



Comments on SEC File No. S7-29-07
“Concept Release on Possible Revisions to the Disclosure Requirements
Relating to Oil and Gas Reserves”
(<http://www.sec.gov/rules/concept/2007/33-8870.pdf>)

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Submitted to: Securities and Exchange Commission
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SUMMARY: The Society for Mining, Metallurgy, and Exploration, Inc. (SME) is herewith responding to the SEC request for comments as submitted in “Concept Release on Possible Revisions to the Disclosure Requirements Relating to Oil and Gas Reserves”, File No. S7-29-07. SME is the leading U.S. and international mining engineering professional society. While not representing the oil and gas industry, SME recognizes that there are significant overlaps between the two industries, and that many of the reasons why oil and gas reserves disclosure requirements should be revised also apply to the mining industry. For these reasons SME recommends that consideration be given to concurrent revisions to disclosure requirements relating to exploration and mining as well as oil and gas.

To emphasize the similarity between oil and gas, and mining issues, the format used here follows that of the Concept Release.

Introduction

As is the case with the oil and gas industry, the mining industry is concerned that current SEC reserves disclosure requirements are not fully aligned with current industry practices. SEC Industry Guide 7, which specifies reporting requirements for issuers engaged or to be engaged in significant mining operations, has not been updated since 1982. There have been significant technological advancements, changes in the minerals markets, changes in the structure of the mining industry, and changes in the types of projects in which companies invest since the SEC adopted these rules and disclosure requirements. Many in the mining industry consider that current reserves disclosure requirements prevent an investor from viewing the company through management’s eyes. In 2005 the SME submitted a document to the SEC Division of Corporation Finance, “Recommendations Concerning Estimation and Reporting of Mineral Resources and Mineral Reserves”, which expressed these concerns and made recommendations on how related issues could be resolved (http://books.smenet.org/sec_recomm/index.cfm). However, for a number of reasons, no action was taken by the SEC following these recommendations.

Convergence between mining and oil and gas reporting practices is being pursued by the International Accounting Standards Board and the United Nations, with active participation of CRIRSCO, the Combined Reserves International Reporting Standards Committee (www.crirSCO.com). Given the increasing overlap between oil and gas, and mining in such areas as tar sands and oil shales, the need for convergence should not be ignored when reviewing oil and gas rules.

Definition of Mineral Reserves

As is the case in oil and gas, mineral reserves are among the most significant assets of a mining company. The SEC definition of reserves, proven reserves and probable reserves are based on the 1980 USBM-USGS definitions (Geological Survey Circular 831, "Principles of a Resource/Reserve Classification for Minerals"). These definitions are similar, but not identical to those recommended by CRIRSCO and accepted by regulators in Canada, Australia, South Africa, the UK, Chile and other countries.

Industry Guide 7 specifies that a reserve is that part of a mineral deposit which could be economically and legally extracted or produced at the time of the reserve determination. The SEC staff has interpreted this definition as meaning that economic feasibility should be demonstrated assuming a price equal to the average price which prevailed during the last three years. While this approach to price definition is preferable to that requested by the SEC for oil and gas (this being the price prevailing at the time the oil and gas reserves are reported) it does not reflect management's estimates and the basis on which management decides to make significant financial investments. In its 2005 submission to the SEC, SME recommended that commodity prices used for the determination of mineral reserves should be based on forward-looking estimates reflecting management's reasonable and supportable short- and long-term expectations as supported by all available evidence. The basis for the selected prices must be justified and supported by appropriate documentation. Recommendations are also made for publication of sensitivity of mineral reserves to different price assumptions, including the trailing three-year price average.

Industry Guide 7 does not specify the tests a company must consider to estimate its proven and probable reserves. The SME has recommended that a "Mineral Reserves Declaration Report" be completed before a reserve is published. Recommendations on the content of such a report have also been submitted.

