

AMERICAN INSTITUTE OF MINERALS APPRAISERS

NEWSLETTER

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Minutes of 2007 Annual Meeting

Denver, Colorado

27 February 2007

The 2007 Annual Meeting of the AIMA was held on the evening of 27 February 2007 in Denver, CO. As has become the tradition, it was again held in conjunction with the Annual Meeting of the Society for Mining, Metallurgy, and Exploration (SME), where AIMA members managed and presented papers in the Valuation session.

Thanks go to Donald Warnken for organizing and chairing the very successful Valuation Session, and for again organizing the AIMA Annual Meeting.

The meeting was held at the Denver Marriott City Center hotel. A number of guests came to the cocktail reception held in advance of the business meeting.

Donald Warnken called the business meeting to order at 6:00 PM. A total of 18 Members and Associate Members were present during the business meeting, which included a quorum of Members. Donald introduced Michael Cartwright, outgoing 2006 President, who then gave a 15 minute speech.

Michael sponsored a Best Paper prize of \$100, which he awarded to Gerald Clark (non-AIMA member) for demonstrating the importance of market information. He complemented Steven Olmore's paper for showing factors of overseas work. He also made special mention of Richard

Bates and Mitch Albert for their papers.

Michael expressed appreciation to Trevor Ellis for his standards development work with the International Valuation Standards Committee (IVSC). But, he disagreed with the principles that Trevor presented in his paper on cost approach methods for valuation of mineral properties.

Continuing his speech, Michael made a number of proposals directed at enhancing the exposure of the AIMA and increasing its membership. These are:

Expand the distribution of the AIMA Newsletter, including sending it to mining schools and institutes, and some MBA and accounting schools;

Emphasized the need to continue the AIMA's development project of a minerals and petroleum appraisal textbook. He suggested that this should be along the lines of the Appraisal Institute's book, *The Appraisal of Real Estate*;

Mentor more people and expand the use of Associate membership;

Emphasize the need to recruit younger members and female members.

Michael concluded his speech, raising the question of how to
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Minutes of 2007 Annual Meeting, *Continued* from page 1

educate students in minerals appraisal, but without attempting to provide an answer.

John Gustavson read the results of the election of Officers for 2007, with the following Officers being unanimously elected:

President – Robert B. Frahme
Vice President – Charles E. Melbye
Treasurer – William C. Bagby
Secretary – John B. Gustavson

Robert Frahme, as outgoing 2006 Treasurer, read the Treasurer's report:

Bank balance, \$10,419.91
Increase since 2006 Annual Meeting report, approximately \$734.22
Expenses since 2006 Annual Meeting report

He reported that 2007 dues payments from many members have yet to be received, with the expectation of approximately an additional \$455 in dues and fees to be received. He further reported that there are 32 Certified Members and 7 members in the Associate and Retired categories.

The Treasurer's report was approved.

A motion was made and approved that the incoming Treasurer must assure that the AIMA's Internet domain name registration is paid for in advance of expiration.

In giving the education report, Robert Frahme indicated that many Members are behind schedule for submitting their continuing education records. He said that there is a big paperwork problem coming up for tracking continuing education submissions. He proposed that a *Members Only* page needs to be developed on the AIMA website, similar to that of the Appraisal Institute's, to automatically track member submissions.

A motion was approved authorizing AIMA expenditure of up to \$1,000 to implement a Members Only page to track continuing education credits submitted by each member.

There was some debate regarding the types of courses that are being approved for continuing education credit. Courses being approved are mainly real estate appraisal courses that are not specifically residential appraisal, and mineral economics, finance, and economic geology courses.

Discussion was held regarding whether the AIMA should write a submission response to the USA's Financial Accounting Standards Board's Invitation to Comment document, *Valuation Guidance for Financial Reporting*, and whether the AIMA should recommend for or against the IVSC being the valuation standards governing body. Three Members were appointed to make a determination for the President after reviewing the documents presented by Trevor Ellis.

Trevor Ellis agreed to investigate the possibility of AIMA becoming affiliated with the IVSC if it completes its proposed 2007 restructuring plan (the restructuring plan being subject to approval by IVSC members on April 12th). Robert Frahme similarly agreed to investigate the possibility of AIMA becoming affiliated with the Appraisal Foundation and its Appraisal Standards Board.

The meeting approved a motion that AIMA should pursue having its Certified Members approved as Qualified Valuers in Canada. Charles Melbye was appointed to pursue obtaining the approval.

