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IN THIS ISSUE:

- Annual Meeting in Salt Lake City
- Continuing Education – Part II
- Thoughts on Discount Rate

RECENT AUSTRALIAN AND CANADIAN DEVELOPMENTS AFFECTING MINERAL VALUATION

Trevor Ellis, Vice President, AIMA

To date, Australia has been the leader in developing standards for mineral property and mineral security valuations. Canada is now challenging Australia, by largely copying what Australia has done and attempting to improve on it for Canada's unique circumstances.

International Standards for Reporting Resources and Reserves

A primary pillar of the valuation standards for both countries is a strong, enforceable set of standards for reporting of mineral resources and reserves. These also originated in Australia and have now evolved into the international standard.

Australia's Joint Ore Reserves Committee (JORC) made its first recommendations to the Australian Stock Exchange in 1972 on mineral resource and reserve reporting. The committee represents the Australian Institute of Mining and Metallurgy (AusIMM), the Australian Institute of Geoscientists (AIG), and the Minerals Council of Australia. *The Australian Code for Reporting of Mineral Resources and Ore Reserves*, officially known as *The JORC Code*, grew out of that initial effort (JORC, 1999).

Since 1994, the major mining institutes of the world have been working together to develop a uniform international standard for definitions for reporting resources and reserves. The Australian definitions were the primary basis for the provisional agreement reached in 1997 by the Council of Mining and Metallurgical Institutions (CMMI). The United

cont'd on page 6

ONLINE LEGAL RESEARCH

Bob Cooper

Information Specialist, Gustavson Associates, Inc.

Online legal research has come a long way in the 1990s. The need to go to a law library to obtain cheap or free legal research is becoming a thing of the past. Lexis-Nexis and Westlaw have long been the dominant databases for online legal research. However, cheaper subscription Internet databases like VersusLaw and free Internet sources have recently given them competition in legal research.

VersusLaw's web site can be accessed at www.versuslaw.com. VersusLaw is a cheaper alternative to Lexis-Nexis and Westlaw in case law retrieval. It is a subscription database that has daily and yearly rates that allow for unlimited searching and printing. The library contains coverage from all federal and state appellate courts.

There are literally hundreds of legal research Internet web sites. The four mega-sites that cover a majority of the websites are FindLaw, The Virtual Chase: A Research Site for Legal Professionals, Hieros Gamos – The Law and Government Portal, and CataLaw: Metaindex of Law and Government.

FindLaw can be accessed at www.findlaw.com. This is the best free legal resource on the Internet. It has many different categories for the legal researcher. It is very good for finding both state and federal case law. The Virtual Chase: A Research Site for Legal Professionals can be accessed at www.virtualchase.com/index.shtml. The web site has a *Teaching Webs* link is a very good teaching tool for the legal researcher.

Hieros Gamos – The Law and Government Portal can be
cont'd on page 8

VALUATION DAYS AT THE SME AND PDAC/CIM CONVENTIONS

Trevor R. Ellis, Vice President, AIMA

A full day of valuation papers is scheduled for Tuesday, February 29, 2000, in Salt Lake City, UT, at the Annual Meeting of the Society of Mining, Metallurgy and Exploration (SME). The convention runs Mon. February 28 to Wed. March 1st. We have obtained a wonderful, large suite of valuation specialists to present the wide ranging 17 papers slated. Half of the authors are members of AIMA (great job!). These are Ross Lawrence, Ed Moritz, John Gustavson, Jeff Kern, LT Gregg with Sam Pickering, Richard Bate, W. (Bill) Jennings, and myself (2 papers). Michael Lawrence from Australia is to present a paper. He spearheaded the development of the VALMIN Code (see this issue), and is the current President of the Australian Institute of Mining and Metallurgy. The other authors are Doug Silver, Tom Torries, M. Roberts, David Hammond with E.G. Lee, H. (Rick) Sandri (2 papers) with David Abbott, Leons Kovisars, and John Lizak.

