2002 BCSECCOM 83

ORDER UNDER SECTION 119(2)(b) OF THE SECURITIES ACT, R.S.B.C. 1996, c. 418

FRANCO-NEVADA MINING CORPORATION LIMITED

Background

[para 1]
Franco-Nevada applied for an exemption from the following disclosure requirements of Form 54-901F for the information circular (the Franco Circular) delivered by Franco-Nevada to its shareholders (Franco-Nevada Shareholders) in connection with its proposed arrangement (the Arrangement) under section 192 of the *Canada Business Corporations Act* (the CBCA) with Newmont Mining Corporation:

(a) the requirement in section 9.1 of BC Instrument 41-501 – *General Prospectus Requirements* and Item 8.4 of Form 41-501F1 that the historical and *pro forma* financial statements of Newmont that have been prepared in accordance with U.S. generally accepted accounting principals (GAAP) be accompanied by a supplementary note to explain and quantify the effect of material differences between Canadian GAAP and U.S. GAAP that relate to measurements, provide a reconciliation of such financial statements to Canadian GAAP, and provide disclosure consistent with Canadian GAAP requirements to the extent not already reflected in the financial statements,

(b) the requirement in section 9.1 of BCI 41-501 and Item 8.4 of Form 41-501F1 that the historical and *pro forma* financial statements of Normandy Mining Limited that have been prepared in accordance with Australian GAAP be accompanied by a supplementary note to explain and quantify the effect of material differences between Canadian GAAP and Australian GAAP that relate to measurements, provide a reconciliation of such financial statements to Canadian GAAP, and provide disclosure consistent with Canadian GAAP requirements to the extent not already reflected in the financial statements,

(c) the requirement in section 9.4 of BCI 41-501 that the auditor's report prepared in respect of the financial statements of Newmont included in the Franco Circular disclose any material differences in the form and content of such auditor's report as compared to a Canadian auditor's report and confirm that the auditing standards applied are substantially equivalent to Canadian generally accepted accounting standards (GAAS),

(d) the requirement in section 9.4 of BCI 41-501 that the auditor's report prepared in respect of the financial statements of Normandy included in the Franco Circular disclose any material differences in the form and content of such auditor's report as compared to a Canadian auditor's report and confirm that the auditing standards applied are substantially equivalent to Canadian GAAS,

(e) the requirement of section 8.5(2) of Form 41-501Fl that the management discussion and analysis (MD&A) prepared by Newmont provide a restatement of those parts of the Newmont MD&A that would read differently if the Newmont MD&A were based on statements prepared in accordance with Canadian GAAP, and the requirement of section 8.5(4) of Form 41-501Fl that the MD&A prepared by Newmont provide a cross-reference to the notes in the financial statements that reconcile the differences between U.S. GAAP and Canadian GAAP,

(f) the requirement of section 6.3 of BCI 41-501 to provide separate annual financial statements, interim financial statements and *pro forma* financial statements in respect of the significant acquisition of Battle Mountain Gold Company by Newmont,

(g) the requirement of Item 11 of Form 54-901F that the Franco Circular include the financial statements of Exchangeco (as defined below) that would be required in a prospectus if the Franco Circular were a prospectus of Exchangeco,

(collectively (a) through (g) are referred to as the Financial Statement Requirements); and

(h) the requirements in section 2.2 of National Instrument 43-101 – *Standards of Disclosure for Mineral Projects* in connection with the disclosure of mineral resources and mineral reserves of Newmont and Normandy (the Newmont/Normandy Resource and Reserve Requirements);

Representations

[para 2]
Franco-Nevada represents that:

1. Newmont was incorporated under the laws of Delaware and is engaged in the production of and exploration for gold, and the acquisition and development of gold properties worldwide; Newmont has operations in Canada, the United States, Mexico, Peru, Bolivia, Australia and Uzbekistan; Newmont's corporate headquarters are located in Denver, Colorado;

2. Newmont is currently subject to the reporting requirements of the New York Stock Exchange (the NYSE); Newmont's fiscal year end is December 31; Newmont is also subject to the reporting requirements under the United States *Securities Exchange Act of 1934* and is required to comply with the federal securities laws of the United States;

3. as at November 14, 2001, Newmont had 196,087,962 shares of common stock (Newmont Common Shares) outstanding and 2,299,980 shares of convertible preferred stock outstanding; the shares of convertible preferred stock are convertible into Newmont Common Shares on a two for one basis and are redeemable by Newmont at any time for Newmont Common Shares;

