

Lessons learned about standards from applying both VALMIN and USPAP on a complex appraisal project

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Abstract

The author attempted to concurrently apply the US Uniform Standards of Professional Appraisal Practice (USPAP) and the Australian VALMIN Code to a complex mineral property appraisal assignment and previously to some modest assignments. This led the author into many severe difficulties. These difficulties included the high standards needed in the work of others and information and statements required from the client under the VALMIN Code. The exercises highlighted many positive features of both sets of standards. However, the author concluded that, without modification, VALMIN is incompatible with USPAP and the US regulatory environment. He found that VALMIN violates US legal decisions regarding real property appraisal, due to its requirement to include many items of business value. The US Securities and Exchange Commission's prohibition on reporting quantitative resource estimates proved to be a severe problem under VALMIN. Some VALMIN requirements could not be met due to the extent and quality of documents specified. Implications and thoughts regarding the development of a set of US minerals appraisal standards are discussed. Management considerations for complex mineral-property appraisal assignments are also presented.

Introduction

In recent years, the author has taken a strong interest in the development, application and implications of the major US and international appraisal standards. These can have direct implications on the work of US-based minerals appraisers, although many choose not to abide by such standards. In recent years the author has written a number of papers about the standards (Ellis, 1995, 1999, 2000b, 2000c; Ellis, et al., 1999; Ellis and Abbott, 2000). In early 1999, the author began assisting the American Institute of Minerals Appraisers (AIMA) in drafting a set of guidelines specifically designed for minerals appraisals. In this effort, the author has been affiliating with the Special Committee on Valuation of Mineral Properties, of the Canadian Institute of Mining, Metallurgy and Petroleum (CIM), which is concurrently developing a similar set of standards, and Michael Lawrence, 1999 president of The Australasian Institute of Mining and Metallurgy (AusIMM) who spearheaded the development of the AusIMM's first edition of the VALMIN Code released in 1995 and the latest 1998 edition (AusIMM, 1998). This deepened the author's interest in learning the complexities and limitations of the various appraisal standards in their application to the appraisal of US mineral properties as *real property*. Mineral properties are real property under US law.

In the paper, "The Difference Between a Value Estimate and an Appraisal," the author compared the requirements specified in what the author considered to be the three leading appraisal standards

internationally (Ellis, 2000b). The first, the *Uniform Standards of Professional Appraisal Practice* (USPAP), is published by the Appraisal Standards Board (2000). Under authorization by the US Congress, it contains the basic appraisal standards required for transactions involving federal agencies such as the US Forest Service and federally licensed institutions such as banks. State licensed appraisers and appraisers who are members of the major US appraisal societies are required to abide by USPAP for all appraisals. The standards have been revised annually since 1989, and a year 2001 revision is in progress. For many mineral property appraisals, it is a requirement of state or federal regulations to abide by USPAP's real property standards, Standards 1 and 2 (Ellis, et al, 1999; Ellis, 2000b).

The International Valuation Standards Committee (IVSC) has nongovernmental organization membership status in the United Nations. It is also represented on the steering committee of the International Accounting Standards Association, where it is assisting with the development of an international accounting standard for the *fair value* of assets. The IVSC's *International Valuation Standards 2000* (IVS) contains standards covering the appraisal of real property, personal property, businesses and financial interests (2000).¹ For real property, its appraisal philosophy and requirements are similar to those of USPAP, although slightly less stringent and differently organized (Ellis, 2000b).

The VALMIN Code of the Australasian Institute of Mining and Metallurgy (AusIMM) contains standards for valuation of mineral and petroleum properties and securities (1998). It was first published in 1995, then revised in 1998. It is oriented to valuation reports for use in company reporting to the Australian stock exchanges and for related use under Australian Corporations Law, for which it is mandatory. The VALMIN Code has such wide acceptance by the Australian financial community that its use is essentially obligatory for many reports which do not fall under Corporations Law. Internationally, it is presently the only set of appraisal standards specifically designed for minerals appraisals. The code is receiving high respect outside of Australia. That respect has grown to the extent that appraisals outside of Australia are frequently being performed under instructions to abide by the VALMIN Code. The full title of the 23 page document is, *Code and Guidelines for Technical Assessment and/or Valuation of Mineral and Petroleum Assets and Mineral and Petroleum Securities for Independent Expert Reports*.