It was approved that the President should write a letter to relevant persons in Congress expressing opposition to cutting the USGS's mineral resources research budget in the USA.

Edwin Moritz agreed to be program chairman for the valuation session at the 2008 SME meeting, and to investigate having two sessions. Trevor Ellis recommended that AIMA also needs to investigate how to hold a meeting or valuation session in conjunction with meetings of the Society of Petroleum Engineers or Society of Petroleum Evaluation Engineers.

During the business meeting there was a one hour interval for dinner. The meeting closed at 9:30 PM.

Trevor R. Ellis

Meeting Secretary

Continuing Education

By Donald Warnken

Our Continuing Education Chairman, Robert Frahme, has indicated two problems are developing in connection with our Continuing Education requirement. One is that many Members are behind schedule for submitting continuing education records. One is a big paperwork problem developing for the tracking the submissions.

Members are encouraged to submit information concerning the courses taken for Continuing Education Credit. There continues to be the concern among the Membership as to what course or courses are acceptable. Generally, courses that can be related to the appraisal effort are acceptable. On the other hand pertaining to *Engineering or Geology* is not.

A Motion was approved at the Annual Meeting for the development of a Members Only page on our website (www.mineralsappraisers.com) to track continuing education credits. It has been suggested that the Appraisal Institute's web page be used as a model. Your Webmaster would appreciate your thoughts/input to this web page.

Technical Paper For The Extractive Industries

By Trevor Ellis

Trevor Ellis, AIMA Member, is Chairman of the Extractive Industries Task Force for the International Valuation Standards Committee (IVSC). His Task Force, which includes AIMA Member Donald Warnken, wrote the Extractive Industries Guidance Notes (GN) of valuation standards (for **our industry**), first published in the Seventh Edition 2005 of the International Valuation Standards (IVSs).

Trevor attended a Special Meeting of the IVSC in San Francisco on April 12th and the IVSC's Standards Board Meeting the following two days. The Special Meetings on restructuring the IVSC drew high level people globally from finance and valuation bodies, including a Standards Board Member of the International Accounting Standards Board (IASB), a body with strong mutual standards interests with IVSC.

One of many issues on their agenda of the IVSC's Standards Board was discussion of the draft Extractive Industries Technical Paper (TP) of best practice valuation guidelines, designed to complement the GN published in the IVSs. After Trevor gave a speech describing the purpose, need, and content of the TP, the Board approved it for public exposure subject to some IVSC "house cleaning". A team was appointed for the editing that includes Trevor Ellis (US), Danny Wiley (US), Vern Blair (Canada), Richard Chung (NZ), and IVSC's Editor Michael Milgrim. Danny Wiley, past Chairman of the USA's Appraisal Standards Board, is leading the editing process, similar to his 2004 involvement with finalization of the GN.

The mode of publication of the TP has not been determined. It seems unlikely that it will be included in the Standards Book. It is possible that it will be published as a separate booklet.

Separate from the GN and TP, the Standards Board approved an initiative to develop standards (a Guidance Note) for valuation of Water Rights for inclusion in the IVSs. Trevor Ellis was appointed to assist as an advisor on this project.

Restructuring of the International Valuation Standards Committee

In our January 2007 Newsletter, AIMA Members were appraised that the International Valuation Standards Committee (IVSC) had embarked on a proposed major restructuring process not unlike that undertaken by the International Accounting Standards Committee in the late 1990s that led to the creation of the International Accounting Standards Board (IASB). Further, AIMA Members were encouraged to respond to the proposed IVSC restructuring.

At a Special Meeting held in San Francisco on 12 April, Members voted unanimously to proceed with the restructuring. Interestingly, the IVSC reported that the

Restructuring Proposals received overwhelming support from not only IVSC Members but also from valuation and accounting firms, from academia, and from major users of international valuation services.

Key components of the restructured IVSC will be:

- A non-governmental standard setter
- An standards board that speaks to all valuation issues
- An interpretations committee
- A management board of trustees entrusted strictly with the management and financial health of the organization
- A place for all stakeholders to have a voice
- A professional board to buttress the standards
- And a structure that is similar to the IASB model where the Standards Board is the focal point or heart and soul of the organization rather than an organization of valuation organizations.

IVSC members will vote on new By-Laws and Regulations for the restructured organization at their 2007 Annual General Meeting. The reorganization is on a fast track with a goal of being operational in the second quarter of 2008.