The morning session, which I am co-chairing, will have somewhat of an educational drift, being papers on specific aspects and concepts of valuation. The afternoon session, which I am chairing, is devoted to papers based on appraisal case studies. Given the large number of authors, and their varied backgrounds and opinions, I am looking forward to a certain amount of controversy developing. There will probably not be time for discussion after the morning session. So, we plan to have an extended, 90-minute discussion session continuing on from the afternoon session. The authors from both sessions will be requested to participate. I intend to conduct this discussion period in somewhat of a debate format on the major issues. Overall, we are looking forward to one heck of a day of valuation presentations and discussion.

Over the weekend, with barely time to repack the suitcase, we do our now annual trek north to Toronto, Canada. Here the Prospectors and Developers Association of Canada (PDAC) annual conference and exhibition has been renamed Mining Millennium 2000. It has merged this one time with the conference and exhibition of the Canadian Institute of Mining, Metallurgy and Petroleum (CIM), creating a week long convention March 5-10, 2000. Our AIMA Canadian rep., Ross Lawrence, has advised that the CIM's Special Committee on Valuation of Mineral Properties (CIMVal) (see this issue) is organizing a Valuation Day at the conference. This will be on Wednesday, March 8th. It will sure be interesting to find out how the Canadian mineral valuation standards are developing. Ross is on the CIMVal committee.

In July, we withdraw some extra cash from the bank and head to Valuation 2000 at the MGM Grand in Las Vegas, Nevada, July 10-13, 2000. This conference is co-sponsored by ASA, ASFMRA and AI. I have submitted a paper on which I am the lead author. I haven't heard if any other members have also submitted papers. □

PROPOSAL FOR ANNUAL MEETING IN CONJUNCTION WITH SME IN SALT LAKE CITY

Trevor R. Ellis, Vice President, AIMA

Our first annual membership meeting was held in Denver on the evening of Monday, 1 March 1999, in conjunction with the annual convention of the SME. It was well attended considering our small size, by seven members and four non-member minerals appraisers. We had fun and accomplished a lot of decision-making, especially considering the amount of liquid refreshment consumed. We even earned a profit on the exercise, and gained a couple of members (Newsletter, June 1999).

The SME 2000 Annual Meeting is to be held in Salt Lake City from Monday, February 28th to Wednesday, March 1st. Nine of our AIMA members (30%) have had papers accepted for presentation in the Tuesday morning and afternoon valuation sessions (see this issue). Therefore, I propose that there could not be a better opportunity to hold our second annual membership meeting to follow up on our successful first meeting.

I carried the spear in organizing our meeting this year. However, I am heavily committed in organizing the valuation sessions at the SME meeting. So, we need someone else to step forward and take on this small task. It requires selecting a time and a venue. I suggest that we basically follow the same successful format this second time. We should look into beginning about 3-4 PM on Monday, February 28th, with the venue being a private room in which dinner can be served, at as much like a brew pub that can be found in Salt Lake City within easy walking or public transport distance of the SME venue. Then the agenda and cost need to be determined, and notice issued to members.

If you are up for this modest task, please contact Trevor Ellis at 303-399-4361, e-mail trevor_ellis@prodigy.net.

Note that we still need to find a suitable activity with which our petroleum members can associate a meeting. Our petroleum members should make some suggestions to our President. □

These are some wonderful events to schedule on the year 2000 calendar to take us away from the drudgery of attempting to earn money. What a great way to spend tax deductible money, including an international trip, meeting new faces, and getting re-educated at the same time. Leave your spouse back in town to earn the money □ what a concept. □

CANADIAN ASSOCIATION OF MINERAL VALUATORS FOUNDED

Communication with Ross Lawrence, AIMA

Our Canadian member, Ross Lawrence, reports that a new appraisal organization has been formed in Canada. It is the Canadian Association of Mineral Valuers (CAMV). The initiating committee was an *ad hoc* committee formed to provide input and comments on valuation matters to the Mining Standards Task Force of the Toronto Stock Exchange and Ontario Securities Commission (MSTF) (see this issue). The MSTF used some of the committee's suggestions in the Final Report. This committee has now become the board of directors of CAMV. Ross says that they have had a number of meetings and are well on our way to formulating a set of by-laws, a code of ethics, entrance qualifications, and so on. He is the Chairman of the Board. The others are (from Toronto) Mary-Claire Ward, also of Watts Griffis and McOuat, Chris Lattanzi of Micpon, Bill Roscoe and John Postle, Dino Titaro and Wayne Ewart of ACA Howe International, David G. Wahl of Southampton Associates, (and from Vancouver) Ross Glanville of Glanville Associates and Ian Thompson of DMBW.

