



September 13, 2022

To: **Canadian Securities Administrators:**  
British Columbia Securities Commission; Alberta Securities Commission;  
Financial and Consumer Affairs Authority of Saskatchewan; Manitoba  
Securities Commission; Ontario Securities Commission; Autorité des  
marchés financiers; Financial and Consumer Services Commission, New  
Brunswick; Superintendent of Securities, Department of Justice and Public  
Safety, Prince Edward Island; Nova Scotia Securities Commission; Office of  
the Superintendent of Securities, Service NL; Northwest Territories Office  
of the Superintendent of Securities; Office of the Yukon Superintendent of  
Securities; and Nunavut Securities Office

From: **Sheldon Wuttunee, President & CEO**  
Saskatchewan First Nations Natural Resource Centre of Excellence

Re: **Response to CSA Consultation Paper 43-401 on Standards of Disclosure**

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Dear Canadian Securities Administrators:

On behalf of the Saskatchewan First Nations Natural Resource Centre of Excellence ([The Centre](#)), we herein provide **preliminary responses** to specific sections of the Canadian Security Administrators (CSA) Consultation Paper 43-401 – Consultation on National Instrument 43-101 Standards of Disclosure for Mineral Projects.

A creation of the Lands and Resources Commission of the Federation of Sovereign Indigenous Nations ([FSIN](#)), The Centre is wholly owned by the 74 First Nations in Saskatchewan and is mandated to provide support and work with First Nation communities in creating opportunities for the innovative, sustainable and environmentally responsible development of natural resources within their Treaty and Traditional territories. The Centre serves willing First Nations with tools as well as business and industry advice necessary for sound advancement and success. The Centre of Excellence also works to support initiatives that engage more First Nations people in business, educational and employment programs aimed at the energy and resource sector. It is our hope that by developing meaningful and collaborative relationships among First Nations, industry, educational institutions, and all levels of government, that we can build a prosperous future through the sustainable development of First Nation communities.

Canada, and specifically Saskatchewan, has consistently been named as a top mining and minerals jurisdiction worldwide. However, the rights of Indigenous Peoples need to be meaningfully incorporated into these evaluation frameworks, rules and best practice if we are to

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achieve a sustainable future. The following comments are meant to only be a preliminary response to important topics that The Centre has identified in the CSA's Consultation on NI 43-101 Standards of Disclosure for Mineral Projects, including sections (I) Environmental and Social Disclosure and (J) Rights of Indigenous Peoples. It is our request that these initial comments, which are far from exhaustive commentary on these critically important topics, are the beginning of further dialogue between the CSA and The Centre, regarding the modernization of these disclosure standards.

As the opportunity to participate in this specific consultation exercise is not widely shared or easily accessible for First Nations, we would recommend that there be direct and meaningful consultation or opportunity to provide comment for First Nations which are potentially impacted (determined by the Nations) by any and all mining projects in their Treaty or Traditional territories.

With respect to First Nations in Saskatchewan, we would request that we arrange a meeting in person or via Teams to further discuss a meaningful opportunity for First Nations to provide comment and/or direction. This initiative is extremely important and fundamental to ensure that there is proper input and oversight for First Nations. It is also critical that there is meaningful input into mineral project disclosures in the process to raise or leverage capital by project proponents to ensure that this is carried out in a meaningful and respectful way regarding First Nations rights and interests.

As we have been made aware of this call for comments very recently, we have compiled some initial comments to ensure that we responded prior to the deadline which you have set. Some questions we have answered together simultaneously.

Please find our initial comments below:

## H. Mineral Resource / Mineral Reserve Estimation

Risk Factors with Mineral Resources and Mineral Reserves

### **27. How can we enhance project specific risk disclosure for mining projects and estimation of mineral resource and mineral reserves?**

The respective securities commissions need to be accountable to First Nations in the region(s) in which the project is proposed. A meaningful oversight process and oversight body/ies, which operates as more than just in an advisory capacity, can be an integral step in the process toward project approval. This oversight body could play a role in verifying and ensuring that Indigenous groups have been communicated with and heard and their input and guidance has been fully included within the 43-101 disclosure reports as well as to track concerning or meaningful impacts/benefits.

This oversight body could work alongside the provincial or territorial securities commissions to ensure that there has been meaningful engagement, consultation, and accommodation. Appointment for participants on the oversight body can come from the rights holders.

## I. Environmental and Social Disclosure

**28. Do you think the current environmental disclosure requirements under Items 4 and 20 of the Form are adequate to allow investors to make informed investment decisions? Why or why not?**

**29. Do you think the current social disclosure requirements under Items 4 and 20 of the Form are adequate to allow investors to make informed investment decisions? Why or why not?**

No. The current language and guidance in Items 4 and 20 are not rigorous enough. Instructing the author /issuer to list information “to the extent known”, or “reasonably available information” is not prescriptive enough for investors weighing the risks to the project. Specific instructions should be developed that require disclosure of information that can support assessment of First Nations that are potentially impacted by the project. The property description and location information should clearly show where the project lands and activities are in relation to public domain land information including Indian Reservations, urban reserves, Specific Claims including Treaty Land Entitlement parcels, Crown Lands and other land ownership information. Where locations of sensitive information cannot be disclosed, such as traditional territories, sacred sites or other traditional land use areas, discussions of such relative to the project location should be completed.

