

# **The Basics of NI 43-101 Standards of Disclosure for Mineral Projects**

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- Information has been summarized and paraphrased for presentation purposes. Please refer to the original documents for clarification.

# Agenda

## 8:30 – Session 1

- Overview
- Basics of NI 43-101
- Role of qualified person
- Disclosing mineral resources and reserves
- Disclosing Other Estimates
- Questions

## 10:30 – Coffee

## 10:45 – Session 2

- Technical report triggers
- Certificates & consents
- Technical reports
- Disclosure red flags
- Market Regulation Services
- Questions

## 12:00 – Finish

# Overview



# Canadian Regulatory Landscape

- **13 Provincial Securities Regulators**
  - Responsible for investor protection and regulating fair and efficient markets
- **Self-Regulatory Organizations – SROs**
  - Overseen by the securities commissions
  - Regulation Services (RS) - regulates trading and disclosure
  - Investment Dealers Association (IDA) - regulates broker compliance
  - Mutual Fund Dealers Association (MFDA) - regulates mutual funds
- **Stock Exchanges (TSX, TSXV, CNQ)**
  - Responsible for listing, oversight and trades



# Canadian Securities Commissions

- Securities Commissions administer the securities act in each Province
- Work under Canadian Securities Administrators (CSA) to promote coordinated oversight and consistency
- Deal with all issues related to securities (shares) of companies by applying the securities acts

# Mining Disclosure Rules

- **Canadian Securities Administrators**
  - National Instrument 43-101 *Standards of Disclosure for Mineral Projects*
- **Toronto Venture Exchange (TSXV)**
  - Policy 3.3 *Timely Disclosure*
  - Appendix 3F *Mining Standards Guidelines*
- **Toronto Stock Exchange (TSX)**
  - Appendix B *Disclosure Standards for Companies Engaged in Mineral Exploration, Development and Production*

# Additional Guidelines

- CIM Exploration Best Practice Guidelines
- CIM Definition Standards on Mineral Resources and Reserves
- CIM Guidelines for the Reporting of Diamond Exploration Results
- GSC Paper 88-21 Coal Resource/Reserve Reporting

# Why Do We Need All These Rules?

- Mining and Mineral Exploration requires access to large amounts of risk capital
- Investor confidence is critical to investment
- The industry has a history of attracting unscrupulous players and mining promotions
- Bre-X

# Not Just Bre-X

## Examples of other mining scandals

- Naxos (May 1996) – proprietary assaying
- Cartaway (May 1996) – visual estimates
- Timbuktu (June 1996) – salting
- Delgratia (March 1997) – salting/proprietary assaying
- Golden Rule/Hixon Gold (May 1997) – salting
- Southwestern? (July 2007) – assay data tampering?

# Regulator's Dilemma

- How to get tough on the bad actors without ruining the party for the majority
  - Rules alone will not prevent another Bre-X
  - Booming mining markets attract people who don't always play by the rules
  - Industry vigilance and due diligence are even more important now

# Education vs Enforcement

- When education and facilitation alone don't work, we are forced to consider other measures
- BCSC currently shifting focus from education to accountability
  - Increase use of CTO's for not filing technical reports or for filing materially deficient reports
  - Increase focus on problem OTCBB and Pink Sheet companies and promoters
  - Refer professionals who facilitate bad disclosure to their professional associations
  - Reject poor quality prospectus filings without review
  - Target repeat offenders for enforcement action

# Basics of National Instrument 43-101 (NI 43-101)



# NI 43-101: Standards of Disclosure for Mineral Projects

- **Implemented:**
  - Feb 1, 2001, amended Dec 30, 2005
- **Purpose:**
  - Enhance the accuracy and integrity of disclosure in the mining sector
- **Result:**
  - Provides a level of investor protection by ensuring the right information is coming from the right individuals

# Components of NI 43-101

- **National Instrument 43-101**
  - Mineral project disclosure and filing rules that must be followed
- **Companion Policy 43-101CP**
  - Our views on how certain provisions of NI 43-101 are to be interpreted and applied
- **Form 43-101F1**
  - Specific requirements for the preparation and content of a technical report that must be filed with securities regulators

**All professionals in exploration and mining need to know the requirements of NI 43-101**



# Application of NI 43-101

- **Applies to disclosure by all Canadian issuers**
  - Not limited to reporting issuers
  - Not limited to material properties
  - Not just what gets filed with securities commissions or stock exchange
- **Oral statement and written disclosure**
  - Conference calls, speeches, company websites, Not just for material properties or material information
  - Any disclosure intended to be, or reasonably likely to be made available to the Canadian public

# Basic Principles of NI 43-101

- Standard terminology
- Involvement of **qualified person** in public disclosure
- Establishes disclosure standards
- Technical report supporting disclosure
- Industry best practice guidelines
- Facilitates disclosure rather than suppressing it

# Desired Outcome of NI 43-101

- Investors have sufficient information to make an informed investment decision
- Information that is not misleading
- Promotes balanced disclosure with context
- Understand the significance of the results
- Able to compare similar projects
- Understand risks and limitations of data
- Confidence in the those that prepared the technical information for disclosure