They hope to get all the paper work related to formation done this fall, and then to go looking for members across Canada (and elsewhere). Maybe there are some of our AIMA members who are interested in Canadian activities that should consider joining up front.

Ross does not see CAMV as being in competition with the CIMVal committee (see this issue). He said, "Indeed we are hopeful that CIMVal will recommend a Code that we can then adopt. Furthermore, we view CAMV as a self-regulating organization that regulators at TSE and other exchanges, OSC and other commissions, etc. will be able to look to in disciplinary matters for instance. It will also be a learned society. It trust you will see many parallels with AIMA."

As an important follow-on to Trevor Ellis' article in this issue covering Australian and Canadian developments, CAMV appears to be unique in the Canadian mineral industry related bodies, in being formed as a national self-regulating organization.

CAMV is initially headquartered at the Toronto office of Watts Griffis and McOuat. The contact information is:

Canadian Association of Mineral Valuers
Suite 400 – 8 King Street East
Toronto, Ontario M5C 1B5, Canada
Ph: 416-364-6244 Fax: 416-864-1675

We wish CAMV rapid success, and look forward to plenty of cooperative interaction with it and its members over items of mutual interest. □

THOUGHTS ON DISCOUNT RATE

John B. Gustavson, Secretary, AIMA

Over the last decade arguments have been presented for an observed 6-8 percent excess of the average market discount rate over the average cost of capital in oil and gas transactions. It reflects the desire on part of owners or management to make a rate of return better than the company's weighted average cost of capital. Can these 6-8 percent be dissected further? Can the excess over cost of capital be quantified?

Let us examine the oil operator's perception of the probability that he will actually receive the predicted cash flow. If he were 100% sure of the cash flow as predicted by the reserve engineer, then he might pay close to his cost of capital. Conversely, if an operator were uncertain, he would pay less and target a higher rate of return.

Four major parameters are the base to prediction of discounted cash flow rate of return. Production quantities may vary from the petroleum engineer's predictions. Oil prices will fluctuate, and operating costs may likewise turn out differently than forecast. In addition, the discount rate generally used to reflect time value of money, namely the weighted average cost of capital for the E&P industry sector will vary with the national economy. Domestic appraisal experience and literature has provided a framework for estimate of these four parameters.

The parameter applied to discount back future income to its present value is the discount rate. The discount rate selected by numerous economists is the weighted average cost of capital (WACC) for the specific industry. The WACC changes with the economy. Generally, it is high in times of inflation and low in times of a flat economy. The excess of 6-8 percent in market discount rate over WACC as found in market transactions appears to float on top of the WACC, at least over the last few decades. This lends credence to the concept of a conscious markup to hedge against the perceived uncertainties in quantity, price and cost, the primary components of the cash flow.

We can attempt to quantify the market's historical approach to guard against the lack of predictability of cash flow. Whether consciously derived or empirically experienced, the excess relates closely to the premium added to derive a targeted rate of return. Domestic oil property transactions have traded at a net present value based on a discount rate of about 18 percent on a before-tax (BFIT) basis. This has been at a time when the weighted average cost of capital (WACC) has been steady during the 1990s at about 10-11 percent for the oil industry (also BFIT). The difference is roughly seven percentage points.

We will now attempt to further divide this seven-percent spread up among the perceived quantity, price and cost uncertainties.