1. Outside the US, the term *valuation* is typically used instead of *appraisal*. Similarly, the terms *valuer* and *valuator* are typically used instead of the US term *appraiser*, which is used in this paper.

The discussion contained in this paper is not designed just for US consideration. The Mining Standards Task Force of the Toronto Stock Exchange and Ontario Securities Commission (MSTF), in its Final Report of January 1999, recommended that CIM “form an ad hoc committee of valuation practitioners to review approaches to valuation of mineral properties.” (MSTF, p. 84). The resultant committee, the CIM Special Committee on Valuation of Mineral Properties (CIMVal), is working towards submitting its final report in early 2001. The initial indication is that the recommended set of standards will have significant resemblance to VALMIN, while reflecting Canadian circumstances and realities.

USPAP and VALMIN were the two sets of standards which the author attempted to apply to the primary appraisal project discussed in this paper. Because IVS is of similar philosophy to USPAP for real property appraisal, but less stringent, application of IVS with VALMIN should be no more challenging.

The author views VALMIN as a very positive leap forward in developing a set of standards specifically designed for minerals appraisal. The problems highlighted in this paper involving its application in the US environment are presented as constructive criticism only. It is the author’s intention that these highlighted problems be used to help guide the molding of VALMIN for application in the United States as a workable set of minerals appraisal guidelines or standards. Hopefully they will also assist CIMVal in developing its recommendations. In addition, the paper illustrates many difficulties in even applying USPAP alone on a large mineral property appraisal assignment.

The case study project reviewed here was complex and contained some unique appraisal challenges. However, in the author’s experience, most minerals appraisal projects contain unique challenges. On some previous, more modest assignments, the author also attempted as closely as possible to abide by VALMIN while working under USPAP. Some situations encountered on those assignments are included here to help stimulate further discussion. Intentionally, these experiences are not necessarily broken out from those of the case study assignment. Similarly, it was necessary to leave out many facts that the author would have preferred to include for clarity and accuracy. The results of some omissions of fact are possibly misleading about the exact context of some of the events described. These choices in writing were necessary to maintain the anonymity of the case study assignment and the people involved. However, the author believes that the relevant experiences that resulted from these events have been accurately related. The only other viable choice appeared to be not to write this paper.

The assignment

The author was contracted as the lead appraiser for the appraisal of a mining property in the United States. The mining

project on the property had advanced past the feasibility study stage and was well into excavation and facility construction. The client, a company listed on a US stock exchange, was the owner-operator of the property. It owned both the surface and the mineral estate for essentially all of the property.

Due to the client’s intended use of the appraisal, it requested a thorough, very strong appraisal. In reviewing the scope of the assignment with the company’s representatives and the comprehensiveness of the desired report, it was agreed that the appraisal must meet the USPAP real property appraisal standards (Standards 1 and 2) for a Complete Appraisal. Therefore, the appraisal would not be an appraisal of the business within the property, taking into account any unique benefits or efficiencies the company could derive in the production of the product. The report should contain much more documentation than is usually contained in a *Summary Appraisal Report* format under USPAP.

The client and the author both felt that the appraisal report would gain in its credibility if it were developed in accordance with VALMIN. Assurance that all of the specific items required under VALMIN for a minerals appraisal had been addressed would help assure the completeness and comprehensiveness of the appraisal. Therefore, it was agreed that the appraisal would abide by VALMIN “if possible.”

The client hired a number of other independent appraisers and specialists to form an appraisal team. The surface estate, water rights and other real property components owned as part of the project property package were separately appraised, resulting in a number of individual, standalone appraisal reports. All appraisers were already bound to abide by USPAP as a function of their credentialing. The author teamed on the appraisal of the mineral estate and was also contracted as the lead appraiser, with the responsibility for summarizing the various appraisals into one document and development of the appraised value for the overall property.