# Standardized Terms and Definitions

- CIM resource and reserve categories
- Preliminary assessment
- Pre-feasibility and feasibility study
- Historical estimate
- Technical report
- Producing issuer
- Development property

In some cases, prohibits the use of terms unless it meets the definition

# Technical Reports

- Provides a current summary of scientific and technical information on a mineral property
- Supports company's disclosure and assists public in making investment decisions
- Must follow Form 43-101F1 which provides for a standardized report
- Triggered by specific disclosure or offering document on a material property
- Certain technical reports require independent QP

# Materiality

- Fundamental to application of NI 43-101
  - Trigger for technical reports
  - Many requirements apply only to a company's material mineral properties
- Material property
  - Determined in the context of a company's overall business
  - At least one property will be material
- Material information (material change)
  - Information which would reasonably be expected to effect company's share price

# Material Properties

- Which mineral properties are material?
  - Determined by management of the company
  - No bright-line test (10% book value test removed)
  - In relation to other properties
  - Stage of development of the project
  - What the company is telling investors
  - Current and proposed work programs
  - Related financings
- s.2.4 of the Companion Policy



# Securities Regulators View of Materiality

- How a company presents information to investors will influence the regulator:
- Expect securities regulators to question claims that the property is not material if:
  - investors told mineral property is significant to the business plans of the company
  - management are “extremely excited” about the exploration results
  - use of proceeds in a financing are allocated to the property

# Requirements for All Disclosure

- Required whether property material or not
- s.2.2 – Resources and Reserves
  - (a) Use only CIM categories of resources and reserves
  - (b) Report each category separately
  - (c) Don't add inferred to other categories
  - (d) If contained metal is disclosed state the grade and tonnes for each category

# Requirements for All Disclosure

- s.2.3 Prohibited Disclosure
  - (1a) Grade and tonnes of a deposit without a current CIM resource or reserve estimate
  - (1b) Economic analysis that includes inferred resources
- But – Allowance for disclosure of above with context and cautionary language:
  - (2) Exploration target
  - (3) Preliminary assessment

# Role of the Qualified Person



# The Qualified Person (QP)

- It is a regulatory concept, not a license
  - If you meet the requirements, you are a QP
- Must be an individual, not a firm or company
- QP defined as:
  - Engineer or geoscientist with minimum 5 years industry experience
  - Member in good standing of recognized “professional association”
  - Relevant experience in the subject matter

Just because you are a P.Geo. or P.Eng. does not mean you are automatically a QP



# Professional Association

- Recognized by statute in Canada or
- Recognized foreign association and designation listed in Appendix A of NI 43-101
- Requirements:
  - Admit members primarily based on academic qualifications and experience
  - Require compliance with professional standards of competence and ethics
  - Disciplinary powers to suspend or expel members

Professional Associations are very important in the regulation of QPs



# The Role of the Qualified Person

## Section 2.1 of Instrument

- All disclosure of scientific or technical information must be based upon information prepared by or under the supervision of a qualified person.

## Section 2.1 of Companion Policy

- The qualified person is responsible for preparing the technical report and providing scientific and technical advice.
- Issuers are strongly urged to have the qualified person review disclosure that summarizes or restates the technical report or the technical advice or opinion to ensure that the disclosure is accurate.

# The Role of the Qualified Person

## Section 3.1 of Instrument

Company must disclose name and relationship of the qualified person in all written disclosure of a scientific or technical nature.

## Section 3.2 of Instrument

The issuer must state whether a qualified person has verified the data or opinions being disclosed and explain any failure to verify the data.

# The Role of the Qualified Person

## **Section 5.1 of Instrument**

A technical report must be prepared by or under the supervision of one or more qualified persons.

## **Section 5.2 of Instrument**

A technical report must be signed, (sealed), and dated by each responsible qualified person.

## **Section 6.2 of Instrument**

Qualified Person preparing technical report must perform a personal inspection of the property.

# The Role of the Qualified Person

## Section 6.4 of Instrument

The QP must not disclaim responsibility for, or reliance on, that portion of the report the qualified person prepared or supervised.

## Section 8.1 of Instrument

Qualified Person must sign a Certificate that is filed with the technical report.

## Section 8.3 of Instrument

Qualified Person must consent to the filing and use the technical report and certify that technical disclosure fairly and accurately represents the information in the technical report



# Other Responsibilities of QP

- Comply with professional practice and industry standards
  - eg. CIM Best Practices Guidelines
- Comply with professional code of ethics (APEGBC)
  - Uphold truth, honesty and trustworthiness
  - Protect public interest
  - Advise client of possible consequences
  - Report unethical or illegal professional practises
  - Make sure qualified to do professional assignments
  - Ensure opinions based on adequate knowledge and honest conviction

# Disclosure Responsibilities of Company

## Section 2.1 of Companion Policy

- Disclosure is the responsibility of the company and its officers and directors.
- The proper use of the technical report and information provided by the qualified person is the responsibility of the company and its officers and directors.