The market discount rate has been varying as a direct function of the weighted cost of capital for the oil sector. For example, in the early to mid-1980s during high inflation rates the cost of capital was in the 15 percent range. Producing properties sold at discount rates around 22 to 23 percent, again a mark-up or premium of about 7 percent.

cont'd on page 5

CONTINUING EDUCATION THROUGH OTHER SOCIETIES

Part II

Trevor R. Ellis, Vice President, AIMA

In my article in our June 1999 Newsletter, I described the beginning of my now 12-month long foray into appraisal and related valuation courses through other societies. I described my somewhat mixed experience at a two-day course, *Due Diligence and Valuation of Industrial Minerals*, sponsored by the Society of Mining, Metallurgy and Exploration (SME). I then described my quite positive experience at four courses from the American Society of Farm Managers and Rural Appraisers (ASFMRA). These courses were *Ethics*, *USPAP*, *Fundamentals of Rural Appraisal*, and *Highest and Best Use*.

Since then I have attempted to register for two courses from the American Society of Appraisers (ASA). One was on the west coast and the other was on the east. Both times I was informed that the course had been canceled due to lack of enough registrants by their *go/no-go* decision date. Obviously their system is not set up for procrastinating registrants such as myself. I have registered early this time for another ASA course in DC, but it is not looking good for that one proceeding either, with only five registrants to date out of only ten needed.

I am not sure what this says about ASA. I am told that its Business Valuation courses are extremely tough and even the introductory course has a very low pass rate. Could course difficulty have something to do with it? Our ASA members, Michael Cartwright and Jeffrey Kern, should be able to provide some insight.

I have also looked over the suite of courses offered by the Appraisal Institute. So far there hasn't been much that has caught my interest. I set out to sign up for a couple, only to find that they were a week long and twice the price of the equivalent three-day courses offered by ASA and ASFMRA. That is overkill for my interest level and budget.

In the meantime, I have taken four more ASFMRA courses. Although they require a minimum of 18 to 20 registrants to proceed, they tend to go ahead most of the time out of my experience, and typically have 30 to 40 attendees. Many are from State and Federal agencies.

The first of those four courses, *Advanced Resource Appraisal*, is a week long (46 hours). It is held annually in Denver. It teaches the appraisal of timber, water and minerals, including petroleum. I found it very informative to learn how real estate appraisal techniques can effectively be applied to the appraisal of minerals. We may not fully agree with everything taught, but overall, my colleague minerals appraiser and I found little to dispute.

The minerals section was taught by John Widdoss of South Dakota, who does a very large amount of litigation appraisal

of minerals. In 1997-98, he appraised Crown Butte's infamous New World gold property to the north of Yellowstone National Park, for the US Department of Interior. I found this course was a valuable opportunity to be taught by someone we are likely to find on the opposing side of a litigation situation.

I may never attempt to appraise water or timber. However, on two of my recent mineral property appraisals projects in the western US, I found that the appraisal value of the attached water rights has come in staggeringly high. Being the appraiser responsible for defending the overall appraisal in court, I find it beneficial to be able to thoroughly critique the water rights appraiser's work.

Then I ventured to St Cloud, Minnesota, for the ASFMRA's week long (44 hour), intermediate level rural appraisal course. Three of us attending were minerals appraisers. In this course, we were taught ASFMRA's methods of data analysis for appraising properties with a variety of land classes and how to calculate the contributory value of improvements. The three approaches to value were thoroughly covered. We also learned a lot about crop storage facilities, Norwegians and Minnesota's infamous Governor.

Next I took a short hop up to Billings, Montana. This was for a three-day course in appraising property under State and Federal eminent domain situations. It was a particularly informative course for me, in that I learned the ground rules for appraising in such situations. A wide variety of example properties were used, including different ownership and lessee/operator structures for a gravel quarry. The course showed me that I had some potentially serious misunderstandings of how we should approach such situations.

I had recently been gaining the impression from my reading that many of our minerals appraiser colleagues are losing in court on eminent domain/takings appraisals because they do not fully understand the ground rules. That is, sales analysis is king in court in determining market value, and the court does not compensate for loss of business value. The somewhat elderly lead instructor had a wonderful sense of humor to go along with his wealth of experience. He also proved to be extremely tolerant of my large number of questions.