USPAP difficulties encountered

Many problems were encountered in getting the various appraisals to meet USPAP standards. Most were due to appraisers neglecting USPAP requirements. Problems were also encountered in getting the appraisals onto a consistent basis so that they could be used together in estimating the value of the overall property. The following discussion provides recommendations to alleviate these problems.

From the appraisal reports received, it was conspicuous that only the real estate appraiser who was appraising the surface had worked with USPAP on a day-to-day basis. The appraisals, in general, would have greatly benefited from running a simple,

continual check against USPAP requirements on an item by item basis.

Basic items required under USPAP for a Complete Appraisal were often lacking in the reports. These included:

the *effective date of the appraisal* as compared to the date of the report;

the *intended use* of the appraisal;

a description of the *scope of work* performed in research and analysis; and

a statement of the type of appraisal performed, such as a *Complete Appraisal reported in a Summary Appraisal Report format*.

Checking a report against USPAP Standards 1 and 2, to assure that all required items are addressed, seems like a very simple task. The items are listed sequentially in the Standards in a clear, concise form. However, some appraisers write their reports in such a narrative style that they do not include headings nor bolding for such items, and they do not follow the order of items as they are listed in USPAP. This makes it difficult for the writer, and very difficult for the reviewer, to check for abidance with all requirements of USPAP. It also makes it difficult to claim clear and accurate disclosure.

From this experience, the author recommended that in performing a USPAP appraisal, the appraiser should document his or her work item by item as laid out in Standard 1. In writing a narrative appraisal report, it is helpful if the appraiser develops headings from a comprehensive table of contents listing the items addressed from Standards 1 and 2. The appraiser should also review some example complete summary and/or complete self-contained appraisal reports, such as those produced by real estate appraisers for commercial buildings and farms. These will typically have a narrative report layout along similar lines to that appropriate for a minerals appraisal. Such reports are available from major appraisal institutes (e.g., ASFMRA, 1995). Consideration should also be given to taking a 15-hour USPAP course. These are regularly offered by universities and major appraisal societies.

Generally, the USPAP-based appraisals that the author has received relating to minerals and petroleum, as in this case, do not specify which USPAP standards were being used. Given the items lacking and narrative form used without many headings, it is very difficult to know which standards the appraiser had in mind. In addition to the real property appraisal Standards 1 and 2, USPAP includes personal property appraisal Standards 7 and 8, and business appraisal Standards 9 and 10. In the author's experience, some minerals appraisers have made the mistake of considering the

interest in the minerals to be personal property rather than real property. Minerals, and direct ownership interests in minerals, including oil, gas and water, will generally be real property until the severed minerals are transported off the subject property.

Highest and best use analysis, or "adequate" highest and best use analysis, is typically lacking, at least by this author's standards. The market value of a property is determined on its highest and best use. In this case study situation, it may appear at first to the reader, that there are no alternative uses to consider. However, with fast changing markets for the components of the property and the subject commodity, there were plenty of alternatives to consider, even within the goal of ultimate mineral production. Lack of adequate highest and best use analysis is the source of the greatest number of complaints to appraisal review boards. It is critical to have determined the value of the property in its highest and best use when an appraisal is to be used in a litigation involving a government agency (Ellis, 2000b, 2000c).

To determine the overall highest and best use, the components were first valued for uses separate to mining, as if the development were to be dismantled, then within their mining uses. Alternative modes of development were also considered. The results were eye opening in highlighting areas of value. However, highest and best use proved to be a particularly difficult topic to get adequately addressed at the component appraisal level, and to analyze overall.

It proved difficult to get all appraisals consistent, from simple but critical items, such as effective date and definition of market value, to more complex issues of assumptions and disclosure. This illustrated that, for such a complex assignment, the lead appraiser should have both the responsibility and authority to determine such items. Many complex items relating to assumptions and highest and best use, particularly in areas of overlap of the components, can only be sorted out after a substantial amount of analysis has been done. Some may only be resolved after development of first drafts.