**QP is not responsible for misquotes unless consented in writing to the disclosure**

# Naming Qualified Person

- All written disclosure of scientific and technical information on a material mineral project
  - name and relationship to the company of qualified person that prepared information
- Written disclosure includes news releases, investor hand-outs, websites, etc
- May include third party newsletters and analysts reports if the company disseminates or refers to

# Asia Gold Corp.

## News release – Jan. 10, 2006

*“David C. Owens, president, and Richard Gosse, vice-president exploration, both qualified persons as defined by National Instrument 43-101, supervised the preparation of the technical information in this release.”*



# Naming QP – Another Example

*“The technical information contained in this document has been reviewed and approved by John Smith, P.Geo., VP Exploration for Alpha Resources, a qualified person as defined by NI 43-101.”*

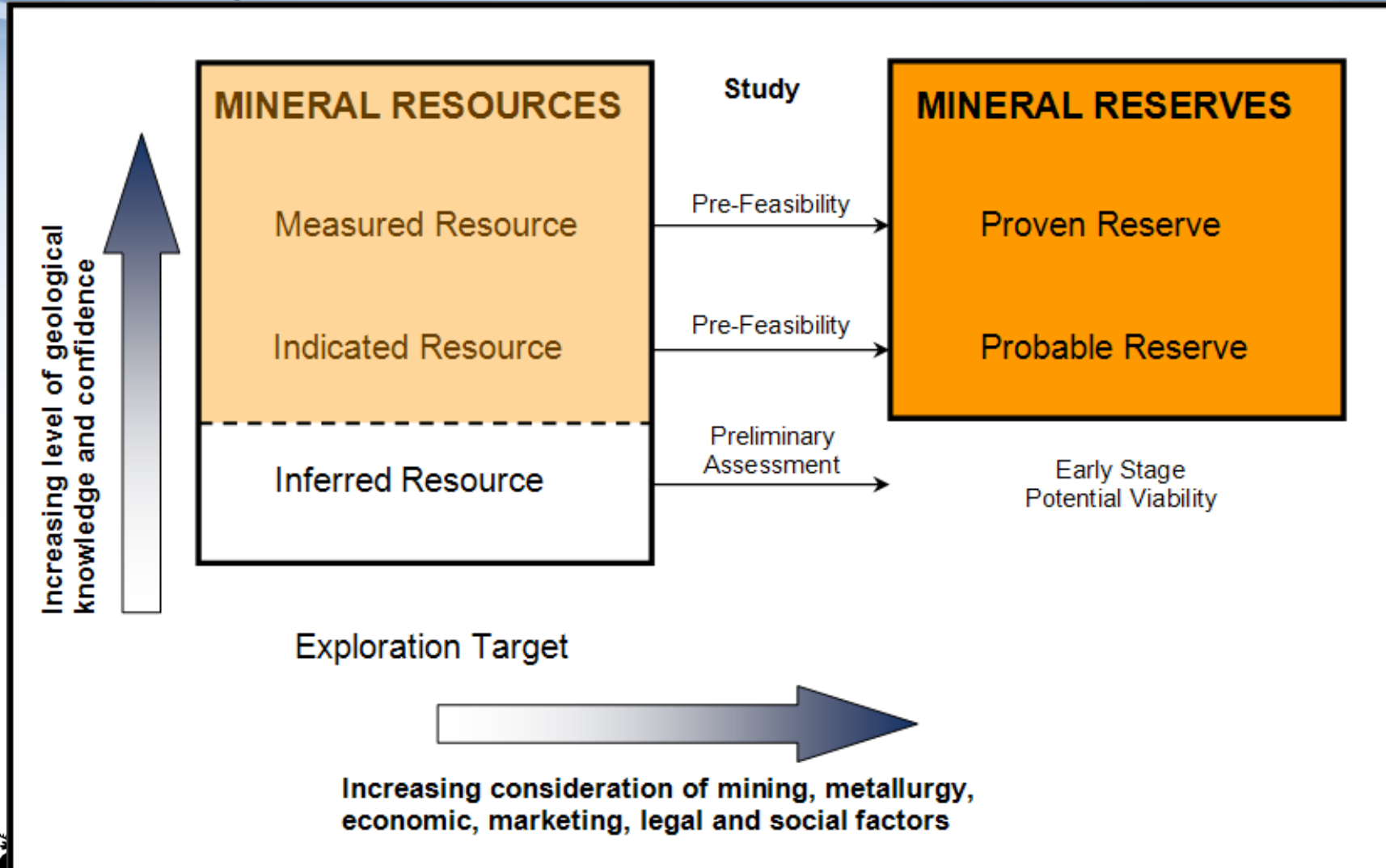
# Disclosing Mineral Resources and Mineral Reserves



# Mineral Resources and Reserves

- Mineral Resource
  - Concentration of material of economic interest in such a form, quality and quantity that it has a reasonable prospect of economic extraction
  - Classified as inferred, indicated and measured
- Mineral Reserve
  - Economically mineable part of a measured and/or indicated resource demonstrated by at least a prefeasibility study
  - Classified as probable and proven

# Relationship Between Exploration Target, Resources and Reserves



# Accepted Reporting Codes

- **CIM Definition Standards**
  - Adopted by CIM Council, Dec. 2005
- **Foreign Codes**
  - JORC (Australia)
  - SAMREC (South Africa)
  - IMM (United Kingdom)
  - SEC Industry Guide 7 (USA)
- QP must reconcile to CIM categories in the technical report
- Russian and Chinese codes not accepted