The location of other existing projects, commercial or industrial developments or any other existing or planned land, water or natural resource project should also be shown. Water sources and volumes needed for the project should also be identified.

Institutions such as The Centre have been developed by First Nations to respond to situation such as this to facilitate and help guide all parties to communicate and potentially collaborate.

**30. Should disclosure of community consultations be required in all stages of technical reports, including reports for early stage exploration properties?**

Yes. Community consultations are a critical part of all projects and are especially important to conduct at the earliest phase of a project. Disclosing that these discussions and outreach with the community is taking place can demonstrate the issuer’s desire to build meaningful relationships with Indigenous communities. The details that are shared about the community consultations should be co-developed with the community. Subsequently, there must be an action plan acted upon and also to be assessed and evaluated as well.

## J. Rights of Indigenous Peoples

**31. What specific disclosures should be mandatory in a technical report in order for investors to fully understand and appreciate the risks and uncertainties that arise as a result of the rights of Indigenous Peoples with respect to a mineral project?**

**32. What specific disclosures should be mandatory in a technical report in order for investors to fully understand and appreciate all significant risks and uncertainties related to the relationship of the issuer with any Indigenous Peoples on whose traditional territory the mineral project lies?**

A full and detailed disclosure list requires a collaborative process with First Nations people to define these parameters. Again, our comments are not intended to be exhaustive. Specific disclosures may include the following items, which is not an exhaustive list. Items such as those listed below should be co-developed with the community/ communities and disclosed with their permission:

- A list of the potentially impacted communities that the issuer is engaging with, accompanied by a map(s) that clearly demonstrates the project area(s) and the engagement communities
- Discussion of how the issuer arrived at the list of potentially impacted communities that they are engaging with
- List of potentially impacted First Nations that have their own consultation and accommodation policies and how the issuer plans to incorporate into their project plans
- Has the issuer identified, developed, and implemented an engagement / consultation and accommodation protocol with each autonomous Indigenous Nation?
- Discussion on community consultation meetings that have taken place, project information shared and the general outcomes of such meetings, including concerns about the project raised by the community.
- List of impacts, including impacts to lands, waters, animals, fish habitats, medicines, and any impact to the ability to carry out traditional ways of living (hunt, fish, trap or gather).
- Identify species at risk or other animals that may be impacted, as defined by the issuer and the communities.
- List mitigation strategies for all identified impacts and identify those that were co-developed with the impacted parties.
- Accommodation protocol agreements that have been put in place with the Nations, with respect to impact to rights.
- Discussion of how adverse impacts on potential economic opportunities for the Nation / community been assessed
- Has there been a collaborative Impact Benefit Analysis completed?
- Have Indigenous Nations in the impact area been supported via data, capacity and finances to undertake ecological or traditional land use studies related to the project?



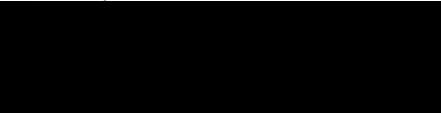
- Provide a meeting log for community engagements, listing the dates when meetings were held with the impact communities, who was present, their role in the community (Chief & Council? Elders?), concerns raised by the community and how they have been / plan to be addressed?
- Has the community approved the content included in the 43-101?

**33. Should we require the qualified person or other expert to validate the issuer's disclosure of significant risks and uncertainties related to its existing relationship with Indigenous Peoples with respect to a project? If so, how can a qualified person or other expert independently verify this information? Please explain.**

Yes, verification should be undertaken and should be completed by an independent expert that is qualified to validate these disclosures with respect to Indigenous Rights. Additional experts other than the Qualified Person may need to issue these disclosures and should be fully independent of the issuer. Experts should use firsthand interaction and communication with the potentially impacted communities in their verification process. Qualifications for these experts should be developed and communicated at the direction and guidance of First Nations communities and people.

We extend an invitation to further these discussions and anticipate hearing back from the CSA to support the co-development of these guidelines.

Sincerely,



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cc. FSIN Vice Chief Heather Bear, Chairperson, SFNNRCE  
Chief Jack Rayne, Big River First Nation  
Chief Kenny Moccasin, Saulteaux First Nation  
Chief Duane Antoine, Poundmaker Cree Nation  
Chief Johnathan Sylvestre, Birch Narrows Dene Nation  
Chief Wally Burns, James Smith Cree Nation  
Tribal Chief Mark Arcand, Saskatoon Tribal Council



Councillor Bernard Shepherd, Whitebear First Nation  
Reginald Bellerose, Muskowekwan First Nation  
Chief James Snakeskin, Thunderchild First Nation  
FSIN Senator George PeeAce, Yellowquill First Nation