Lastly, I took a long trek out to Phillipsburg, New Jersey, where although everything looked very green to me, I was shown through counting corn kernels that the corn crop was almost a total failure. The course was the week long (47 hour) *Advanced Rural Appraisal* course. We learned advanced rural appraisal techniques for the three approaches to value, using a variety of property types. I certainly put my HP 19BII calculator to new uses.

The course was oriented to determining the value of a variety of land use types and the contributory value of a number of structures in a single property. The techniques we learned for

land use analysis would have more application to minerals appraisal in the US if the SEC allowed reporting of quantitative resource estimates.

Friday was spent working individually through a real case study with a variety of complexities. As compared to the other ASFMRA courses, there was little humor at this one. Many people were tense outset on Sunday afternoon, because this is the highest level and toughest of the ASFMRA courses for the ARA certification. Most studied late into the evenings.

The difficulty of the four-hour exam on Saturday was a shock to me and my colleague. It was considerably tougher than those for the previous courses. I had great difficulty completing it in the allowed time. Most candidates had grim faces as they departed.

This 12-month foray has obviously been an expensive approach to appraisal education, both in direct cost and lost time away from work. However, it has taught me how the other side does their analyses and provided me with a suite of analytical techniques for which I previously had little to no knowledge. At this time, I am unsure where this foray is taking me next. But, I am having too much fun to stop now. If you read my article, *Valuation Days at the SME and PDAC/CIM Conventions*, in this issue, you can find out some things I plan to travel to in 2000.

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TESTING OUR WEB SITE

Michael R. Cartwright, President, AIMA

I am testing the ability of our web site, www.mineralsappraisers.org, to accept and to properly download PDF files. I have put the only small PDF file I have onto the website at www.mineralsappraisers.org/mbaprfil.pdf and would appreciate it if you would try to access it and see if it works properly. I realize that the file that is being tested is a piece of shameless self promotion, but if it seems to work OK we can begin to put some of our AIMA articles, and member authored papers up on the net in an attractive and easy to print format. Please let me know how this file works on your browser.

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DOWNLOAD USPAP

The 1999 Uniform Standards of Professional Appraisal Practice (USPAP) has been put on-line at the Appraisal Foundation website. All of you that are interested in what this document has to say and to discover how it may affect your appraisals of mineral properties and/or oil and mining businesses, should download a complete copy of it into your hard drive. Go to <http://www.appraisalfoundation.org/uspap1999/toc.htm> for your opportunity to have a copy of USPAP for free.

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THOUGHTS ON DISCOUNT RATE

cont'd from page 3

It is apparent that the oil sector in general requires a reasonable reward or profit corresponding to about seven percentage points for taking the risk of putting its capital to work. The risks associated with oil and gas production can be summarized. The risks relate to the expectation of the predicted cash flow. Cash flow (net revenue before income taxes) is predominantly the produced net quantity of oil or gas multiplied by the market prices of the commodity less the operating cost. Local taxes play less of a role. Therefore, there are three risk categories, namely production rate (quantity) risk, commodity price risk and operating cost risk. These various subcategories of risks are proposed to be broadly quantified. Market price risk weighs heavily and makes up about 3 percent of the total. Operating cost and production rate risks are approximately 2 percent each. Can this rough division be substantiated? We submit the following for your consideration.

The 2 percent adjustment for operating cost risk can be seen through the following example. Buyers are often given the choice between purchasing full working interest in a particular property or a royalty. A full working interest indicates that the investor will be responsible for all costs and will share in the net revenue interest from the production.

In contrast, a royalty interest conveys the right to receive oil or cash from the production without being reasonable for any operating cost. Therefore, royalty interests usually sell at a 16 percent discount rate or expected rate of return, while total working interests sell at 18 percent discount rates as discussed above. This 2 percent difference represents the market's operating cost risk adjustment. When there is no operating cost risk the market values a producing property at a higher value corresponding to a 2 percent reduction in the discount rate.