# Resource and Reserve Disclosure

- Effective date of each estimate
- Report quantity and grade of each category separately
  - Use only the five allowed CIM categories
  - OK to add measure/indicate and proven/probable
  - Always keep inferred separate
  - Contained metal only with category, tonnes & grade
  - Round-off estimates to reflect uncertainty
- Disclose key assumptions, parameters, methods
- Name QP who prepared the estimate

Discuss issues that could impact estimates



# Resource and Reserve - Example

## Golden Fire Mining Corp.

Mineral Resource Estimate - June 15, 2007

| Mineral Resource Category | Tonnes     | Grade (g/t Au) | Au (oz)   |
|---------------------------|------------|----------------|-----------|
| Measured                  | 14,510,000 | 2.82           | 1,313,400 |
| Indicated                 | 31,460,000 | 1.81           | 1,832,800 |
| Measured & Indicated      | 45,970,000 | 2.13           | 3,146,200 |
| Inferred                  | 47,474,000 | 2.02           | 3,088,100 |

Mineral resources estimated according to CIM definition standards (2005) based on 570 diamond drill holes. Gold grades determined using ordinary kriging into a 3D block model with primary dimensions of 20m along the strike and 10m vertically. A 1.0 g/t Au cut-off was used with high-grade values capped at 32g/t Au. Assumed gold price is US\$450/oz, exchange rate of 1.05 Cdn\$/US\$ and mill recovery of 94%.

The independent qualified person responsible for the mineral resource estimate is Joe Bloggs, P.Geo. of ABC Consulting reported in the June 15, 2007 technical report.

Mineral resources which are not mineral reserves do not have demonstrated economic viability. The estimate of mineral resources may be materially affected by environmental, permitting, legal, marketing, or other relevant issues.



# CIM Mineral Resources and Mineral Reserves - Best Practice Guidelines

## Economic parameters

- Cut-off grade or economic limit used to define a mineral resource must provide “reasonable prospects for economic extraction”
- Cut-off grade must realistically reflect the location, deposit scale, continuity, mining method, metallurgical processes, costs and reasonable long-term metal prices appropriate for the deposit
- Assumptions should be clearly defined

# Zero Cut-off Grade Estimates

- Reporting zero cut-off grade estimates is discouraged
  - May be misleading to public
  - Potential red-flag to regulators
- May not qualify as a mineral resource
  - Remember - requires reasonable prospect of economic extraction

# Metal Equivalents

- Use with caution - may be misleading
- Must also present individual grades
- State assumptions for metal equivalent
  - metal prices and date
  - recovery factor for each metal
  - Any other relevant conversion factors

# Metal Equivalents – Example

Inferred Mineral Resource – May 2005

| Cutoff<br>Cu <sub>Eq</sub><br>% | Tonnes     | Grade   |             |             |                       |                           | Contained Metal |              |
|---------------------------------|------------|---------|-------------|-------------|-----------------------|---------------------------|-----------------|--------------|
|                                 |            | Cu<br>% | Au<br>(g/t) | Ag<br>(g/t) | Cu <sub>Eq</sub><br>% | Au <sub>Eq</sub><br>(g/t) | Cu<br>(M lbs)   | Au<br>(M oz) |
| 0.30                            | 90,810,000 | 0.894   | 0.699       | 2.167       | 1.390                 | 2.160                     | 1790.11         | 2.041        |
| 0.50                            | 78,950,000 | 0.991   | 0.774       | 2.399       | 1.539                 | 2.391                     | 1725.18         | 1.965        |
| 0.70                            | 68,700,000 | 1.082   | 0.845       | 2.619       | 1.679                 | 2.609                     | 1639.05         | 1.866        |
| 0.90                            | 58,670,000 | 1.181   | 0.922       | 2.860       | 1.830                 | 2.844                     | 1527.83         | 1.739        |
| 1.20                            | 45,880,000 | 1.324   | 1.035       | 3.228       | 2.049                 | 3.184                     | 1339.43         | 1.527        |

- Inferred resource based on cut-off grade of 0.70% Cu<sub>Eq</sub>
- Metal prices: Cu \$US 1.00/lb, Au \$US 400/oz, Ag \$US 7.25/oz
- Assumed metal recovery: Cu 90%, Au 90%, Ag 75%

# **Disclosing Other Estimates (Historical Estimates, Exploration Targets, Preliminary Assessments)**



# Historical Resource Estimates

- What qualifies as “historical”?
  - Prepared prior to Feb.1, 2001
- Usually related to acquisition of mineral property
- S.2.4 required disclosure
  - Identify source
  - Comment on relevance and reliability
  - Compare to CIM categories
    - May not have sufficient information to allow this
    - Down-grade reserves to resources
- Must disclose more recent estimates or data

# Section 3.4 Also Applies

- Effective date of each estimate
- Quantity and grade of each category
  - Use the historical categories as given
  - Contained metal okay with tonnes and grade
- Key assumptions, parameters and methods to the extent known
- Discuss issues that could impact estimates
- If previously reserves, cautionary statement about economic viability not demonstrated

# Common Misconceptions

- Does not trigger a technical report
- As long as you say historical estimates do not comply with NI 43-101 it is permissible to disclose them
- Once you report historical estimates you can treat them as current mineral resources
- Are still reserves if have historical feasibility or pre-feasibility study