4. the Newmont Common Shares are listed and trade on the NYSE, and are also listed on the Brussels Stock Exchange and the Swiss Stock Exchange; applications will be made as required by Newmont to the NYSE to list the Newmont Common Shares issued under the Arrangement, or issuable from time to time in exchange for Exchangeable Shares (defined below);

5. Newmont has incorporated a wholly-owned subsidiary under the laws of Nova Scotia (Exchangeco) for the purpose of implementing the Arrangement; Exchangeco's only material assets upon completion of the Arrangement will be Franco-Nevada Common Shares (defined below);

6. upon completion of the Arrangement, all of the outstanding common shares of Exchangeco will be held by Newmont and all of the outstanding exchangeable shares of Exchangeco (Exchangeable Shares) will be held by former Franco-Nevada Shareholders who elect to receive Exchangeable Shares in exchange for their Franco-Nevada Common Shares under the Arrangement;

7. Franco-Nevada was originally incorporated under the CBCA by articles of incorporation dated October 5, 1982; it amalgamated with Euro-Nevada Mining Corporation Limited effective September 20, 1999 pursuant to articles of arrangement dated September 20, 1999 to form the current Franco-Nevada;

8. the primary business of Franco-Nevada is the acquisition of

(a) direct interests in mineral properties and, when appropriate, developing these properties,

(b) royalty interests in producing metals mines and precious metals properties in the development or advanced exploration stage,

(c) direct interests in mineral properties with a view to exploring and selling, leasing or joint venturing the properties to established mine operators and retaining royalty interests, and

(d) indirect interests in mineral deposits through equity interests in companies that own interests in mineral deposits;

9. Franco-Nevada's authorized capital consists of an unlimited number of common shares (Franco-Nevada Common Shares) and an unlimited number of first preferred shares issuable in series; as at November 14, 2001, 158,920,430 Franco-Nevada Common Shares were outstanding, stock options to acquire 5,124,356 Franco-Nevada Common Shares were granted and outstanding, class A warrants (Class A Warrants) to acquire 8,985,344 Franco-Nevada Common Shares were outstanding and class B warrants (Class B Warrants) to acquire an aggregate of 6,571,953 Franco-Nevada Common Shares were outstanding;

10. Franco-Nevada Common Shares have been listed on The Toronto Stock Exchange (the TSE) for many years; the Class A Warrants are listed on the TSE and the Class B Warrants, which do not meet the public distribution requirements of the TSE, are listed on the Canadian Venture Exchange; Franco-Nevada is a reporting issuer in all provinces of Canada and is not on the list of defaulting reporting issuers maintained by the Commission;

11. Normandy is a major international mining company incorporated under the laws of Australia; Normandy is a reporting issuer in Ontario and is also subject to the reporting requirements of the securities laws of the United States and Australia; the common shares and American depositary shares of Normandy are listed on the TSE;

12. Newmont proposes to acquire all of the Franco-Nevada Common Shares under the Arrangement; subject to satisfying all closing conditions and obtaining all applicable regulatory approvals, it is anticipated that the Arrangement will be completed in February 2002;

13. Newmont has also announced its intention to make an offer to acquire all of the outstanding common shares of Normandy; Newmont has offered 0.0385 of a Newmont Common Share and A$0.50 cash for each common share of Normandy tendered to its offer; the closing of the Arrangement is conditional, among other things, upon Newmont acquiring at least 50.1% of the outstanding common shares of Normandy;

14. the proposed Arrangement with Franco-Nevada and the offer to acquire all of the issued and outstanding common shares of Normandy each qualify as a "significant probable acquisition" of Newmont under section 2.2 of BCI 41-501;

15. on January 10, 2001, Newmont acquired Battle Mountain under an agreement and plan of merger dated as of June 21, 2000 among Newmont, Bounty Merger Corp. and Battle Mountain; the acquisition of Battle Mountain qualifies as a "significant acquisition" for Newmont under section 2.2 of BCI 41-501; the annual financial statements of Newmont in the Franco Circular for the years ended December 31, 2000, 1999 and 1998 have been restated to incorporate the acquisition of Battle Mountain and such restatement has been accounted for on a pooling of

interests basis; the current financial statements of Newmont in the Franco Circular account for the acquisition of Battle Mountain on the same basis;

16. under the Arrangement, Newmont and its affiliates, including Exchangeco, will become the owners of all of the outstanding Franco-Nevada Common Shares;