Production rate risk can be quantified by comparing the oil industry with another extractive industry, where the rate of production of the commodity is rarely a factor, for instance, the aggregate industry. Only sand and gravel price and cost of production and transportation are major risks and not reserves or short-term rates of production. Aggregate industry operators usually experience a discount rate of around 16 percent for discounting the net cash flows associated with an operating mine or quarry. Production rate risk is the difference, namely 2 percent.

Finally, the remaining three-percent excess may be attributed to price risk. This is further proved by looking at the oil and gas derivatives market. A knowledgeable investor who has experience in the derivative markets can nearly eliminate all price risks associated with oil and gas investments. He would do this by locking into a definitive price for the commodity.

This has a profound effect on the valuation of oil and gas properties. The cumulative effect of efficiently using derivatives to hedge against price fluctuations has increased the value. The increase corresponds to about 3 percentage points of discount rate (when applied to future net cash flow) lending further evidence to the discussion above.

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RECENT AUSTRALIAN AND CANADIAN DEVELOPMENTS AFFECTING MINERAL VALUATION

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Nations Economic Commission for Europe then agreed to incorporate the CMMI standard into a UN classification. Nearly 40 countries have now indicated that they are moving towards adopting the UN classification (AusIMM, 1999).

The major mining institutes of the world are now producing almost uniform reporting standards for resources and reserves. This uniformity shows in the 16-page 1999 edition of the JORC Code and the US-based Society of Mining, Metallurgy and Exploration's 17-page, *A Guide for Reporting Exploration Information, Mineral Resources, and Mineral Reserves* (SME, 1999). The Canadian Institute of Mining, Metallurgy and Petroleum (CIM) has also adopted the CMMI standards. This probably means that the CIM will drop its controversial third reserve category, "possible reserves." The finalization of the CIM standards has been delayed due to arguing this issue, and formalizing its position in the soon-to-be-released Canadian minerals industry regulations.

The end result is standardization on definitions for the three resource categories, Inferred, Indicated and Measured, and the two reserve categories, Probable and Proved. The "modifying factors" which determine the classification of a block of mineralization as being an Indicated Resource versus a Probable Reserve, or a Measured Resource versus a Proved Reserve, are "consideration of mining, metallurgical, economic, marketing, legal, environmental, social and governmental factors." For mineralization to be classified as a resource, it must have "reasonable prospects for eventual economic extraction," with the term eventual being defined to restrict it to prudent use. This is very close to what general practice used to be for defining a reserve. Reserves should be reported as "mineable production estimates" taking into account diluting materials and allowances for losses.

Australia has a strong history of enforcement of its JORC Code. The Code is incorporated into the listing rules of the Australian and New Zealand Stock Exchanges. Violations are reported to the Institutes (primarily AusIMM), which have a proven history of effective discipline.

The Canadians are modeling their enforcement procedures on the Australian system. The new reporting regulations, National Instrument 43-101, presently in a second drafting, will automatically incorporate the CIM standards and any updates (CPSA, 1998). NI 43-101, *Standards of Disclosure for Exploration, Development and Mining Properties*, will replace NP 2-A under which many of us have worked. Enforcement will be through the disciplinary procedures of "Self-Regulatory Organizations (SROs)," the professional bodies which qualify the responsible professionals, such as provincial engineering societies.

The US SEC shows no inclination to accept the CMMI standards to replace its antiquated Industry Guide 7, the text of which was originally developed in 1981. Therefore, we will still be handicapped by US-listed companies not being allowed to report quantity estimates for resources. The SEC views the term "resource" as being a poor choice by industry, being essentially synonymous with the meaning of "reserve" in common language, and therefore too easily confused by the public. Even apart from that, SME has no discipline mechanism for its members, never having adopted a Code of Ethics, and therefore could not self-enforce its standard.

Australia's VALMIN Code

The 1998 edition of the AusIMM's VALMIN Code is the second edition. It is titled, *Code and Guidelines for Technical Assessment and/or Valuation of Mineral and Petroleum Assets and Mineral and Petroleum Securities for Independent Expert Reports*. I reviewed the 1995 edition in some detail in our October 1995 Newsletter. The 1998 edition is 23 pages long, containing 18 pages of double-columned fine print, which I find to be remarkably clear reading.