However, it is the author's experience that it is typical practice for most US appraisers, including this author's, to finalize his or her report without first submitting a draft to the client for review (Ellis, 2000a). This is generally to avoid the impression of impropriety in giving the client the opportunity to twist one's arm and convince one to "improve" the text and change the value estimate. That practice of not submitting a draft causes serious problems for everybody when the appraisal is a component appraisal of a larger assignment. Therefore, it is important that the contracts of appraisers doing component appraisals require that drafts be submitted. To avoid the impression of impropriety, the lead appraiser should manage the reviews without the client's involvement, except for checking technical details and data accuracy with the client.

Despite the author's level of education and experience in the minerals industry, the extent of technical jargon and assumed knowledge in one component appraisal caused him to be constantly reaching for reference texts and other materials. The ultimate intended users likely had little if any technical background in mining, especially in this specialty component of the minerals industry. Therefore, this appraisal failed the USPAP requirements for clarity and the need to have sufficient content for the intended users to properly understand the report. Again, the lead appraiser must be given enough responsibility and authority to get such problems worked out.

In regard to the analysis, the main problem was lack of consideration of all three approaches to value – the sales comparison approach, the cost approach, and the income approach. For a complete appraisal, all three approaches should be considered. If an approach is not used, that fact should be stated and an explanation provided. A tendency was apparent to rely on one approach and ignore the other two, even when adequate data could be obtained for at least one more approach.

The income approach receives strong preference among minerals industry professionals performing valuations. Cost-approach-based methods receive favor for property improvements and some undeveloped minerals properties. Methods based on sales analysis are generally viewed with disapproval by such minerals industry practitioners. However, in a litigation situation, it can be disastrous not to give serious consideration to sales analysis in determining market value (Ellis, 2000b).

Needless to say, as the lead appraiser, the author went on a major campaign to have at least the large majority of the above problems rectified before relying on the component appraisals. It became evident that for a complex appraisal assignment, it is essential for the lead appraiser to have the authority to deal directly with such issues, rather than working through the client. Working through the client results in long delays while various people in the company digest unfamiliar USPAP and technical issues. Maybe more importantly, it results in unnecessary embarrassment for all parties.

VALMIN difficulties encountered

The challenges involved in applying the VALMIN Code were no less difficult than those for USPAP, and in some cases proved insurmountable. In hindsight, this exercise was doomed from the start, as were my other attempts at applying VALMIN.

If an appraisal is for use outside of a company, those companies listed on stock exchanges are uneasy about providing the appraiser with information that has not already been released to the public. In addition, for companies listed on US stock markets, the US Securities and Exchange Commission (SEC) in its *Industry*

Guide 7, limits the quantitative reporting of mineralization, and the reporting of the value of mineralization, to only proven and probable reserves (SEC, 1992). This antiquated set of regulations was first instituted in March 1981 in Form S-18 with identical wording (Ellis, et al, 1999; Ellis, 2000c; Ellis and Abbott, 2000).² It states:

Estimates other than proved (measured) or probable (indicated) reserves, and any estimated values of such reserves shall not be disclosed unless such information is required to be disclosed by foreign or state law provided, however, that where such estimates previously have been provided to a person (or any of its affiliates) that is offering to acquire, merge, or consolidate with, the registrant or otherwise to acquire the registrant's securities, such estimates may be included. (SEC, 1992, para. (b)(5)3.).