# Disclosure of Historical Estimates

- May trigger a technical report
  - S.4.2(1)(j) does not distinguish between historical and current resources
  - CP s.2.9(1) provides guidance on this issue
- May be able to avoid technical report
- Use s.4.2(2) cautionary language
  - Have not verified the historical resource estimate
  - Not treating as current mineral resource estimate
  - Should not be relied upon
- Include s.2.4 and 4.2(2) in all disclosure of estimates

Don't treat as a current estimate



# Treating as Current Resources/Reserves

- CP s.2.9(5) provides guidance on this issue
- We will conclude are treating as current if:
  - Add to current resources
  - Say are increasing or building on
  - Including in economic analysis or production decision
  - Do not report according to s.2.4
- Risk triggering independent technical report

# General Application of S.4.2(2)

- Included to avoid technical report trigger
- Consider including in all historical estimate disclosure
  - Clarifies not current
  - Discloses limitations of estimates
  - Discloses there are risks associated with unverified estimates

# Historical Estimate Disclosure Options

- Disclose as a historical estimate
- Disclose as an exploration target (s2.3(2))
- Reclassify as a current mineral resource
  - May take time to verify and reclassify
  - May trigger independent technical report
- Don't disclose at all
  - May not be realistic or supportable
  - Consider if suitable for public disclosure

# Historical Estimate - Example

*“The historical resource estimate of 10Mt at 6.8g/t Au is based on data and reports prepared by previous operators in the 1970’s and information provided by the State. The Company has not completed the work necessary to have the historical estimate verified by a QP. The Company is not treating the estimate as a current NI 43-101 defined resource and the historical estimate should not be relied upon. The property will require considerable future exploration which the Company and their consultants intend to carry out in due course.”*



# Historical Estimate – Example Reclassification

*“ABC Consulting concludes that, following this review of the historical resource estimate completed in 1979 on the Big Zone, the historical estimate can be classified as an Inferred Resource as per CIM guidelines (2005). This is based on auditing of the calculation methodology, assumptions, geological continuity, density of drilling, check assays and inter-hole continuity:*

*Inferred Resource:  
20.2Mt at 0.034% U<sub>3</sub>O<sub>8</sub>”*



# Exploration Target

- Potential mineral deposit targeted for further exploration
  - Conceptual but realistic and supported by data or geological model
- Disclosed as per s.2.3(2)
  - Expressed as range of potential tonnes and grade
  - Include proximate cautionary language:
    - Potential quantity and grade is conceptual
    - Insufficient exploration to define a resource
    - Uncertain if further exploration will result in delineation of a resource
  - Discuss the basis for target size and grade

# Exploration Target - Example

*“Previous exploration has outlined an exploration target of 550,000 to 650,000 oz Au contained within 1.2 to 1.6 Mt grading 0.4 to 0.5 oz/t Au. The potential tonnages and grades are conceptual in nature and are based on previous drill results that defined the approximate length, thickness, depth and grade of the portion of the historic resource estimate. There has been insufficient exploration to define a current resource and the Company cautions that there is a risk further exploration will not result in the delineation of a current resource.”*



# Exploration Target - Example

*“Available data, including compilation of 5000 historical holes, indicate the presence of a large tonnage, porphyry gold type deposit that offers a potential for 90 to 110 million tonnes grading between 1.00 g/t and 1.35 g/t Au, yielding a potential resource of 3.2 to 4.3 million ounces gold. The above-quoted figures are reported as an exploration target, based on reasonable assumptions made from compiled data. These figures should not be construed to reflect a calculated resource (inferred, indicated or measured) under standards of NI 43-101. The potential quantities and grades reported above are conceptual in nature and there has been insufficient work to date to define a NI 43-101 compliant resource. Furthermore, it is uncertain if additional exploration will result in discovery of an economic mineral resource on the property.”*



# Economic Analysis of an Exploration Target

## Not allowed!

- **s.2.3(1)(b)**
  - Can't disclose economic analysis of inferred resource
  - Exploration target is even more speculative
- **Companion Policy s.2.9(5)**
  - Treating target as current resource
- **s.2.3(1)(a)**
  - Can't disclose tonnes and grade of a deposit that has not been classified as a mineral resource
  - Target has not been classified as a resource

# Economic Studies

- **Preliminary Assessment (Scoping Study)**
  - Potential viability of resources at an early stage
  - Costs based on comparison to similar projects
- **Preliminary Feasibility Study**
  - Comprehensive study of the viability of a project
  - sufficient to estimate mineral reserves
  - Costs based on reasonable assumptions
- **Feasibility Study**
  - Comprehensive study of the viability of a project in sufficient detail to make final production decision
  - Costs priced in detail for all aspects

# Preliminary Assessment

- Economic analysis of mineral resources
  - Commonly referred to as a scoping study
  - Potential viability at early stage of project
  - Prior to preliminary feasibility study
- May include inferred resources – s.2.3(3)
  - If no part of mineral property advanced to pre-feasibility stage
  - If results of economic analysis are material to company
  - If include cautionary language in disclosure

# Disclosing Preliminary Assessments

## **S.3.4(e) - For all preliminary assessments**

- Mineral resources that are not mineral reserves do not have demonstrated economic viability