The philosophy of the new edition is very much the same as previously. It is still obviously designed for valuation reports required under Corporations Law, for which it is mandatory. It would seem to be very unwieldy to apply to more modest appraisals, such as private interests in mineral prospects. It continues to place considerable obligations for disclosure on the commissioning entity, on the apparent assumption that it holds the mineral asset or security being appraised.

The new edition expands coverage to petroleum. It also includes "Technical Assessments" which determine the investment value of a property, as compared to market value which is the focus of "Valuation."

The primary goals of VALMIN are to assure full disclosure and clear presentation of all relevant items ("Transparency" and "Materiality") and to assure the competence and independence of those doing the appraisal. The Code provides considerable instructions on all aspects of what must be considered in the appraisal and included in the report, from property access to competence of management and labor issues. It describes the types of maps which must be included and their labeling. However, it leaves the selection of the valuation methodology up to the independent expert.

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. Enforcement is by the AusIMM's disciplinary mechanism.

Valuation Standards Development in Canada

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.” Our Canadian member, Ross Lawrence, has advised that the committee is now active and that he is on it. The objective is to submit a final report to CIM by December 2000. The outcome as Ross indicates, will likely look somewhat similar to VALMIN, but reflect Canadian realities.

Qualified Person, Competent Person, and Enforcement

The definition of a Qualified or Competent Person is an important part of the Australian and Canadian standards. The standards rely on membership of recognized SROs, the institutes which qualify or certify the individuals, as the first cut in determining who is qualified to sign as taking individual responsibility for a report. The standards also require at least five years of relevant experience to assure competency. The Australian standards emphasize the competency aspect by using the term, Competent Person (Abbott, 1999). Under the VALMIN Code, ten years of relevant experience is specified for the responsible Expert.

To be a Competent Person under the JORC Code, one must be a Member or Fellow of the AusIMM or AIG. Enforcement is through their demonstrated disciplinary procedures. The VALMIN Code is a little more generous in allowing full membership “of an appropriate, recognized professional association having an enforceable code of ethics.” To be a recognized professional organization, enforcement of its code of ethics would probably need to have been demonstrated.

The Canadian standards will be based on enforcement provisions similar to that under the VALMIN Code, relying on enforcement through the threat of discipline by the SRO which provided the qualifying membership. Public disclosure of disciplinary actions is also being emphasized. CIM, which is issuing the relevant standards, is similar to the SME in not having a binding code of ethics. Therefore, enforcement will be relied upon by provincial SROs such as engineering and geoscience bodies, and recognized international institutes.

Our belief is that the Canadians intend to develop a list of relevant provincial SROs and recognized international institutes. It appears highly likely that the American Institute of Professional Geologists (AIPG) will get listed. However, although AIMA has a similar code of ethics and high standards for member qualifications, it has not yet developed a history of demonstrated enforcement of its code of ethics. Therefore, it presently appears that it would be difficult to obtain listing of AIMA.

The authorities in Australia and Canada emphasize that along with the increased reliance that they are placing on the qualified person that signs disclosure and valuation reports, comes increased liability. Therefore, they recommend that those responsible individuals take out appropriate liability insurance and also get indemnification from the commissioning party (Ellis, 1999).

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ONLINE LEGAL RESEARCH

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accessed at www.hg.org. This is a great web site for international law. It is maintained by a consortium of 135 law firms and is the largest web database of legal resources. It can be displayed in five languages: German, English, French, Italian, and Spanish.

CataLaw: Metaindex of Law and Government can be accessed at www.catalaw.com. It helps speed research by arranging all legal and government indexes into very good subject areas. It should always be checked if a searcher is having difficulty finding information on a topic.

There are individual web sites covering specific areas of case law on the Internet. In many instances, law schools or courts make available case law from a specific jurisdiction. The following is a list of web sites and their sponsors that report a specific federal court's cases on the Internet for free. Many of the legal directories such as FindLaw and CataLaw will have links to these web sites as well.

