant and potential conflicts of interest – individually and from the firm's perspective.

34. Do the proposed instructions provide the appropriate guidance for what may constitute the requisite relevant experience in the particular activity involved and in the particular type of mineralization and deposit under consideration? Is there different or additional guidance that we should provide in this regard?

Yes, the proposed instructions provide the appropriate guidance for what may constitute the requisite relevant experience in the particular activity involved and in the particular type of mineralization and deposit under consideration.

35. Should we define a qualified person in part to be an eligible member or licensee in good standing of a recognized professional organization at the time the technical report is prepared, as proposed? Yes. Why or why not? So long as the six criteria are applied. Should we require an organization to meet the six criteria specified in the proposed definition in order to be a recognized professional organization, as proposed? Yes. Should the definition of a qualified person take into account whether, and the extent to which, a person has been disciplined by their professional organization? Yes. If so, how? He/she should be a "member in good standing" and disclose any relevant disciplinary action in the past ten-year period. Should the definition specify that the organization must require, rather than require or encourage, continuing professional development? No. Are there different or additional criteria that we should require for an organization to be a recognized professional organization? No.

36. What factors should we consider in determining whether a professional association is recognized as reputable with regards to the definition of a recognized professional organization? Are the examples we provided appropriate factors for determining whether a professional association is recognized as reputable or are other factors more appropriate? Should any of these factors be incorporated into the final rules?

The six criteria are appropriate for a professional organization. This approach is a better and more practical alternative than ROPOs.

37. Instead of the proposed flexible approach, should we require that a qualified person be a member of an approved organization listed in an appendix to the mining disclosure rules or in a document posted on the Commission's website? No. If so, how should the Commission determine which organizations to approve and how frequently should the Commission update the approved organization list?

38. Should we, as proposed, require a registrant to disclose the recognized professional organization(s) that the qualified person is a member of, and confirm that the qualified person is a member in good standing of the organization(s)? Yes.

39. Are there different or additional conditions that a person should have to satisfy in order to meet the definition of qualified person? No. For example, should we require that a person have attained a particular level of formal education (bachelor's degree, master's degree, or doctorate) in order to be a qualified person? No. If so, what level of education would be appropriate? If any, "satisfied at a minimum the requirements of a bachelor's degree or its equivalent". Would such a minimum education requirement disqualify a significant percentage of persons from being considered as qualified persons who otherwise possess the requisite relevant experience? Probably not.

40. Is the definition of qualified person too restrictive, thus increasing the cost and difficulty associated with finding a qualified person? No. Alternatively, should the definition be more restrictive, to help ensure a qualified person has an appropriate level of training and expertise? No. In either case, why? The proposed QP definition is substantially consistent with requirements globally. There does not appear to be any shortage of QPs available to registrants. Eliminating the ROPO requirement should provide access to additional practical and highly competent QPs who for whatever reason were not able to be members of a ROPO. The SEC rules adequately define and qualify QPs without being too restrictive.

41. Instead of prescribing qualifications for the qualified person, should we instead require a registrant to provide detailed disclosure regarding the qualifications of the individual who prepared the technical report summary? Not instead. Why or why not? Some minimal level of experience and membership in an industry organization is generally expected of QPs and provides some consistency in terms of investor expectations. For investors, there should be disclosure of the QP's qualifications with respect to assessing credibility, reliability and independence. However, an investor should have a reasonable expectation that a QP meets some minimum, published standard under disclosure regulations.

3.0 TREATMENT OF MINERAL RESOURCES – THE INITIAL ASSESSMENT REQUIREMENT

64. If we require an initial assessment to support the determination of mineral resources, should we define "initial assessment," as proposed, to require the consideration of applicable modifying factors and relevant operational factors for the purpose of determining (at the resource evaluation stage) whether there are reasonable prospects for economic extraction? Should we instead only require consideration of modifying and operational factors at the reserve determination stage?

"Initial Assessment" must be supported by a Scoping Level Study for a minima assessment of the impact of modifying factors, operation factors and scoping level economic analyses to determine "reasonable prospects for economic extraction."