The combination of these two situations has often placed the author in the position of having to perform an appraisal without the benefit of the important resource estimate and exploration data held by the mining company. This problem seems to arise most frequently when the client has an ownership interest in the mineral property but is not the operator and the report is for use by a third party. After touring the mine and plant, with stops at exploration drill rigs, the author is refused the exploration drilling results because they have not been publicly released. Signing of confidentiality agreements has allowed me to look at some (not all) of this nondisclosed data, but not to take much if any away for the analysis (Ellis, 2000d). On this subject, Code 27 of VALMIN states:

2. Although the term "antiquated set of regulations" is used here, one must recognize that there are very good reasons for this SEC restriction. As Ellis et al. (1999) state: *The SEC focuses on investor protection. This policy is intended to reduce the speculation associated with initial, in situ estimates of resources, which are invariably greater than the reserves, if any are delineated (Noble, 1993). Also there is frequent investor misunderstanding of the mining industry's distinction between "reserves" and "resources." The SEC position stems from its regular contact with what Hoover (1909) referred to as the "charlatans of mining" who misuse terms to "cover the flights of their imaginations."*

Despite this regulation, in recent years an occasional US listed company, such as Newmont, has begun publishing estimates of tonnage and grade of non-reserve mineralization, using terms such as "measured and indicated mineralization." As far as the author is aware, the SEC has not acted on this. (David Abbott, personal communication.)

An Expert must not undertake the preparation of a Report unless the Commissioning Entity ensures and represents in writing to the Expert:

(a) that, to the best of its knowledge and understanding, complete, accurate and true disclosure is made to the Expert and Specialist(s) of all Material information relevant to the Report;

(b) that the Expert and/or Specialist(s) have such access to the Commissioning Entity's personnel and records as, in the reasonable opinion of the Expert and/or Specialist(s), is necessary to enable a proper assessment or Valuation of the Mineral or Petroleum Assets or Mineral or Petroleum Securities which are the subject of the Report; (VALMIN, 1998).

In summary, VALMIN is stating that an appraiser cannot produce a VALMIN report unless the client signs a statement that it has fully disclosed all relevant material to the appraiser. Code 29 of VALMIN allows for confidential information to be divulged to the appraiser while not being disclosed in the report. Apart from the worry about the security of their data, the operators appear to be worried about the author even reporting that inferences and deductions are based on their undisclosed resource and exploration data.

It may be that in such situations, the appraiser could claim under Code 61 that regulatory relief had been granted to the client. However, Code 4 shows that this claim only gives permission for the report not to adhere to VALMIN. One could no longer assert that the report fully abided by VALMIN.

In the case study situation, the client company, being the owner-operator of the mineral property, strictly specified that the appraisal of the minerals estate must only be based on information available in the public domain and what one could glean from a site visit. It believed that the report would likely end up in a public setting. Despite making some specific, targeted requests, the client did not provide a single word, figure or cross-section of geological or mining information.

During many months, the author drafted various letters addressing the above Code 27 and this specific circumstance, for the client to sign. Apparently its legal counsel would not allow any of those letters to be signed, for which the author is sure they had good reasons. However, neither did they provide suggestions for modifications. A letter from the client stating for which subjects and aspect of the property it had not made full disclosure would have provided additional security against liability as the lead appraiser. Nevertheless, it would not have allowed the appraisers to state that they had abided fully by VALMIN. This was the first item making

it impossible for us to fully abide by VALMIN. The less palatable option of stating that we had closely abided by VALMIN remained.

A reserve estimate had been published for the portion of the property under development. However, this estimate was seriously out of date. No estimate of additional resources had been released. It became quickly obvious that additional resources would be at least double that of the reserve upon which development had been started. The history of sales for this type of mineral property showed that a substantial portion of the market value of the mineral deposit would be in its additional resource base. However, there was no valid reserve or resource estimate to use in the valuation.

In such situations when working under USPAP, the author has made rough estimates and best guesses based on my geological knowledge of the property (Ellis, 2000d). Such estimates are allowed by USPAP with appropriate disclosure of the assumptions made. However, VALMIN is a lot more rigorous. It requests that one base the valuation on an estimate of ore reserves and mineral resources produced in accordance with Australasia's Joint Ore Reserve Committee's *Australasian Code for Reporting of Mineral Resources and Ore Reserves*, known as *The JORC Code* (1999).³

Code 41 of VALMIN states:

All Material mineralisation, Mineral Resources and Ore Reserves within the boundaries of the Tenements under consideration and any likely extensions thereto which are considered by the Expert or Specialist to be Material must be reviewed and reported on, together with their attendant Material risks, in accordance with the JORC Code. If it is impractical to report in this way, the reasons for so doing must be indicated in the Report. (VALMIN, 1998).

