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July 7, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications

National Instrument 51-102, s. 13.1 - Continuous Disclosure Obligations - General - An issuer wants an exemption from having to file continuous disclosure documents to permit it to rely on the continuous disclosure documents of its parent issuer - The issuer is an exchangeable share issuer that complies with all of the conditions for continuous disclosure relief in section 13.3 of National Instrument 51-102 Continuous Disclosure Obligations except that its parent issuer is not an SEC issuer; the parent issuer is a Canadian reporting issuer that will send copies of all of its documents to the securityholders of the exchangeable share issuer and explain the reasons the information sent to them relates to the parent, rather than the exchangeable share issuer; the exchangeable share issuer will remain a subsidiary of the parent issuer, and will not issue any securities other than exchangeable shares or debt instruments to certain parties

Multilateral Instrument 52-109, s. 4.5 Certification of Disclosure in Issuer's Annual and Interim Filings - An issuer wants relief from the requirement in parts 2 and 3 of MI 52-109 to file annual and interim certificates - The issuer has applied for and received an exemption from filing interim and annual financial statements

Securities Act s. 91 Audit Committee - Exemption from audit committee requirements in BCI 52-509 Audit Committee - An exchangeable share issuer wants an exemption from BC Instrument 52-509 Audit Committees - The issuer is an exchangeable share issuer; the issuer is exempt from continuous disclosure requirements provided it files the continuous disclosure of its parent; its parent is subject to the audit committee requirements in Multilateral Instrument 52-110

National Instrument 58-101 Disclosure of Corporate Governance Practices - An exchangeable share issuer wants an exemption from NI 58-101 - The issuer is an exchangeable share issuer that complies with all of the conditions for continuous disclosure relief in section 13.3 of National Instrument 51-102 Continuous Disclosure Obligations except that its parent issuer is not an SEC issuer; the parent issuer is a Canadian reporting issuer that will comply with NI 58-101

Applicable British Columbia Provisions

National Instrument 51-102, s. 13.1

National Instrument 58-101, s. 3.1

Multilateral Instrument 52-109, s. 4.5

Securities Act, R.S.B.C. 1996, c. 418, s. 91

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BC Instrument 52-509

In the Matter of
the Securities Legislation of Alberta, British Columbia and Ontario
(the Jurisdictions)

and

In the Matter of
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of
Intrepid Nustar Exchange Corporation (INEC) and
Nustar Mining Corporation Limited (NuStar)
(together, the Applicants)

MRRS Decision Document

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Applicants under the securities legislation of the Jurisdictions (the Legislation) for the following exemptions from the requirements of the Legislation:
 - (a) an exemption for INEC from the application of National Instrument 51-102 – *Continuous Disclosure* (NI 51-102) and an exemption from any comparable continuous disclosure requirements under the Legislation that have not yet been repealed or otherwise rendered ineffective as a consequence of the adoption of NI 51-102 (collectively, the Continuous Disclosure Requirements);
 - (b) an exemption for INEC from the application of Multilateral Instrument 52-109 – *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109) (the Certification Requirements);
 - (c) an exemption for INEC from the requirements under the Legislation relating to audit committees (the Audit Committee Requirements); and
 - (d) an exemption for INEC from the application of National Instrument 58-101 – *Disclosure of Corporate Governance Practices* (NI 58-101) (the Corporate Governance Requirements).

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2. Under the Mutual Reliance Review System for Exemptive Relief Applications (MRRS):
 - (a) the Ontario Securities Commission is the principal regulator for this application; and
 - (b) the MRRS decision document evidences the decision of each Decision Maker.

Interpretation

3. Defined terms contained in National Instrument 14-101 – *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

4. This Decision is based on the following facts represented by the Applicants:
 - (a) The Applicants have entered into an amended and restated arrangement agreement dated April 21, 2006 (the Arrangement Agreement) pursuant to which NuStar has agreed to acquire, through INEC and 6554636 Canada Ltd. (Callco), all of the issued and outstanding securities of Intrepid Minerals Corporation (Intrepid), a reporting issuer in each of the Jurisdictions, listed on the Toronto Stock Exchange (the TSX) (the Transaction). The Transaction will be effected by way of a plan of arrangement pursuant to section 192 of the *Canada Business Corporations Act* involving Intrepid, holders of common shares of Intrepid (the Intrepid Common Shares), holders of warrants to acquire Intrepid Common Shares (the Intrepid Warrants), holders of options to acquire Intrepid Common Shares (the Intrepid Options), INEC, Callco and NuStar. Completion of the Transaction is conditional upon, among other things, NuStar undertaking a consolidation of its outstanding ordinary shares (the NuStar Shares) on the basis of one (1) post-consolidated NuStar Share (a NuStar Consolidated Share) for every twelve (12) NuStar Shares. On the effective date of the Transaction, holders of Intrepid Common Shares will be able to exchange their Intrepid Common Shares on the basis of either one (1) NuStar Consolidated Share or one (1) exchangeable share of INEC (an Exchangeable Share) for each Intrepid Common Share held. The Intrepid Warrants will be assumed by INEC for warrants to acquire Exchangeable Shares (the Assumed Warrants). Each Assumed Warrant will entitle the holder to acquire one (1) Exchangeable Share at the same exercise price and for the same period as the Intrepid Warrant assumed. The Intrepid Options will be assumed by NuStar for options to acquire NuStar Consolidated Shares (the Assumed Options). Each Assumed Option will