Administrative Law, Civil Procedure, Environmental Law, Government Law, Indian Law, Property Law & Real Estate
Editor's Note: Michael Cartwright has furnished the following case laws for your information

Overton v. Todman & Co., CPAs, P.C., No. 06-2496 (2d Cir. February 26, 2007)

Dismissal of securities fraud claim is vacated as an auditor may incur primary liability under section 10(b) of the Securities Exchange Act of 1934 and Securities and Exchange Commission Rule 10b-5 when the auditor: 1) makes a statement in its certified opinion that is false or misleading when made; 2) subsequently learns or was reckless in not learning that the earlier statement was false or misleading; or 3) knows or should know that potential investors are relying on the opinion, yet fails to take reasonable steps to correct or withdraw its opinion and/or the financial statements.

[To view the full-text of cases you must [sign in to](#)

[FindLaw.com.](#)]

<http://caselaw.lp.findlaw.com/data2/circs/2nd/062496p.pdf>

Apache Bohai Corp. LDC v. Texaco China BV, No. 05-20413 (5th Cir. February 27, 2007)

In a dispute involving production sharing contracts and petroleum exploration and development at a bay in China, a judgment confirming an arbitration award in favor of Texaco China is affirmed where: 1) an arbitration clause granted the arbitrator sufficient authority to consider the validity of an exculpatory clause in the parties' agreement; and 2) the arbitrator did not ignore any plainly governing principles of applicable law in awarding consequential and cost-of-drilling damages and by failing to apply mitigation principles to reduce the award.

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**Administrative Law, Civil Procedure,
Environmental Law, Government law,
Indian Law, Property Law & Real Estate,**

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<http://caselaw.lp.findlaw.com/data2/circs/5th/0520413cv0p.pdf>

IRS issues first penalties against appraisers

The Internal Revenue Service has just assessed its first penalties ever against appraisers, according to **Brenda Woolbert**, IRS Engineering Team Manager, who spoke at the New York ASA's "Current Topics in Business Valuation" conference last Friday.

As a result of investigations prior to the enactment of the 2006 Pension Protection Act (see [BYWire #54-1](#)), two real estate appraisers have received a total of four penalties for "aiding and abetting" under IRC §6701. (The pre-PPA version required actual knowledge that their appraisals would be used in a tax return and would result in a material misstatement of value.) The financial penalty is not huge: The maximum for a corporate-related return is \$10,000 and for a personal return, \$1000. More importantly, the cases have been sent to the Office of Professional Responsibility for determination of sanctions, which could bar the appraisers from performing IRS-related services.

More bad news: Woolbert anticipates increasing appraisal investigations—and penalties, especially as the PPA relaxed the "knowledge" requirement of §6701 penalty assertions, and there is no statute of limitations. (Application of IRC §6695A penalties to transfer tax cases is still "uncertain," she says.) The good news: Woolbert, who has become an essential liaison between the BV community and the IRS, doubts that §6701 penalties will be triggered when the Service simply disagrees with a standard BV practice, such as when the appraiser tax-affects an S corporation. (All of Woolbert's statements represent her opinions and not those of the IRS.) For a recent summary by the American Bar Association on the PPA and potential IRC §6695A appraisal penalties, go to www.abanet.org.

Seagull Energy E & P, Inc. v R.R. Comm'n of Texas, No. 03-364

The statute that grants the Railroad Commission authority to regulate production of commingled oil and/or gas deposits includes the authority to regulate drilling. Further, the Railroad Commission may consider the commingled deposits as though they were one reservoir when regulating drilling and production in the commingled field, without violating vested property rights.

**AIMA'S Response to the Financial
Accounting Standards Board Request**

Editor's note: Reference our January 2007 Newsletter concerning the Financial Accounting Standards Board Invitation to Comment. Trevor Ellis, on behalf of AIMA, has responded to their invitation which is presented below.

April 15, 2007

Financial Accounting Standards Board
Norwalk, CT 06856-5116
By e-mail to director@fasb.org

**Re: Invitation to Comment: Valuation Guidance for
Financial Reporting File Reference No. 1520-100**

Dear Sir:

This submission has been written at the request of the Members of The American Institute of Minerals Appraisers (AIMA) and its President. AIMA welcomes the opportunity to respond to the Invitation to Comment (ITC): Valuation Guidance for Financial Reporting. We are providing some general comments before responding to the specific questions raised in the ITC.