65. Should we require an initial assessment to include cut-off grade estimation, as proposed? Why or why not?

The initial assessment should include a "preliminary" or "initial" assessment of the cut-off grade estimation since this is crucial to establish whether the property has "reasonable prospects for economic extraction."

66. Should we require a qualified person to base cut-off grade estimation on assumed unit costs for surface or underground operations, as proposed? Is it appropriate to allow the qualified person to make an assumption about unit costs, as proposed, or should we require a more detailed estimate of unit costs at

the resource determination stage? Is it appropriate to require the qualified person to disclose whether the unit cost estimates are for surface or underground operations, as proposed?

As described in responses to Q64 and Q65, a Scoping Level Study utilizing modifying factors, grade cut-off limits and unit costs in an economic analysis should be used in the initial assessment. The QP must clearly disclose whether the unit cost estimates are for surface or underground operations.

67. Should we also require a qualified person to base cut-off grade estimation on estimated mineral prices, as proposed? In this regard, should we require the qualified person to use a commodity price that is no higher than the average spot price during the 24-month period prior to the end of the last fiscal year, determined as an unweighted arithmetic average of the daily closing price for each trading day within such period, unless prices are defined by contractual arrangements, as proposed? Does a ceiling model based on historical prices best meet the goals of transparency, cost efficiency and comparability? Why or why not? Is there another model that would better meet these goals? If another price model better meets these goals, what should be the basis of estimated mineral prices for purposes of the initial assessment? Whatever price model we adopt, should it be used to determine the commodity price itself? Or should it be used, as proposed, to determine the ceiling of the commodity prices?

Preliminary assumptions on cut-off grades and trailing 24 prices (or prices based on contractual agreements) should be used as the basis for the “ceiling” of the commodity price for the initial assessment.

68. Is the proposed 24-month period the most appropriate period for the estimated price requirement? Would a 12, 18, 30, or 36-month period, or some other duration, be more appropriate? Should the 24-month period, or other period be fixed and apply to all registrants, or should the period vary depending upon the type of commodity being mined and other factors?

The period may be varied based on the commodity and the historical price fluctuations observed. Such price assumptions may be substantiated by preliminary market studies.

69. Should we require, as proposed, the same ceiling price for mineral resource and reserve estimation? If not, how should the prices used for mineral resource and reserve estimation differ? Would such criteria meet the goals of transparency, cost efficiency and comparability?

Ceiling prices for mineral reserves must be based on a “final” market study and must clearly described the historical price fluctuations and future price forecasts. Therefore, the ceiling prices for mineral reserves must have a higher level of confidence associated with these than those used for mineral resources.

70. Should we require that for purposes of the initial assessment a qualified person must provide at least a qualitative assessment of all relevant modifying factors to establish economic potential and justify why he or she believes that all issues can be resolved with further exploration and analysis, as proposed? Are the

modifying factors provided as examples in the proposed instruction and table the most appropriate factors to be included? Are there other factors that should be specified in the instruction and table in lieu of or in addition to the mentioned factors? Would presentation of the modifying factors in a table benefit investors, registrants and qualified persons?

Yes, the QP should be required to provide at least a qualitative assessment of all relevant modifying factors to establish economic potential and justify why he or she believes that all issues can be resolved with further exploration and analysis.

4.0 TREATMENT OF MINERAL RESERVES

76. Should we establish a framework for mineral reserves determination and disclosure, as proposed? Why or why not? Is there another framework that would be preferable to the proposed framework? If so, what would be the advantages and disadvantages of the alternative framework?

The framework as described is not consistent in general with other global mineral reserve reporting standards. The designation of an “in-situ” reference point is unnecessary and confusing. Rather, the “in-situ” aspect stated here is addressed as part of the “economic viability” utilized in stating mineral resources. Therefore, mineral reserves should be reported gross of diluting materials and mining losses. If left as is, this will create tremendous inconsistencies with other CRIRSCO standards.

77. Should we define “mineral reserve,” as proposed? Are there conditions that we should include in the definition of mineral reserves instead of, or in addition to, those proposed to be included in the definition? Are there any conditions that we should exclude from the definition of mineral reserves? For example, should we modify the condition that mineral reserves be based on a pre-feasibility or feasibility study to only permit a feasibility study? Should we exclude in its entirety the condition that mineral reserves be based on a feasibility or pre-feasibility study? Are there terms that we should define differently? For example, should we define a mineral reserve as an estimate of tonnage and grade or quality that includes diluting materials and allowances for losses, instead of a net estimate, as proposed? Why or why not?

