

## Local Policy 3.16

### Public Availability Of Material Filed Under The Securities Act

Date: May 2, 1984

Subsection 142.1(2) of The Securities Act (the "Act") provides that any person or company may obtain from the director, on payment of the prescribed fee, a plain or certified copy of any order of the Commission or of any other document in its custody which is open to public inspection.

Various sections of the Act and regulations state that specific documents filed with the Commission are available for public inspection. For example, subsection 110(1) of the Act provides that all insider reports shall be open to public inspection. Section 134 provides that all financial information filed under Part XII shall be open to public inspection. Subsections 19(2) and 49(2) state that engineering reports filed in connection with a prospectus or statement of material facts for a mining company shall be available for inspection by the public.

The Act, however, is silent in respect to other material filed with the Commission although it is clearly implied that the subsections referred to above are not an exhaustive list of the documents which are open to public inspection.

This Policy Statement sets out the documents in its custody, not specifically stated by the Act or regulations to be made available for public inspection, which the Commission considers to be available for public inspection. However, nothing in this policy statement limits the authority of the Commission, in the absence of any specific applicable statutory provision, to make a determination as to any specific document in its custody which should or should not be available for public inspection.

#### Availability of Filed Material

As a general rule the Commission considers every document in its custody which is required by the provisions of the Act and the regulations or by an order of the Commission to be provided to the public by an issuer or registrant, or to the security holders of an issuer, as being a document open to public inspection. Examples of such documents are press releases, material change forms (except those filed, on proper grounds, on a confidential basis), proxy materials, preliminary and final prospectuses and amendments thereto, take-over bid notices and circulars, and offering documents or memoranda referred to in an exemption order.

Apart from the foregoing, the Act and regulations permit or require the filing of documents with the Commission which in the normal course are not required to be given to public or distributed to security holders of an issuer. Requests for public inspection of these documents will be considered on a case by case basis by the director and/or the Commission. The policy will be to make such documentation available for public inspection under normal circumstances, unless it was accepted on a confidential basis, or unless the director and/or Commission are of the opinion that a document discloses sensitive financial, personal or other information and the desirability of avoiding disclosure thereof, for competitive or other reasons, outweighs the desirability of

adhering to the principle that documents filed with the Commission be available to the public for inspection.

The following are guidelines which will be applied in respect to particular classes of documents in the custody of the Commission:

1. Application for registration. — the register of registrants and certificates of registration will be available for public inspection. However, applications for registration and all correspondence and supporting material relating thereto will be treated as confidential.

2. Applications for exemption orders under sections 20, 59, 89 and Parts X, XI and XII. — It is in the public interest that a copy of an application for an exemption order should be available for public inspection upon filing of the application unless the applicant specifically requests confidentiality and demonstrates that it is not contrary to the public interest; or unless the circumstances are such that it appears from the application that confidentiality is required until such time as an order of the Commission issues in respect of the application.

3. Prospecting Syndicate Agreements filed under section 34. — The syndicate agreement and every document referred to therein, filed with the director, will become public documents after the issuance of a receipt by the director.

4. Preliminary prospectus and prospectus, amendment to either of them, renewal prospectus, summary statements, annual information forms and short form preliminary and prospectus. — each of these documents and any documents incorporated therein by reference will normally be made available for public inspection when a receipt is issued in relation to the filing thereof.

— once a receipt has issued supporting material required by the Act or the regulations or by the staff and not specifically stated by the Act or regulations to be available for public inspection will also be available for public inspection unless the director determines that confidentiality is required. Material contracts which are filed, and in which the prospectus or offering document makes provision for inspection, will be considered open for inspection during the period of time and at the location stated in the prospectus or offering document.

— deficiency letters and correspondence relating thereto, including correspondence with other jurisdictions as well as correspondence with those responsible for the filing, draft documents and working documents, will not be open to public inspection, since the prospect of public availability of this material would detract from freedom of communication during the filing process.

5. Statements of Material Facts. — the same position with respect to prospectuses applies here, with necessary changes.

6. Reports filed under subsection 19(3) of the Act and section 7 of the regulations. — all Form 8's and 8A's relating to transactions in securities of a class in which a public trading market exists will be open to public inspection.

In all cases where confidentiality is specifically requested as to any particular document, the director or the Commission may nonetheless determine that a document in the custody of the Commission is open to public inspection after providing the party requesting confidentiality with an opportunity to make written or oral submissions.

In those cases where copies of documents available for public inspection are requested, the material will be copied by Commission staff (as soon as is possible having regard for other staff responsibilities) and upon payment of the fees for file search and copying provided in the regulations.