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October 12, 2011

DELIVERED VIA EMAIL

Alberta Securities Commission
Suite 600, 250-5th Street SW
Calgary, AB T2P 0R4

Attn: Alex Poole, Senior Legal Counsel, Corporate Finance

Dear Sirs/Mesdames,

RE: Proposed Changes to 41-101

Enclosed please find a memo that I have prepared with respect to the proposed change involving submission to jurisdiction.

This proposal will, if enacted, have serious negative implications for the consulting geologists and engineers who prepare reports for Canadian issuers in two principle areas:

1. It will make it difficult to encourage foreign consultants to prepare reports on properties located within those countries.
2. There could very well be a backlash and the consulting industry, which is principally based in Vancouver for the exploration community, would suffer because of entries imposing rules with regard to examining properties within their jurisdictions.

I think that the proposal to require QPs to submit to jurisdiction is extremely negative, not in the best interests of either the investing public or the mining community.

Yours truly,

Fraser Milner Casgrain LLP

A handwritten signature in cursive script that reads "Brian Abraham".

Brian Abraham
Partner
BEA/lcw



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MEMO

TO File

FROM Brian Abraham

DIRECT 604 443 7134

DATE September 1, 2011

SUBJECT Proposal to make QPs submit to Jurisdiction
File No.: 396124-1200

The Canadian Securities Administrators (“CSA”) published, on July 15, 2011, proposed amendments to NI 41-101, General Prospectus Requirements and Companion Policy 41-101CP to NI 41-101 together with other miscellaneous amendments to related instruments. The 90 day comment period expires October 15, 2011.

One of the proposals is to further extend the requirement to file a non-issuer “submission to the jurisdiction, and appointment of an agent for service” form to all foreign experts including qualified persons. It should be noted that these persons are already liable under the CSA statutory liability regime for misrepresentations in the prospectus that are derived from the report, opinion or statement.

The proposed amendments to submit to the jurisdiction would also apply to all foreign directors of an issuer.

While the submission to jurisdiction by a QP may have some appeal to some parties because it would mean that a plaintiff wishing to sue a QP would not have to sue the QP in a foreign jurisdiction but could sue in Canada. This situation where a QP has been sued is rare and for that reason alone this proposal may be difficult to justify.

At present only the issuer, directors and officers who sign the prospectus on behalf of the issuer, the underwriters and some individuals named in part 5 of NI 41-101 must file a submission to jurisdiction and this proposal is a significant expansion of the current requirements.

The question is posed by CSA is whether or not it would be appropriate to extend the requirement to file a non-issuer “submission to the jurisdiction and appointment of agent for service” form to foreign experts who have consented to the disclosure in a prospectus of information.

The question has also been posed whether or not this would pose any significant practical or financial burden on these experts or issuers.

There is already existing liability under the legislative framework and to propose a consent to submission to jurisdiction provision it would appear to be unnecessary other than perhaps expediting dealing with matters where a problem has arisen.

As an example, if the QP was part of a company then the company may be required to register in British Columbia, conceivably on the basis that it is carrying on business in British Columbia even though the only connection to British Columbia would be the report. If there is a requirement to register in British Columbia, particularly in the case of a consulting company, it would then be obligated to file annual reports, potentially file tax returns and comply with other reporting requirements under the various *Business Corporations Acts* applicable, potentially in case of most issuers, other jurisdictions in Canada as well as British Columbia. It is not clear whether a QP would submit to one jurisdiction or all 13 in Canada and if more than one jurisdiction, the compliance costs could be excessive to say the least.

There is also the risk that if a QP is submitted to the jurisdiction that they would then become obligated to register under the *Professional Engineers and Geoscientists Act* of British Columbia or similar statutes in other jurisdictions and this would impose additional regulatory requirements on foreign QPs. This appears to be an extension of extra-territorial jurisdiction and this would likely not be well received by foreign QPs.

There are already problems that have arisen in that some well-respected consulting firms will simply not prepare reports under NI 43-101 because of the liability concerns and to impose these conditions on foreign QPs who would otherwise be considered competent to prepare reports, particularly on foreign properties, would be counterproductive. This may well lead to situations where foreign professional associations which tend to be governed by statute rather than being purely self-regulatory in nature, would impose conditions on Canadian geologists and engineers operating in their countries and that would be extremely detrimental to not just the Canadian mining industry but to all Canadian consultants operating in foreign countries.

The proposal of this nature would likely close the door to many foreign competent and respected QPs and open the door to other QPs who may not share those same values and this could lead to the reduction in the effectiveness and efficiency of the original intentions of NI 43-101.

There appears to be nothing to be gained from a practical perspective to such a proposal and much to be lost. It is already difficult enough to obtain the services of QPs to prepare reports and a proposal such as this would only exacerbate the situation with the net result that there would be fewer QPs prepared to get involved in the preparation of the technical reports and it is difficult to see what would be gained by such a proposal.

BEA:ds