As stated in the response to Q76, mineral reserve must be stated as an estimate of tonnage and grade or quality that includes diluting materials and allowances for losses, instead of a net estimate, as proposed. Mineral reserves must be stated as Run-of Mine (ROM) Reserves (or plant/mill feed) and as “saleable” or “marketable” reserves. Where ROM coal is not washed, ROM Reserves will be equivalent to Saleable Reserves.

Furthermore, mineral reserves must be supported at a minimum by a pre-feasibility study. The level of study utilized to support the statement of mineral reserves must be clearly stated (pre-feasibility or

feasibility) together with the assumptions for accuracy of costs utilized in the study. Assumptions for such accuracy must be stated at a minimum with reference to the AACE 47R-11 guidelines.

78. Should we explicitly include a life of mine plan disclosure requirement in the technical studies required to support a determination of mineral reserves, as proposed? Why or why not?

A pit optimization process must be utilized to establish the confines of the mineral reserves for all mines – surface or underground. The pre-feasibility or feasibility study must contain an economic analysis justifying the statement of mineral reserves. The economic analysis in turn must be substantiated by a life-of-mine plan that is confined to the mining limits established in the pit optimization process and cannot contain tonnages beyond the proven and probable mineral reserves.

79. Should we require the use of a discounted cash flow analysis or other similar analysis to establish the economic viability of a mineral reserve's extraction, as proposed? Why or why not? If so, should we require the use of a price that is no higher than a trailing 24 month average spot price in the discounted cash flow analysis, except in cases where sales prices are determined by contractual agreements, as proposed? Is there some other period (e.g., 12 or 36 months) or measure that should determine the price used in the discounted cash flow analysis?

The proposal to use a price that cannot be higher than the trailing spot price during the 24-month period in the cash flow analysis does not follow the industry standard of using forward-looking price forecasts and will result in a material difference between companies following the proposed SEC rules and those that will not be obligated to follow these rules. While using a trailing average may be easily justifiable it may not be considered reasonable. Additionally, not all commodities are publicly traded on the exchange with readily available and pricing information. How will the rules accommodate these types of commodities?

Additionally, the use of a trailing average can lead to overstating prices in a falling commodities market as has been observed in the past few years.

80. Should we allow registrants to use an alternate price in addition to a price that is no higher than a trailing 24 month average spot price, as long as they disclose the alternate price and their justification? Alternatively, should we require every registrant to use a fixed 24 month trailing average price with the option to use an alternate price(s) that is reasonably achieved? Are there other pricing methods (e.g., management's long term view or using spot, forward or futures prices at the end of the last fiscal year to determine the ceiling price allowed) that we should require or permit registrants to use in discounted cash flow analysis? Would such pricing methods be transparent, easy for registrants to apply and investors to understand, and to the extent practicable, provide some degree of comparability?

See response to Q79 above. The 24 month trailing average may be used as a ceiling but tempered with realistic forward looking prices in the case of falling markets. Reporting companies may substantiate

forward looking prices with market studies from internationally reputed organizations that are deemed acceptable by the QP. Pricing by management's internal studies creates conflicts of interest and should not be encouraged as a general rule.

81. Should we define the terms "probable mineral reserve" and "proven mineral resource," as proposed? Why or why not? If not, how should we modify these definitions?

The definition of the terms "probable mineral reserve" and "proven mineral resource" is reasonable as proposed.

82. Should we define "modifying factors," as proposed? Are there any factors that we should include in the definition of modifying factors instead of or in addition to those already included in the definition? Are there any factors that we should exclude from the definition?

Modifying factors should also include all assumptions for mining losses, dilution, processing plant specifications (recovery %, grade cut-offs, product grades), critical cost elements utilized in the optimization process used to define the mine extents defining mineral reserves.

83. Should we adopt the above discussed instructions, as proposed? Why or why not?

The general framework as proposed is adequate but must be revised based on the various responses cited above.