## **S.2.3(3) – If include inferred resources**

- Preliminary assessment is preliminary in nature
- Includes inferred resources that are considered too speculative geologically to have economic considerations applied to them that enable them to be categorized as mineral reserves
- No certainty preliminary assessment will be realized

# Preliminary Assessment - Example

*“Preliminary Assessment is based on resources calculated in March 2006 using a 0.5g/t cut off that consist of 36.8Mt grading 1.6g/t Au (1.9Mozs) indicated and 27.7Mt grading 1.7g/t Au (1.5Mozs) of inferred resources. Mineral resources that are not mineral reserves do not have demonstrated economic viability. The Preliminary Assessment includes inferred mineral resources which are considered too speculative geologically to have the economic considerations applied to them that would enable them to be categorized as Mineral Reserves. Furthermore, there is no certainty that the results projected in the Preliminary Assessment will be realized and actual results may vary substantially.”*



# Technical Report Triggers



# Technical Report Triggers – NI 43-101

## Section 4.1(1) of NI 43-101

- First time reporting in Canada

## Section 4.2(1) of NI 43-101

- Annual Information Form (AIF)
- First time disclosure of mineral resources, mineral reserves, or preliminary assessment
- Material change to mineral resources, mineral reserves, or preliminary assessment
- Preliminary long form prospectus
- Preliminary short form prospectus

# Technical Report Triggers – NI 43-101

## Section 4.2(1) of NI 43-101

- Offering memorandum
- Rights offering
- TSX Venture (Short Form) offering
- Information or proxy circular concerning mineral property acquisition (shares offered)
- Take-over bid that discloses mineral resources/reserves or preliminary assessment (where shares offered)
- Valuation required under Canadian securities law (almost never required)



# Timing for Technical Reports

- Must be filed with the disclosure document it supports with some exceptions
- Disclosure of resources, reserves, and preliminary assessments
  - 45 days from date of disclosure
- AIF disclosure for a property that became material less than 30 days before AIF filing
  - 45 days from date became material
- Director's circular
  - Not less than 3 business days before take-over bid expires

# Independent Technical Report Triggers

## Section 5.3(1) of NI 43-101

- First-time reporting issuer in Canada
- Preliminary long form prospectus
- Valuation – (required by the securities commission)
- First time disclosure of mineral resources, mineral reserves, or preliminary assessment
- Greater than 100% change to mineral resources or mineral reserves
  - Exemption from independent report requirement for producing mining companies (for last two bullets only)

# New Technical Reports Not Required

## **Section 4.2(1) (b) and (f) of NI 43-101**

- No technical report is required to support for a preliminary short form prospectus or AIF if:
  - Previously filed a technical report that is still current

## **Section 4.2(2) of NI 43-101**

- Historical estimate (subject to conditions)

## **Section 4.2(8) of NI 43-101**

- No new technical report is required for s.4.2(1) if:
  - Previously filed a technical report that is still current
  - Files updated certificates and consents of QP for the new trigger document

# Is the Technical Report Still Current?

- No new material technical information
  - drilling, assays, metallurgical test work
- No material change of assumptions
  - mineral resources/reserves, economic analysis
- Recommendations
  - Still valid and consistent with what company is telling investors
  - Consistent with and support use of proceeds in offering document

# Updating a Technical Report

- Addendums not allowed (s.4.1 of CP)
  - Must file a complete technical report
  - Exception for updates to prospectus (s.4.2(3) of NI 43-101)
- Can't refer to or rely on previous technical report for most information
  - Exception for Items 6 to 11 of the Form
- File new certificates and consents of QP to support new trigger document

# Can You Use Another Company's Technical Report?

- A company cannot rely on or file another company's technical report on same property
- Each company must have own, complete public disclosure record
- S.8.2 of NI 43-101: “Addressed to Issuer”
  - Company's name on title page
  - Specify Company in Item 4(a) Introduction
  - QP's certificate and consent must name Company
- Each company must have the consent of the QP to use and file technical report

# Certificates and Consents of Qualified Persons



# Certificate of Qualified Person

## Purpose:

- Establishes the authors as qualified persons
- Sets out the QP's responsibility for the technical report
- Establishes whether the QP is independent
- Confirms the site visit
- Certifies the technical report is current
- Certifies the technical report is prepared according to NI 43-101

# Certificates – What is New?

## S.8.1(2) of NI 43-101

- Requirements changed Dec. 30, 2005
  - Title and date of technical report
  - Brief summary of relevant experience
  - Whether independent as described in s.1.4 (not s.1.5)
  - *That, as of the date of the certificate, to the best of my knowledge, information and belief, the technical report contains all scientific and technical information that is required to be disclosed to make the technical report not misleading.*
- Do not include blanket consent in the certificate

# Consents of Qualified Persons

## Purpose:

- Gives company permission to:
  - file technical report for securities purposes
  - use excerpts or a summary of the technical report in its disclosure
- Confirms that the QP has read the disclosure document the technical report supports
- Certifies that the company's disclosure fairly and accurately represents the information in the technical report