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entitle the holder to acquire (1) NuStar Consolidated Share at the same exercise price and for the same period as the Intrepid Option assumed.

- (b) NuStar is an Australian corporation. It was incorporated pursuant to the Corporations Act of Australia on June 9, 1993. NuStar is the equivalent of a reporting issuer under the laws of Australia and is not, to its knowledge, in default of any of the applicable requirements under the laws of Australia. NuStar's registered office is located at Level 2, 34 Colin Street, West Perth, Western Australia.
- (c) The NuStar Shares are currently listed on the Australian Stock Exchange (the ASX) under the symbol NMC and will continue to be listed on the ASX following the completion of the Transaction.
- (d) The TSX conditionally approved the listing of the NuStar Shares and the Exchangeable Shares by letter dated May 29, 2006 subject to, among other things, the completion of the Transaction.
- (e) NuStar will list the NuStar Consolidated Shares issued pursuant to the Transaction including those to be issued on the exchange of the Exchangeable Shares and the exercise of the Assumed Options on both the ASX and the TSX. The ASX has conditionally approved the listing of these securities by letter dated May 3, 2006.
- (f) INEC is a corporation incorporated under the CBCA on April 20, 2006 and is an indirect wholly-owned subsidiary of NuStar. INEC has been established solely for the purposes of the Transaction to issue the Exchangeable Shares to Canadian resident holders of Intrepid Common Shares who wish to participate in the Transaction on a tax-deferred basis electing (or having been deemed to have elected) to receive Exchangeable Shares under the Transaction in exchange for their Intrepid Common Shares.
- (g) The authorized capital of INEC consists of an unlimited number of common shares and an unlimited number of Exchangeable Shares. As of the date hereof, 100 common shares are outstanding and are registered in the name of Callco, which is a wholly-owned subsidiary of NuStar. No Exchangeable Shares are currently outstanding. The Exchangeable Shares will rank senior to the common shares of INEC with respect to the payment of dividends and the distribution of the property or assets of INEC in the event of a liquidation, dissolution or winding up of INEC or any other distribution of property or assets of INEC among its shareholders for the purpose of winding up its affairs. In any such

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distribution, the rights of a holder of Exchangeable Shares will be satisfied by the delivery of one NuStar Consolidated Share for each such Exchangeable Share.

- (h) Neither INEC nor NuStar is currently a reporting issuer under the Legislation of the Jurisdictions. However, upon completion of the Transaction, each of INEC and NuStar will be a reporting issuer in each of the Jurisdictions.
- (i) The Exchangeable Shares will provide holders with a security of a Canadian issuer having economic and voting rights which are, as nearly as practicable, equivalent to those of the NuStar Consolidated Shares. The Exchangeable Shares will be exchangeable by a holder at any time, at the option of the holder, for NuStar Consolidated Shares on a one for one basis and will be redeemable for the same consideration by INEC upon the occurrence of certain events. The Exchangeable Shares are subject to adjustment or modification in the event of a stock split or other change in the capital structure of NuStar so as to maintain at all times the initial economic equivalence between one Exchangeable Share and one NuStar Consolidated Share.
- (j) The rights, privileges, restrictions and conditions attaching to the Exchangeable Shares (the Exchangeable Share Provisions) will provide that each Exchangeable Share will entitle the holder to dividends from INEC payable at the same time as, and in amounts equal to any dividends paid by NuStar on the NuStar Consolidated Shares. The Exchangeable Shares will be non-voting (except as required by the Exchangeable Share Provisions or by applicable law). However, the Exchangeable Shares will have voting rights in NuStar equivalent to the holders of the NuStar Consolidated Shares on the basis of one (1) vote for each Exchangeable Share held.
- (k) Upon the liquidation, dissolution or winding up of NuStar, all Exchangeable Shares held by holders will be automatically exchanged for NuStar Consolidated Shares in order that holders of Exchangeable Shares will be able to participate in the dissolution of NuStar on a pro rata basis with the holders of the NuStar Consolidated Shares. A similar right exists if NuStar becomes insolvent.
- (l) As a result of the economic and voting equivalency between the Exchangeable Shares and the NuStar Consolidated Shares and the fact that at any time the Exchangeable Shares can be converted into NuStar Consolidated Shares, holders of Exchangeable Shares will have a

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participating interest determined by reference to NuStar, rather than INEC. Accordingly, it is information concerning NuStar, not INEC, that will be relevant to the holders of the Exchangeable Shares.