84. Should we define "preliminary feasibility study" and "feasibility study," as proposed? Are there any terms and conditions that we should include instead of or in addition to those included in the proposed definitions? Are there any terms or conditions under each definition that we should exclude?

See response to Q85 below.

85. Should we permit the use of either a pre-feasibility study or a feasibility study to support the determination and disclosure of mineral reserves, as proposed? Why or why not?

The definition of a "pre-feasibility study" and "feasibility study" is only generally defined. The definitions should be strengthened with reference to generally accepted industry standards such as AACE 47R-11 as established by the Association for the Advancement of Cost Engineering (AACE).

Pre-feasibility studies must be the minimum requirement for the statement of mineral reserves.

86. Should we require qualified persons to use a feasibility study in situations where the risk is high, as proposed? Why or why not? Are there other conditions, in addition to or in lieu of high risk situations, where we should require a feasibility study in support of mineral reserve disclosure?

Pre-feasibility studies intrinsically carry with it larger risk than feasibility studies. Therefore, investors must be made aware of the risks present to the project and must be generally educated as to the inherent risks in the studies. Cautionary statements must clearly alert investors to this fact. It would be hard to legislate the level of study related to the likely risks to the project. Controls are inherently present through the QP and cannot likely be legislated.

87. Should we adopt the proposed instructions about the use of a pre-feasibility study to support the determination and disclosure of mineral reserves? Are there any instructions that we should provide instead of or in addition to the proposed instructions for such use of a pre-feasibility study? Are there any instructions that we should exclude? Would the proposed instructions mitigate the risk of less certain disclosure that could result from the use of a pre-feasibility study to support the determination and disclosure of mineral reserves? If not, why not?

Pre-feasibility studies must be a minimum requirement to establish and state mineral reserves. However, cautionary statements must be included to state the level of study utilized in the determination and disclosure of mineral reserves. See also responses to Q85 above.

88. Should we adopt the proposed instructions for the use of a feasibility study to support the determination and disclosure of mineral reserves? Are there any instructions that we should provide instead of or in addition to the proposed instructions for such use of a feasibility study? Are there any instructions that we should exclude?

See responses to Q85, Q86 and Q87 above.

89. As part of the instructions for pre-feasibility and feasibility studies, should we define preliminary and final market studies as proposed?

The definitions proposed for preliminary and final market studies are appropriate.

5.0 SPECIFIC DISCLOSURE REQUIREMENTS

91. Should we permit registrants to treat multiple mines with interrelated mining operations as one mining property, as proposed? Should we instead require registrants to treat such mines as separate properties? Why or why not?

No. Each mining operation must be evaluated on its own since grades, mining methods, mining costs, prices, transportation and logistics, may be different for each. Therefore, each must be reported as separate properties where such mining operations are deemed material to the disclosure.

92. Should we exclude registrants with only one mining property from the summary disclosure requirements, as proposed? Why or why not? Alternatively, should we use a different threshold than the proposed "only one" threshold for excluding a registrant from the summary disclosure requirements? If so, what threshold should we use and why would this threshold be more appropriate?

The number of mining properties should not be the concern. The primary issue dictating the disclosure requirements must be the materiality of the mining property to the overall disclosure for the registrant.

99. Should we require disclosure on individually material properties, as proposed? Why or why not? Should such disclosure require a description of the property, a history of previous operations, a description of the condition and status of the property, a description of any significant encumbrances to the property, a summary of the exploration activity for the most recently completed fiscal year, a summary of material exploration results for the most recently completed fiscal year, and a summary of all mineral resources and reserves, if mineral resources or reserves have been determined, as proposed?

Mineral resources and mineral reserves must be disclosed for all material properties. These disclosures should include all attributes listed.

100. Should we require that a registrant provide the property's location, including in maps, accurate within one mile? Why or why not? If not, should we use a standard for degree of accuracy similar to that used in the CRIRSCO-based codes, such as PERC or SAMREC? Why or why not? If not, what level of accuracy should we require?

The registrant must provide maps as stated in their regulatory licenses. Additionally, any statement of mineral reserves must include recently surveyed coordinates for boundary points specified in the license and approved by the appropriate regulatory agency. Accuracy should be at or better than that stipulated in the CRIRSCO-based codes.