Therefore, a judicious estimate, abiding by industry standards for professionalism, is expected. The last sentence of the paragraph may allow one to do the next best thing, if one can't abide by the JORC Code.

At this stage, in hindsight, one should have dropped the attempt to follow VALMIN. One could have developed some reserve and resource estimates based on rules of thumb, then moved on to the analysis of value. Instead, the author and the author's colleague set out on a major search through public domain information sources. Somewhat to the surprise of the author and the client, extensive

3. Australasia in an economic and political context, effectively encompasses Australia, New Zealand, Papua New Guinea and nearby islands of the South Pacific Ocean.

drilling data from the property, and other data of a geological engineering nature were located.

When combined with the author's geological mapping work, the data obtained turned out to be adequate to develop an estimate of resources throughout the property at JORC's requirement for a measured mineral resource. Compiling, mapping, graphing and geostatistically analyzing the data obviously took much more time than the project budget estimate provided.

Having this level of estimate in hand in itself created a problem. The properties sold of this mineral type suffered from a similar lack of reporting of resource estimates. Although some sales of properties containing only resource level mineralization had occurred for many millions of dollars, any published quantitative estimates were rough estimates by third parties. The author now had good geological data on the subject and poor, incompatible data on the sales. However, through an exhaustive public domain search, good drilling data for the property that had been selected as being the best sale for use in the sales comparison approach was located. Needless to say though, the budget and schedule did not anticipate that amount of research and the exercise of interpreting the geology and developing another similar reserve-resource estimate using a geostatistical approach. The author was only able to bill the client for about half the weeks of time spent on obtaining the data and developing these two estimates.

The difficulties with VALMIN continued. A number of insurmountable requirements remained.

In its Guidelines section, VALMIN provides essentially a very comprehensive check list of items which should be addressed and gives a detailed description of how they should be treated. Although the guidelines are not mandatory, they are strongly recommended, with the word "should" included throughout. The *Aide Memoire* narrative assistance document included with the VALMIN Code booklet makes it clear that compliance with the Guideline items "is not purely optional."

The author deemed that many of the business-type items requested by the VALMIN guidelines, are related to the appraisal of a going concern and are inappropriate for an appraisal of the market value of real property (Ellis, 2000b). Many items requested under the Code section also are appropriate to a business valuation, but, depending on the appraisal methods used, and the context of the items, they are often not relevant to a real property valuation. These items are included under the Code section headings, "Employee Relations," "Capital and Operating Costs," "Residual Value," "Timing of Completion and Commissioning," "Taxation and Royalties," "Liabilities and Financial Exposures," "Vendor Consideration," and "Sharemarket and Economic Conditions." US courts have determined that business value should not be included as part of the market value in a real property appraisal (Ellis,

2000b). The decision to exclude such items of business value appears to violate VALMIN.

VALMIN includes a number of guidelines for maps and illustrations. The relevant ones are Guidelines 130 to 133, as follows:

- *G130: Each map should have a bar scale and a direction arrow pointing north, designated as either magnetic, true or grid north. The map should be based on a standard series map of a suitable scale, if such a map is published. Where exploration results are presented in graphical form, the scale should be such as to allow satisfactory assessment of sampling and other exploration procedures.*
- *G131: Any map, plan or diagram should be dated, carry the name of the persons or companies originating or taking responsibility for its content and indicate the report to which it pertains. The source of data used should be disclosed.*
- *G132: Maps should be readable and prepared so that no data is lost or obscured if the document is reproduced in black and white or reduced in size for printing.*
- *G133: Graphs should have a graticule which is sufficiently detailed for readings to be taken with adequate accuracy. (VALMIN, 1998).*

Maps and graphs were obtained wherever one could find them. Many showed Township, Range and Section regional survey information. Yet, the author went ahead and put a bar scale and north arrow on them in accordance with G130. The client had provided us with a few ownership and access maps. These were labeled with the date of creation and name of creator, in accordance with G131. However, maps and diagrams obtained from the public domain relating to the geology, mining plans and other information, generally did not have everything. The same was true for all maps relating to the sales properties. This could not be rectified. Some maps and diagrams were difficult to read when first obtained, let alone after they were copied. The author did not have the budget to redraft maps and diagrams so that they abided by the readability requirements of G132.