Industry Guide 7 specifies that, with few exceptions, estimates other than proved and probable reserves, and any estimated values of such reserves shall not be disclosed. This restriction prevents exploration and mining companies to publish mineral resources, which represent significant information used by management to decide on investments and exploration strategies, by investors as an indication of long term potential, and by accountants in their estimation of value beyond proven and probable reserves (VBPP). Publication of mineral resources, as well as mineral reserves, is allowed in all regulatory environments outside the U.S. Taking into account the SEC's concern that publication of resources can be subject to abuse and lead to misinterpretation by investors, the SME submitted to the SEC recommendations for the definition of mineral resources that are more restrictive than those generally accepted.

While Industry Guide 7 is the only SEC document which contains guidelines for publication of mineral reserves, the SEC follows a different set of guidelines when considering reporting of coal reserves. For coal, the USBM-USGS coal resource classification system is used (Geological Survey Bulletin 1450-B, "Coal Resource Classification System of the U.S. Bureau of Mines and U.S. Geological Survey", 1980). This classification system is sufficiently different from that used for other minerals to potentially create confusion among investors who could reasonably assume similarities. The SME recommends similar reporting rules for coal and other minerals.

The Impact of Technology

As is the case with oil and gas, technological advances since 1982 have significantly improved how companies may identify mineral resources, model the deposit, estimate its economic value. Mining and processing methods have changed significantly. Three dimensional computer modeling is fundamental in the estimation of mineral resources, mine design and production scheduling. Industry Guide 7 is obsolete to the extent that it describes in great details documentation required for 1982 technology (mostly based on two-dimensional maps and drawings) and ignores current technology. One should however note that in this respect the SEC staff interpretation has kept up with technology.

The oil and gas concept release recognizes the overlap between oil and gas reserves, and mineral reserves, when oil is extracted from tar sands and oil shales. This overlap shows the need for convergence between mining and oil and gas reporting requirements.

Alternative Classification Systems

Since 1988, the SME has developed guidelines for estimation and reporting of exploration results, mineral resources and mineral reserves. The last revision was made in 2007 (“The SME Guide for Reporting Exploration Results, Mineral Resources and Mineral Reserves (The 2007 SME Guide)”, available on the SME website: http://www.smenet.org/resourcesAndReserves/Sme_Guide_for_Reporting_Exploration_Results_2007.pdf). This guide is based on the recommendations submitted to the SEC in 2005 and recognizes that its content may not be consistent with public reporting requirements from the SEC and other regulatory agencies. However its content is strongly recommended to be used by members of SME, and is used by a number of mining and consulting companies to prepare resource and reserve estimates for purposes other than SEC filings.

As mentioned above, CRIRSCO has developed international guidelines which are followed by most regulators outside the U.S. CRIRSCO representatives are also working with the Society of Petroleum Engineers, the IASB and the United Nations towards convergence of international guidelines for mining and oil and gas.

Independent Preparation, Assessment or Evaluation of Reserves Disclosure

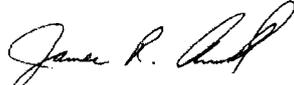
The SME recommends that any public report concerning exploration results, mineral resources and mineral reserves is based on, and fairly reflects information and supporting documentation prepared by a Competent Person. This SME recommendation is a requirement for public reporting in Canada (where the term Qualified Person is used instead of Competent Person), Australia, South Africa and Chile. Such requirement is not part of the SEC rules.

A Competent Person is defined as an engineer, geoscientist or other mining professional who is a member of an approved institution with an enforceable code of ethics, and who must have a minimum of five years experience which is relevant to the style of mineralization and type of deposit under consideration and to the activity which that person is undertaking.

Conclusions and Recommendations

With this submission, the SME is aiming to show the similarity between issues recognized in the oil and gas industry and the mining industry. This similarity is sufficient to indicate that any revision to the disclosure requirements relating to oil and gas should be made in parallel with revisions to disclosure requirements relating to mining.

Respectfully submitted,



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