General Comments

The AIMA, formed in 1991, provides Certification of its Members as Certified Minerals Appraisers for the valuation of minerals and petroleum properties. In conducting and reporting valuations, its Members are required to abide by either the USA's Uniform Standards of Professional Appraisal Practice (USPAP) or the International Valuation Standards (IVSs) of the the International Valuation Standards Committee (IVSC).

In 1999, our standards committee conducted a thorough investigation of the possibility of developing a minerals and petroleum industry valuation standard for the USA, in line with the minerals valuation standards development projects being undertaken at a time in Australia and Canada. We abandoned this project due to our Officers being opposed to the possible proliferation of national valuation standards around the world, and due to the technical difficulties of developing and maintaining comprehensive valuation standards. At the AIMA's 2004 Annual Meeting, our members formally endorsed the work of the IVSC in developing and publishing the IVSs, including valuation standards for the extractive industries of minerals and petroleum.

The pressure for global convergence of standards and regulations, particularly for financial reporting, are nowhere more evident than in the minerals and petroleum industries. Completion of the convergence of US GAAP and the International Financial Reporting Standards (IFRSs) will greatly benefit these two industry sectors. Similarly, we must
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AIMA Response to the Financial Accounting Standards Board Request,

Continued from page 4

work towards having only one set of global valuation standards. The IVSs are the only valuation standards that can fulfill this role. The IVSC, particularly after its 2007 restructuring, is the only body in the world that is suited to maintaining, improving, and supporting such standards.

Responses to Questions Posed in the ITC

Question 1 – Is there a Need for valuation Guidance Specifically for Financial Reporting?

Supplemental interpretative guidelines are needed for financial reporting, as is provided in the IVSs. Separate valuation standards are not needed. The fundamental principles and concepts of valuation standards have broad application across a multitude of purposes and uses of valuations.

Question 1 (a) – Should valuation guidance include conceptual valuation guidance, detailed implementation guidance, or a combination of both?

Valuation standards should be principles-based, similar to what the IASB and FASB are working towards for financial reporting standards. Carefully limited supplemental best practice guidelines have a role for difficult niche areas, which is why an IVSC minerals and petroleum expert task force has developed such for the minerals and petroleum industries. However, detailed implementation guidelines should remain the domain of textbooks and educators, to prevent these from constraining advancement of professional practice.

Question 1 (b) – What should be the duration of any valuation guidance setting activities?

Due to continual evolution of industries, markets, and financial instruments, standards development is a continuing process with no fixed life.

Question 2 – What level of participation should existing appraisal organizations have in establishing valuation guidance for financial reporting?

As has been done by the IVSC Extractive Industries Task Force, valuation standards should be developed by bringing together the best valuation experts available globally, independent of appraisal organizations. Politics and organization missions must be kept out of the standards development and standards maintenance process. The restructuring of the IVSC is designed to enhance its technical capabilities to develop and maintain high-quality standards.

Question 3 – What process should be used for issuing guidance for the financial reporting?

We recommend that the process of setting valuation standards and guidance for financial reporting be undertaken at the

international level to ensure consistency and reduce the need for future convergence of various national standards and professional requirements at a later date. This is the obvious appropriate role for the IVSC. Enforcement can remain at the national level.

Question 4 – Should the process of valuation guidance be on an international or national level?

For global industries such as the minerals and petroleum industries, it is absolutely essential that valuation standards be international, not national. Our experience demonstrates that it is impossible to have national standards without there being inconsistencies between nations. We strongly recommend that FASB rely on and endorse the restructured IVSC for provision of uniform global valuation standards for valuation of all property types, and particularly those of the minerals and petroleum industries.

Sincerely,

Trevor R. Ellis
AIMA Certified Minerals Appraiser
For Robert B. Frahme
AIMA President

California Aggregate Availability - 2006

(Sacramento, California) The Department of Conservation's California Geological survey has released a new report and map that discusses aggregate supply and demand. It is designed as a tool to help local governments with land-use planning, especially as in regards to future infrastructure needs.

“The intent of this map is to give decision makers a picture of where they stand with respect to a key resource,” DOC Director Bridgett Luther said. “Land use is a local decision. However, our economy and way of life depend to no small extent on our infrastructure, which relies upon aggregate and concrete. Local government should consider the issue of access to aggregate resources when planning for growth and development.”

The report – an update of a 2002 release -- compares the anticipated 50-year demand for construction grade aggregate resources to the amount of resources currently permitted for mining by local lead agencies in 31 study areas throughout the state.