17. under the Arrangement, each Franco-Nevada Shareholder (other than Newmont and its affiliates and any holder who exercises the right to dissent) may elect to receive either 0.8 Exchangeable Shares or 0.8 Newmont Common Shares for each Franco-Nevada Common Share that Newmont acquires; Franco-Nevada Shareholders will receive cash in lieu of fractional shares;

18. the Exchangeable Shares will possess economic attributes equivalent in all material respects to the economic attributes of the Newmont Common Shares;

19. it is anticipated that the Exchangeable Shares will be listed on the TSE;

20. subject to adjustments, each Exchangeable Share will be exchangeable by the holder at any time for one Newmont Common Share; each Exchangeable Share will be redeemed for one Newmont Common Share on the seventh anniversary of the date on which Exchangeable Shares are first issued, or earlier in certain circumstances;

21. on December 27, 2001, an application was made to the Superior Court of Justice (Ontario) (the Court) and an interim order was obtained confirming, among other things, that two-thirds of the votes cast at a special meeting (the Franco-Nevada Meeting) by Franco-Nevada Shareholders is required to approve the Arrangement;

22. the Arrangement will require:

(a) the approval of the Franco-Nevada Shareholders at the Franco-Nevada Meeting (scheduled to be held on January 30, 2002) for the purpose of approving the Arrangement, and

(b) the final approval of the Court;

23. each Franco-Nevada Shareholder will be entitled to one vote for each Franco-Nevada Common Share held;

24. in connection with the Franco-Nevada Meeting, Franco-Nevada sent the Franco Circular to the Franco-Nevada Shareholders; the Franco Circular contains the information that would be included in a prospectus of Newmont (and Exchangeco), together with a detailed description of the Arrangement and the securities to be issued thereunder;

25. the Franco Circular contains the following financial statements:

(a) with respect to Newmont:

(i) audited statements of consolidated operations and comprehensive income (loss), consolidated changes in stockholders' equity and consolidated cash flows for the years ended December 31, 2000, 1999 and 1998,

(ii) audited consolidated balance sheets as at December 31, 2000 and 1999,

(iii) unaudited interim statements of consolidated operations and comprehensive income (loss), consolidated changes in stockholders' equity and consolidated cash flows for the nine months ended September 30, 2001 and for the comparable period ended September 30, 2000, and

(iv) unaudited consolidated balance sheet as at September 30, 2001;

(b) with respect to Franco-Nevada:

(i) audited consolidated statements of earnings, retained earnings and cash flows for the years ended March 31, 2001, 2000 and 1999,

(ii) audited consolidated balance sheets as at March 31, 2001 and 2000,

(iii) unaudited interim statements of earnings, retained earnings and cash flows for the six months ended September 30, 2001 and for the comparable period ended September 30, 2000, and

(iv) unaudited consolidated balance sheet as at September 30, 2001;

(c) with respect to Normandy:

(i) audited statements of financial performance and cash flows for the years ended June 30, 2001 and 2000,

(ii) audited statements of financial position as at June 30, 2001 and 2000,

(iii) unaudited simplified financial results and cash flows for the three months ended September 30, 2001, and

(iv) unaudited simplified statement of financial position as at September 30, 2001;

(d) on a pro forma basis:

(i) unaudited *pro forma* balance sheet as at September 30, 2001 to give effect to the acquisition of Normandy and Franco-Nevada, and

(ii) unaudited *pro forma* income statements to give effect to the acquisition of Normandy and Franco-Nevada for the periods ended December 31, 2000 and September 30, 2001 as if they had taken place at the beginning of the most recently completed financial year of Newmont, January 1, 2000;

26. the *pro forma* financial statements have been prepared on two bases: the acquisition of 50.1% of Normandy and the acquisition of 100% of Normandy; the *pro forma* financial statements also present, in separate columns, the conversion of the financial information for each of Normandy and Franco-Nevada to U.S. dollars and U.S. GAAP;

27. apart from the relief requested herein, the Franco Circular will contain information with respect to the mineral resources and mineral reserves of Newmont and Normandy that would be included in a prospectus of Newmont;

Order

[para 3]
Because it is not prejudicial to the public interest, the Executive Director orders under section 119(2)(b) of the Act that Franco-Nevada is exempt from the Financial Statement Requirements

and the Newmont/Normandy Resource and Reserve Requirements in connection with the Franco Circular, provided that:

(a) the Franco Circular contains the financial statements referred to in representation 26 above, and

(b) disclosure in the Franco Circular of mineral resources and mineral reserves of Newmont and Normandy complies with either the requirements of applicable United States federal securities law or applicable Australian securities laws.

[para 4]
DATED January 28, 2002.

Brenda Leong
Director