# Consents of Qualified Persons

## S.8.3 of NI 43-101

- Requirements of consent of qualified person
  - Signed and dated by each qualified person responsible for preparing or supervising preparation of the technical report
  - Addressed to the securities regulatory authority (usually the securities commissions)
  - Filed by the company – not the QP or consulting firm
  - Filed with the technical report
  - Must include the statements required by subsections (a) and (b)



# Disclaimers in Consents of QPs

*“This letter is solely for the information of the addressees and is not to be referred to, in whole or in part, in the Prospectus or any other similar document and is not to be relied upon for any other purpose.”*

- Recent trend of disclaimers in consents
- Disclaimers in consents are not acceptable
  - Must file Consents on SEDAR
  - Disclaimer is contrary to purpose of consent
  - Public must be able to rely on consent

# Example of a Consent of QP

*I, Joe Bloggs, P. Geo., do hereby consent to the public filing of the January 15, 2008 technical report titled “Technical Report of on the Bear Track Gold Property” (the Technical Report) and to extracts from, or a summary of, the Technical Report in ABC Mining Inc.’s January 20, 2008 annual information form (AIF).*

*I confirm that I have read the written disclosure in ABC Mining Inc.’s January 20, 2008 AIF being filed and that it fairly and accurately represents the information in the Technical Report.*



# Making sense of consents

- Consents of Qualified Persons
  - Required under NI 43-101
  - Filed with technical report  
(filed with the preliminary prospectus)
- Consents of Experts
  - Required for long form prospectus under NI 41-101
  - Required for short form prospectus under NI 44-101
  - Filed with the final prospectus

# Triggers for filing written consent of QP

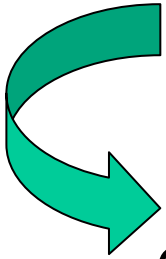
Long Form Prospectus

Preliminary Prospectus



NI 43-101 Technical Report  
Consent of QPs

Final Prospectus



Consent of Experts



Ontario

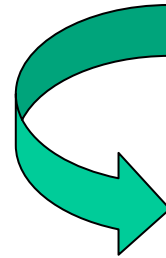
Short Form Prospectus

Preliminary Prospectus



NI 43-101 Technical Report  
Consent of QPs

Final Prospectus



Consent of Experts



# Technical Report Form 43-101F1



# Technical Report

## What it is:

- Summary of the material scientific and technical information about a mineral property
- Prepared according to a prescribed form
- Document filed to meet securities requirements
- Supports mining company's disclosure

## What it is not:

- Complete record of everything on the mineral project
- Just any report prepared by a QP

# Technical Report

## Purpose of technical reports

- Permits public and analysts to have information that will assist with making investment decisions
- Supports Company's disclosure of mineral exploration, development and production activities
- Summarizes the material technical information to support the conclusions and recommendations

As much as possible – should be written in plain language understandable by the public

# Possible Uses of Technical Report

- Regulatory filing requirement
- Reference document for making disclosure about mineral project
- Supports due diligence by investment banks
- Marketing document
- Provides defense for civil liability for officers, directors, underwriters

# Form 43-101F1

## What You Should Know

- Use specific headings set out in the Form
  - Subheadings okay if needed
  - Stick to the order as much as possible
  - Include information where most appropriate
- Provide all information required by the Form
- Required figures must be legible at page size
- Can refer to previous report for certain items
  - Items 6 through 11 of the Form
  - If previous report filed by company

# Reliance on Other Experts

## Purpose:

- QP has relied on a report, opinion, or statement of an expert, who is NOT a QP
  - legal, environmental, political, or other issue
- NOT to be used to limit or disclaim responsibility for current or historical technical information

## Requirements:

- Identify report, author, extent of reliance

## Good Practice:

- Identify where non-QP's opinion is used

# Use of Historical Data

- May not blindly rely on historical data and the work of other QPs
- Should conduct appropriate due diligence
  - Make a reasonable effort to verify quality and integrity
  - Identify and discuss any deficiencies or areas of concern
  - Recommend how to remedy these problems
- May NOT disclaim responsibility for technical information

# Data Verification

- Very important but frequently missing or poorly done
- State how data was verified
  - Not simply checking for data entry issues
- State reasons for failure to verify
  - Lack of documentation of procedures
  - Lack of archiving of original data
  - Not within scope of study or time constraints are not acceptable reasons
- Recommendations should be consistent with data integrity

# Importance of Personal Inspection

- **Purpose**

- Due diligence
- Data verification
- Evidence of previous work done
- Familiarize with property
- Access
- Practicality of recommended work

# Common Deficiencies

- Non-compliant disclaimers or statements of reliance
- Certificates and consents of QP missing or non-compliant
- Does not use required headings and does not provide the basic information
- Maps and figures missing or illegible
- No budget or cost breakdown for the work program
  - Does not support use of proceeds
- Non-independent QP when independence required
- Lack of proximate cautionary language

# Common Deficiencies

- Not current or is missing material information
- Not signed or dated
- Excessive report file size due to
  - Extensive appendices, photos, overly detailed analysis in report
- Non-compliant disclosure of resources/reserves
- Item 25 missing or incomplete for development /producing properties
- Site visit not done or not current