The final insurmountable obstacle for abiding by VALMIN came from the following sentence in Code 15, requiring that the component appraisals also abide by USPAP:

If a Specialist prepares a subsidiary report for inclusion, either in whole or in part, in a Report, that

Report must comply with the VALMIN Code. (VALMIN, 1998).

As described above, the author had plenty of difficulty getting the individual component reports by the various appraisers into compliance with USPAP. This was despite the fact that all the appraisers had credentials requiring that they abide by USPAP. Other than the author, none had previously heard of VALMIN. The appraisers of the surface, the water rights, etc., were not directly under the author's control. The author was able to influence getting some maps beefed up to VALMIN requirements. To do this, items from VALMIN were used to supplement the author's explanation of what was needed to meet USPAP specifications. Generally, to meet VALMIN, the good practice and disclosure requirements are essentially the same as are required to meet USPAP for these subsidiary reports. However, getting the appraisers to include the additional requirements, such as more and better maps, a glossary and writing in plain English, was more than the author had influence to attain.

By this time, the client seemed to have lost interest in attempting to have the overall appraisal even closely abide by VALMIN. The author could not push for it without considerable assistance from the client. However, the initial purpose requiring the very strong appraisal remained, so it was decided to meet USPAP with high-quality work.

Reflections on VALMIN and implications for the development of a similar set of US standards or guidelines

There are many similarities in VALMIN and USPAP. Both have competency provisions and seek good professional practice procedures. Both require that the appraisal report provide full disclosure of all material information, and that it be clearly and accurately written at a technical level understandable by the user.

VALMIN also seeks full disclosure by the commissioning entity, which is generally the client. This disclosure must be certified in writing to the appraiser. The US SEC's antiquated *Industry Guide 7's* restriction on reporting of quantitative estimates of mineralization, limiting public disclosure to only proven and probable reserves, often prevents the client from being able to meet the full-disclosure requirement (SEC, 1992). Any similar set of minerals appraisal standards for the United States would need to have the full disclosure requirement modified in this regard. A simplified disclosure agreement relative to that required under VALMIN seems more appropriate for modest mineral property appraisal projects, particularly for clients who are not the operator of the mineral property.

The requirement that a VALMIN report generally be built on the foundation of an ore reserve and mineral resource estimate made

to international best practice standards appears to be overkill for many appraisal assignments of modest mineral property interests destined for use outside of the securities sector. In the United States, the SEC's *Industry Guide 7* often prevents the appraiser from having a complete estimate available. Resources which have not been developed into reserves can have substantial value. A minerals appraiser in the United States must be able to make educated assumptions about the quantity and quality of mineralization not reported.

Concurrent application of both USPAP and VALMIN substantially increases the amount of work which the appraiser must undertake and report, as compared to the application of only one standard. VALMIN requires more detailed reporting than USPAP about the subject property and mining operation within that property. For a Complete Appraisal, USPAP requires that the three approaches to determination of value be considered, these being the cost approach, sales comparison approach, and income approach. For those approaches determined to be appropriate, methods within them must be employed. USPAP also requires that highest and best use analysis be conducted when appropriate.