The United States Supreme Court cases from May 1990 to present can be accessed through Cornell law school's web site at supct.law.cornell.edu/supct/hermes_search.html. United States Supreme Court cases from 1937 to present can be accessed through FindLaw's web site at www.findlaw.com/casecode/supreme.html. The D.C. Circuit Court cases from 1995 to present can be accessed through Georgetown's law school at www.ll.georgetown.edu/Fed-Ct/cadc.html. The First Circuit Court cases from 1995 to present can be accessed through Emory's law school at www.law.emory.edu/1circuit. The Second Circuit Court cases from 1995 to present can be accessed through Touro's law school at law.touro.edu/2ndcircuit. The Third Circuit Court cases from 1994 to present can be accessed through Villanova's law school at www.law.vill.edu/Fed-Ct/ca03.html. The Fourth Circuit Court cases from 1995 to present can be accessed through Emory's law school at www.law.emory.edu/4circuit. The Fifth Circuit Court cases from 1990 to present can be accessed through the Fifth Circuit's web site at www.ca5.uscourts.gov/opinions.HTM. The Sixth Circuit Court cases from 1995 to present can be accessed through Emory's law school at www.law.emory.edu/6circuit. The Seventh Circuit Court cases from 1995 to present can be accessed through Kent's law school at www.kentlaw.edu/7circuit. The Eighth Circuit Court cases from 1995 to present can be accessed through Washington's law school at ls.wustl.edu/8th.cir/cindex.html. The Ninth Circuit Court cases from 1995 to present can be accessed through Villanova's law school at www.law.vill.edu/Fed-Ct/ca09.html. The Tenth Circuit Court cases from October 1997 to present can be accessed through Washburn's law school at www.kscourts.org/ca10. Cases from 1995 through October 1997 can be accessed through Emory's law school at www.law.emory.edu/10circuit. The Eleventh Circuit Court cases from 1994 to present can be accessed through Emory's law school at

www.law.emory.edu/11circuit.

State case law can be found on the Internet in a number of places as well. The best place to look for a specific state's cases is to use a directory like FindLaw. The following are the Colorado case law web sites. Colorado Supreme Court cases from the last year can be accessed through the Colorado Bar Association web site at www.cobar.org/coappcts/scndx.htm. Colorado Court of Appeals cases from the last year can be accessed through the Colorado Bar Association web site at www.cobar.org/coappcts/ctappndx.htm.

It is necessary to describe what Lexis-Nexis and Westlaw offer compared to the cheaper and free sources. Lexis-Nexis's web site can be accessed at www.lexis-nexis.com. It is an expensive subscription database, similar to Westlaw in pricing. It is offered in a variety of subscription rates from per search pricing to a yearly rate. Lexis-Nexis case law databases cover virtually all reported federal cases including the Supreme Court, Court of Appeals, and District Courts since 1789. All reported state case law from the highest court is covered for all 50 states since 1969 and in some circumstances even earlier. A great deal of unreported cases in both federal and state court systems going back thirty years or more is covered in the Lexis-Nexis case law databases.

Westlaw started out as a publisher of case law in print form. West Publishing prints state case law and Federal case law in chronological order in their reporter series. Westlaw's web site can be accessed at www.westlaw.com. This subscription database is an excellent source for case law. Westlaw has United States Supreme Court cases from 1789 to present and most federal cases from 1891 to present in their case law database. Westlaw uses a Key Number system that allows for good subject searching.

In comparing the case law between subscription database and the Internet, I find that the information for the most part is the same. The Internet provides the same text but it is not indexed and it does contain more misspellings and the format is not always neat. Legal researchers can save a lot of money by supplementing the subscription database with the Internet or a cheap alternative like VersusLaw. Depending on your pricing plan with the other subscription databases this might be a good supplement. The free Internet web sites might be enough to get the information that your business may need. □

Please advise the Secretary, American Institute of Minerals Appraisers, 5757 Central Ave. Suite D, Boulder, CO 80301, of any changes of address.

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