# Common Misconceptions

1. All authors of technical report must be independent
2. All technical reports filed on SEDAR have been reviewed and accepted by the securities commissions
3. Okay to disclaim responsibility for sections of report if state are relying on another report
4. Okay to omit sections of technical report if adequately covered in previously filed technical report
5. All technical documents and studies must be filed on SEDAR

# How Big is Too Big?

- Too big if can't be easily downloaded
- Try to keep under 10 MB
- Causes of large file sizes
  - Scanning images and maps
  - Too much high resolution and detail
  - Too many sections, logs and assay sheets
  - Too many colour graphics & photos
  - Inclusion of large appendices

# Disclosure Red Flags



# Disclosure Red Flags

- Overly promotional language
  - World class, spectacular, super deposit
- Non-compliant resource/reserve modifiers (s.2.2a)
  - Mineable, geologic, global, drill indicated, possible
- Adding inferred resources to other categories (s.2.2c)
  - Never!
- Reporting estimates as contained metal only (2.2d)
  - Category, tonnage, grade, rounded-off
- No QP named (s.3.1)
  - Required for all written disclosure

# Disclosure Red Flags

- Lack of plain language
  - Confusing to the public, may be misleading
- Lack of required cautionary language (s.2.3, 3.4, 4.2)
  - Historical estimates, inferred resources in economic analysis, etc.
- Reporting gross metal value
  - Highly misleading and meaningless value
- Imply economic viability without a supporting technical report (s.4.2 (1) (j))
  - Cash costs, production rates, mine life, NPV etc.

# Disclosure Red Flags

- Disclaimers of responsibility or liability
  - Prohibited in technical reports (6.4)
- Unrealistic assumptions
  - Metal price, cut-off grade, discount rate
- Disclosure that includes the statement “this is not NI 43-101 compliant”
  - Admitting to breaking rules

# Analyst Reports & Third Party Newsletters

May a company distribute these or post to its website?

- NP 51-201 Disclosure Standards – Part 5.2 Analyst Reports
  - Could be seen to endorse a particular report
  - Avoid redistributing or posting analysts' reports
  - If you name of one analyst- name them all
- Newsletters are often paid ads or thinly disguised promotions on behalf of Company

**Companies that disseminate analysts reports and newsletters may be held responsible for non-compliant or misleading disclosure in these documents**

# **Market Regulation Services Inc.**

**[www.rs.ca](http://www.rs.ca)**

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*[alex.homenuke@rs.ca](mailto:alex.homenuke@rs.ca)*

*604-647-7046*



# REFERENCES

- NI 43-101!!!
- TSX V – Exchange Policy 3.3 – Timely Disclosure
  - Appendix 3E – News Release Guideline
  - **Appendix 3F – Mining Standards Guidelines**
- TSX – Company Manual – Appendix B
  
- **CIM Guidelines** – especially for uranium, coal, diamonds and industrial minerals
  
- OIL & GAS – NI 51-101 (amended Dec 28, 2007)

# TIMELY DISCLOSURE GUIDING PRINCIPLES

- Must not be misleading
- Must be balanced and complete
- Must not be overly promotional
  
- Policy 3.3/5.1 – Dissemination: The objective of timely disclosure is to achieve prompt, simultaneous and thorough dissemination of Material Information so that investors are, as far as possible, placed on an equal footing.

# PRE-FILING REQUIREMENTS

- Policy 3.3/4 – pre-filing required for major transactions, RTO's, COB, etc.
  - disclosure of mineral resources/reserves
- Email TSX V – “surveillancewest@rs.ca”
- (TSX issuers fax to 416-646-7263)
- Real people – 6:00am to 1:30pm Pacific
- Wait for comments or “no objection”

# Prefiling cont'd

- What happens when a n/r is prefiled?
  - during office hours, you will get a reply, often within a few minutes
  - after office hours, we will reply first thing in the morning

# Prefiling cont'd

- RS issues comments for revision or “No objection” – We do not “approve” the news releases.
- **NOTE!** – all disclosure may be subject to further comment by the Exchange or Securities Commissions

# TRADING HALTS

- RS may impose a Halt to ensure fair dissemination of material news
- In certain circumstances, halts pending clarification of news or company contact may be imposed.
- Call 604-643-6505 to discuss halt

# DEFICIENCIES and REMEDIES

- Pre-filed – correct before dissemination
- Already disseminated – remedies will be applied considering other factors
  - market activity
  - other content in release
  - previous deficiency history

# FOR FUTURE REFERENCE

- no QP, true width comment, lab and assay method
- mixing imperial/metric units
- add inferred resources to other resources
- selective disclosure – highest value only
- minor deficiencies for resources/reserves
- overly promotional – visible gold, bonanza, world class

# MAY REQUIRE RETRACTION

- Historical resource related
  - not clear if current or historical
- Current resource/reserve related
  - non-compliant category
  - zero cut-off
  - missing cautions for PEA
- Forward-looking statements re: production
- Way too promotional

# RETRACTION REQUIRED

- Gross metal value (Appendix 3F/5.3(g))
- Non-compliant current resources/reserves
- Other company's compliant current resources/reserves
- Any disclosure deemed to be possibly misleading
- Price target for shares

# Miscellaneous comments

- Technical reports – don't send to RS
- News release size
- Assaying – metallics assays, nickel
- Adjoining property data
- Comparisons

# Thank You

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