

19 October 2011

Mr Alex Poole

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Per email: Alex.Poole@asc.ca

Dear Sir

Re: Samrec and Samval Committee Submission to CSA

Proposed Amendments to National Instrument 41-101 General Prospectus Requirements and Companion Policy 41-101CP to National Instrument 41-101 General Prospectus Requirements, and other proposed amendments, dated July 15, 2011.

The SAMREC and SAMVAL Committee (SSC) is a committee that operates under the auspices of the Geological Society of South Africa (GSSA) and the Southern African Institute of Mining and Metallurgy (SAIMM) and is responsible, together with the Johannesburg Stock Exchange and various other related Professional Associations, for the development, administration and on-going enforcement of the SAMREC and SAMVAL codes. The purpose of the SSC is to provide standards, recommendations and guidelines for reporting of mineral resources and reserves, and the valuation of mineral assets in South Africa. The SSC is represented on CRIRSCO by 2 members and through this actively engages with the international community.

In line with our mandate we hereby wish to comment on the proposed amendments to NI 41 -101 whereby there will be a future requirement for QPs to register or set up an agent in Canada. We wish to register our very deep sense of concern that the proposed amendments to NI 41-101 will conflict with the evolving international system of mutual recognition of professionals acting as Qualified Person (In Canada) or Competent Persons (elsewhere in the world as per the CRIRSCO arrangements) in line with the NI 43-101 provisions. It is in short our belief that this requirement could severely undermine the international system whereby recognized mining professionals enjoy the ability to offer their services globally in a professionally secure and orderly manner. As a committee we wish to support and endorse the comments made by CRIRSCO and the Pan-European Reserves and Resources Reporting Committee (PERC).

1 - The proposed amendments would effectively put serious hurdles in the way of any consultant from outside Canada, and in particular from those consultants who are in small firms or are independent and who do not have existing offices or agents in Canada for whom the requirement to register or set up an agent there, perhaps for a single consulting assignment, is simply an unacceptable burden.

2 - Furthermore the concept of direct legal liability of "Qualified Person" (QP) consultants, which it appears that this amendment seeks to establish, runs counter to the well-established principle that it is the Issuer who is liable. A very carefully conceived system is in place through the CRIRSCO reporting codes to ensure that the QP/CP is personally responsible to the issuer/company for the reliability of his/her reporting (i.e. liable to be sued in the civil courts for negligence) and subject to disciplinary sanctions from their professional body if they transgress. The legal responsibility for a report should be with the issuer/company that commissioned it. Clearly, if a CP/QP were to commit fraud, they would already be liable to criminal prosecution in any event without the proposed new arrangements - and the issuer/company too.

3 - The reviewers of NI 43-101 went to great lengths to ensure that all the professional bodies and grades of membership listed there as suitable for QP/CP reporting under NI 43-101 encapsulated the important principle that CPs/QPs could be disciplined by their home organisation wherever in the world they were operating - indeed, we understand that some US state registration/licensing authorities were de-listed this time on the basis that they were not able to discipline members/registrants/licence holders outside their home state. On that point alone, the proposals for 41-101 look inconsistent with 43-101 and they undermine the CRIRSCO values and safeguards, which are designed to achieve (and in practice do achieve) a proper chain of accountability - which the proposed change would not only fail to achieve but might entirely undermine.

4 - One consequence for the Canadian mining industry will be a shortage of Qualified Persons to sign off the geological parts of prospectuses – which could therefore have a serious impact on the development of new minerals projects in Canada. Geologists in Canada and elsewhere will be reluctant to take on a role which carries onerous additional registration requirements (for foreign resident QPs) as well as a new direct legal liability (for Canadian and foreign QPs alike).

5 - In terms of the global mining industry, such new and additional restrictions by the Canadian authorities are likely to result in similar retaliatory regulations elsewhere, with a resulting breakdown of the system which has been carefully achieved, of international reciprocal recognition of professional qualifications and experience. This would lead inevitably to restrictions in international opportunities for Canadian geological consultants.

Answers to questions posed in the CSA request for comments:

Question: Do you believe that it is appropriate to extend the requirement to file a non-issuer's submission to the jurisdiction and appointment of an agent for service form to foreign experts who have consented to the disclosure in a prospectus of information from a report, opinion or statement made by them given that these persons are liable under our statutory liability regime for misrepresentations in the prospectus that are derived from that report, opinion or statement?

Answer: No we do not believe it is appropriate. Our reasoning is explained above.

Question: If foreign experts are required to file a non-issuers' submission to the jurisdiction and appointment of an agent for service form, do you anticipate that this obligation will impose any significant practical or financial burden on these experts or issuers?

Answer: We believe the obligation will impose significant practical and financial burden on both the experts and the issuers employing the experts. Our reasoning for this is explained above.

Question: Would your response change if the form requirement for foreign experts only concerned either submission to the jurisdiction or an appointment of an agent for service?

Answer: No it would not.

CONCLUSION

Should these amendments be enacted without substantial modification, there is a serious probability that it will be the end of the Qualified Person/Competent Person system as we know it. It is unlikely that any professional geologist will put their name to a document if there is a remote possibility that they will be held directly legally accountable. This liability should remain with the Issuer.

Yours sincerely



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