- (m) NuStar will send concurrently to all holders of Exchangeable Shares all materials it is required to send to the holders of the NuStar Consolidated Shares.
- (n) The Applicants cannot rely on the exemption contained in section 13.3 of NI 51-102 because NuStar is not an SEC issuer (as defined in NI 51-102) having a class of securities listed or quoted on a U.S. marketplace. As a result of the foregoing, the Applicants also cannot rely upon similar exemptions from the Certification Requirements, the Audit Committee Requirements and the Corporate Governance Requirements.
- (o) Proposed amendments to NI 51-102 were published by the Canadian Securities Administrators on December 9, 2005 (the Amendments) pursuant to which it is proposed to amend section 13.3 of NI 51-102 to apply to companies issuing exchangeable shares where the parent company is a reporting issuer in Canada.
- (p) If the Amendments were to be adopted prior to the completion of the Transaction, it would fall within the exemption in section 13.3 of NI 51-102 and no order for exemptive relief would be required to exempt INEC from the Continuous Disclosure Requirements, the Certification Requirements, the Audit Committee Requirements and the Corporate Governance Requirements.
- (q) On the completion of the Transaction, NuStar will be a reporting issuer in Alberta, British Columbia and Ontario and will therefore be required to comply with the Continuous Disclosure Requirements, the Certification Requirements, the Audit Committee Requirements and the Corporate Governance Requirements.

Decision

- 5. Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.
- 6. The Decision of the Decision Makers is that relief is granted from the Continuous Disclosure Requirements, the Audit Committee Requirements and the Corporate Governance Requirements for so long as:

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- (a) NuStar is a reporting issuer in at least one of the jurisdictions listed in Appendix B of Multilateral Instrument 45-102 – *Resale of Securities* and is an electronic filer under National Instrument 13-101 – *System for Electronic Document Analysis and Retrieval* (SEDAR);
- (b) NuStar complies with the Continuous Disclosure Requirements, the Audit Committee Requirements and the Corporate Governance Requirements;
- (c) NuStar concurrently sends to all holders of Exchangeable Shares all disclosure material sent to holders of NuStar Consolidated Shares in compliance with NI 51-102 and files copies of all such documents with the Decision Makers;
- (d) prior to or coincident with the distribution of the Exchangeable Shares, NuStar provides or causes INEC to provide to each recipient or proposed recipient of Exchangeable Shares and NuStar Consolidated Shares, as the case may be, resident in Canada, a statement that, as a consequence of the order, INEC will be exempt from certain disclosure requirements in Canada applicable to reporting issuers or the equivalent and specifying the requirements from which INEC has been exempted;
- (e) INEC files a notice under its SEDAR profile indicating that it is relying on the disclosure documents prepared and filed by NuStar and directing readers to refer to NuStar's SEDAR profile;
- (f) NuStar complies with the requirements of the Legislation and the TSX, or such market or exchange on which the NuStar Consolidated Shares may be quoted or listed, in respect of making disclosure of material information on a timely basis and immediately issues and files a news release that discloses any material change in its affairs;
- (g) INEC complies with the requirements of the Legislation to issue a press release and file a report with the Jurisdictions upon the occurrence of a material change in respect of the affairs of INEC that is not also a material change in the affairs of NuStar;
- (h) NuStar includes in all future proxy solicitation materials to holders of Exchangeable Shares a clear and concise statement explaining the reason for the mailed material being solely in relation to NuStar and not in relation to INEC, such statement to include a reference to the economic equivalency between the Exchangeable Shares and the NuStar Consolidated Shares and the right to direct voting at the NuStar meeting;

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- (i) NuStar remains the direct or indirect beneficial owner of all of the issued and outstanding voting securities of INEC other than the Exchangeable Shares; and
 - (j) INEC does not issue any securities to the public other than the Exchangeable Shares or debt obligations to banks, loan corporations, trust corporations, treasury branches, credit unions, insurance companies or other financial institutions.
- 7. The decision of the Decision Makers is that relief is granted from the Certification Requirements for so long as:
 - (a) INEC is not required to, and does not, file its own interim and annual filings (as those terms are defined under MI 52-109);
 - (b) NuStar files in electronic format under the SEDAR profile of INEC the:
 - (i) interim filings;
 - (ii) annual filings;
 - (iii) interim certificates; and
 - (iv) annual certificatesof NuStar, at the same time as such documents are required to be filed under the Legislation by NuStar; and
 - (c) INEC is exempt from or otherwise not subject to the Continuous Disclosure Requirements.

Kelly Gorman