The map shows four areas with less than a decade's worth of permitted resources:

.. Sacramento County (67 million tons permitted, 733 million tons of projected demand).

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California Aggregate Availability – 2006, *Continued from page 5*

.. Fresno County (71 million tons permitted, 629 million tons of projected demand).

.. North San Francisco Bay (49 million tons permitted, 647 million tons of projected demand).

.. North Tulare County (12 million tons permitted, 117 million tons of projected demand).

All told, 10 study areas have permitted resources covering less than a quarter of their projected needs.

Only six regions have permitted reserves covering 50 percent or more of their future needs. The Yuba City-Marysville region is the only area projected to meet 100 percent of its 50-year demand.

Other regions with a seemingly adequate permitted supply of aggregate in the near future include: Barstow-Victorville, Eastern Merced County, Monterey Bay and Palm Springs.

The regions with the highest projected future need for aggregate are South San Francisco Bay, San Gabriel Valley, Temescal Valley-Orange County, Western San Diego County and San Bernardino. Each of these regions is expected to utilize more than a billion tons of aggregate by 2056.

“Aggregate is a critical component of many types of construction projects,” State Geologist John Parrish said. “While there's a significant amount of the resource in the ground in most areas, local jurisdictions have not permitted miners to extract it, for various reasons. Ultimately, aggregate shortages can lead to higher construction costs.”

Construction-grade aggregate, as defined in the report, is sand and gravel or crushed stone that meets specifications for use in “portland cement concrete aggregate” or “asphaltic aggregate.” It is used in the construction of houses, commercial and public buildings, highways, roads, bridges and other structures. Having a local supply of permitted aggregate is important because the cost – which currently ranges from about \$7-\$22 per ton at the plant site for the highest grade – can significantly increase as haul distances become greater.

Construction sand and gravel is the leading non-fuel mineral commodity produced in the state as well as the nation. Californians consumed 235 million tons of construction-grade aggregate in 2005 – about 6½ tons per person. On average, 229 tons of aggregate are used in the construction of one house.

“Currently, California has about 4.3 billion tons of permitted resources,” Parrish said. “In the next 50 years, the state is projected to need approximately 13.5 billion tons of construction grade aggregate. This figure does not account for accelerated construction programs as a result of major bond

initiatives, or from reconstruction following a major, damaging earthquake.”

In addition to studying and mapping mineral resources, the Department of Conservation ensures the reclamation of land used for mining; promotes beverage container recycling; regulates oil, gas and geothermal wells; studies and maps earthquakes and other geologic phenomena; and administers agricultural and open-space land conservation programs.

USGS Data Petition

Joseph S. Limb, AIMA Member had prepared a Petition addressed to the Director of Office of Management and Budget. It concerns the proposed 2008 United States Geological Survey budget which would terminate approximately fifty mineral commodity reports. The report data are important to **all AIMA Members** for supply and demand studies in a particular market area. Therefore, **you** as an **AIMA Member** are urged to replicate the letter prepared by him that is presented below and forward it to the Director.

Date

Rob Portman – Director
White House Office of Management and Budget
725 17th Street NW

Dear Mr. Portman,

The American Institute of Minerals Appraisers (AIMA) is the professional body representing and governing the approximately 39 Certified Minerals Appraisers and five (five) Associate Mineral Appraisers currently known to be practicing in the United States.

We rely heavily on published United States Geological Survey (USGS) data, particularly Mineral Industry Surveys and similar publications, to perform market analyses and appraisals of mineral properties and mining operations.

The United States Government's proposed Fiscal Year 2008 budget cuts would terminate approximately fifty Mineral Commodity Reports, would be a major setback to AIMA members and their clients, since this type of data is not generally available elsewhere.

USGS data is crucial to Mineral Appraisers to determine supply and demand of Minerals in a particular market area. This factor, together with the projected Mining and/or Royalty Income, and appropriate discount rate (or capitalization rate) comprises three (3) factors essential to the appraisal process.

Mineral Appraisers typically purchase data for use in their appraisals and the imposition of reasonable fees for USGS data is a suggested compromise to ceasing production of the data for budgetary reasons.

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We urgently request that funding be provided for the 50 USGS Minerals Commodity Reports in the Fiscal Year 2008 and future budgets in order to avoid a severe setback in our ability to perform Mineral Appraisal Services for our clients, including the United States Government other public bodies, mining companies, mineral owners (including the United States Government), financial institutions, law firms and members of the general public.

Sincerely,

Your Signature

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