VALMIN is strongly oriented to valuations for use in company reporting to the stock exchanges and for related use under Australian Corporations Law. In this role, it provides a strong framework for appraisal of a going concern mining operation and of properties which will soon begin production. In these cases, VALMIN requests that the appraiser address many items of a business nature, which it specifies. Being only relevant to appraisal of a business, such items fall outside the scope of items for inclusion under USPAP's real property appraisal Standards 1 and 2. Such items fall under USPAP's business appraisal Standards 9 and 10. Therefore, for a real property appraisal assignment for a mining property under construction, such as in this case study, or for an operating mining property, these Code and Guideline items of VALMIN violate USPAP's Standards 1 and 2 (Ellis, 2000b).

Therefore, for a US application, VALMIN needs to be split into a business appraisal standards section, and a real property appraisal standards section. This is also true for general international application concurrent with the International Valuation Standards (Ellis, 2000b, 2001; IVSC, 2000).

For appraisal of a minerals property, VALMIN appears to be based on the assumption that the commissioning entity will generally be the operator of the property, and, therefore, the appraiser will have access to high-quality data and materials. In the history of my appraisal assignments, this has generally not been the case. Often the appraisal is for litigation against the operator, or for a partial interest holder who has received little information from the operator. Even in this case-study assignment, where the commissioning entity was both the owner and operator of the

property, the author was put in the awkward situation of floundering to obtain good data and materials.

When there are a number of appraisers developing separate component appraisals, such as in this case study assignment, it is important to assure as early as possible that all appraisers are working with the same ground rules. These include a list of items, such as the effective date of appraisal, the scope of work to be performed, definitions to be used, assumptions to be made, and the level of technical language that is to be included in the report. In such a situation, the lead appraiser should be given the responsibility and authority to monitor the implementation of those ground rules. The lead appraiser should also be given the responsibility and authority to make sure that all appraisals meet the required standards.

USPAP and VALMIN contain a lot of items that must be addressed. Appraisers who do not work under them on a regular basis could benefit from having a check list to follow. When developing a USPAP real property appraisal, this author recommends that the appraiser should document his work item by item as laid out in Standard 1. In writing a narrative appraisal report, it is helpful if the appraiser develops headings from a comprehensive table of contents listing the items addressed from Standards 1 and 2. This makes it easier for the appraiser and reviewer to check for completeness and other requirements of abidance with USPAP.

It would be difficult, if not impossible, to enforce a set of minerals appraisal standards in the United States similar to VALMIN, without the benefit of national regulatory support similar to that provided to USPAP. There is no equivalent in the United States of AusIMM as the major national mining and minerals industry organization of the country, which has a history of strongly self-regulating its membership. The SME is not a self-regulatory organization, since it does not have a code of ethics. The small American Institute of Minerals Appraisers (AIMA), a self-regulatory organization, can do little more in this regard than regulate its own members.

A US minerals institute such as AIMA, which considers developing a set of minerals appraisal standards or guidelines, will need to be very careful in selecting the level of stringency it requests. For example, in this case study situation, requesting the client to sign a VALMIN required letter regarding the level of disclosure it made, turned into a drawn out, uncomfortable exercise, which ultimately failed. Irritation from such a request may be enough to cause the client to look for an appraiser who is not going to work under those rules. The author's experience from this and other assignments indicates that the addition of VALMIN- type rules will generally substantially drive up the time and cost of conducting an appraisal relative to abiding by USPAP only. This also could cause the client to turn to another appraiser.

It is not feasible in the United States to consider the possibility of a set of VALMIN type rules as an alternative to USPAP. Many minerals appraisers, such as the author, are bound to abide by USPAP. Also, many jurisdictions require USPAP for minerals appraisals (Ellis, 2000b; Ellis and Abbott, 2000).

Although this paper has highlighted many problems with the application of VALMIN in the US environment, the author still views VALMIN as a very positive leap forward in developing a set of standards specifically designed for minerals appraisal. The author's intention in developing this paper has been constructive criticism only. The goal is that the highlighted problems be used to help guide the modification of VALMIN for application in the US as a workable set of minerals appraisal guidelines or standards.

Many of the issues addressed in this paper are not only of relevance to minerals appraisers in the US setting. They should also be considered by Canadians as they work towards developing and implementing a set of minerals valuation standards.

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