

Post Closure Management of Decommissioned Mine/Mill Properties Located on Crown Land in Saskatchewan (Institutional Control Program)



*(photos of the former Contact Lake gold operation,
1994 during operation, 2008 before acceptance, 2014
first inspection)*

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Abstract

Saskatchewan hosts world class mineral resources. To ensure a sustainable mining industry that does not place a burden on future generations, it is important to look to the future and establish a regulatory and custodial regime for the post closure management of mine/mill facilities. To meet that purpose, Saskatchewan developed an Institutional Control Program (ICP) with the objective to: ensure protection of the environment for the health, safety and well-being of future generations; provide greater certainty and closure for the mining industry; recognize past stated obligations by the province and meet national and international obligations for storage of radioactive materials.

Saskatchewan has one of Canada's most effective regulatory structures. Throughout a mine's life, from exploration through construction, operation and final rehabilitation, mine/mill operations are carefully governed under environmental and safety regulations. In the case of a uranium site, the province also recognizes the jurisdictional authority of the *Nuclear Safety and Control Act* (Canada) as enforced by the Canadian Nuclear Safety Commission (CNSC). In establishing and implementing the ICP, Saskatchewan expanded their regulatory structure to include formal regulatory processes for: a site holder to transfer custody of a site back to the provincial Crown; for post-closure monitoring and management after mining/milling activities, rehabilitation have been completed and approved and custody has been transferred; and a formal regulatory process for the custodial transfer of a site from the provincial Crown to a responsible person for future development.

From the very early stages of new mine development, planning for decommissioning and reclamation (D&R) begins with a conceptual plan in the environmental impact assessment at the start of the regulatory process and continues throughout the life of the site. Prior to being able to operate a mine, the operator must submit a preliminary D&R plan for approval by regulators, as well as a financial assurance that provides sufficient funds to complete the plan. When operations are terminated, an approved detailed D&R plan is implemented and when completed and proven successful, the operator may apply for a regulatory release. Prior to the establishment of the ICP, there was no provincial process to regulate the long term post –closure management and responsibility, ie. institutional control, of a site after the successful completion of the D&R plan where monitoring has determined that the site is safe, stable and secure and a release has been granted.

The Reclaimed Industrial Sites Act (RISA) and *The Reclaimed Industrial Sites Regulations* (RISR) were approved in 2007 to legislate and implement the ICP. The two primary components of the ICP are the Institutional Control Registry (Registry) and the Institutional Control Funds: the Monitoring and Maintenance Fund and the Unforeseen Events Fund.

The Registry is responsible for maintaining a formal record of closed sites, managing the funding and performing any required monitoring and maintenance work. Registry records include the location and former operator, site description and historical records of activities, environmental and safety records, site maintenance, monitoring and inspection documentation and future allowable land use for the site.

The Monitoring and Maintenance Fund pays for long term monitoring and maintenance; the Unforeseen Events Fund will pay for unforeseen future events. Examples of monitoring include site inspections and sampling, a maintenance example is the replacement of a shaft cap, unforeseen event examples can be damage resulting from floods, tornadoes or earthquakes. To address the province's risk of accepting custodial responsibility for a site and the costs of future monitoring and maintenance and unforeseen future events, dedicated site specific funding is provided by a site holder responsible for each individual site. The funds are legislated and independent from provincial revenue and managed by the Ministry of Energy and Resources (ER) with the guidance of an Institutional Control Fund Advisory Committee that is comprised of stakeholders.

The ICP completes a full circle regulatory framework for Saskatchewan industry and forms an integral part of the province's plan for sustainable mining through providing clarity for development and the province's acceptance of environmental and safety responsibility for the protection of future generations.

Background

In response to provincial and federal environmental inquiry and panel processes in the 1980's and 1990's, the Government of Saskatchewan consistently stated that once the operator of a mining facility has fulfilled its D&R obligations and demonstrated, by transition phase monitoring, that the site is chemically and physically stable, it would accept custodial responsibility of the property. The development and approval of RISA and RISR which implemented and legislate the ICP acknowledges that provincial commitment.

"Institutional Control" by internationally accepted definition consists of those actions, mechanisms and/or arrangements implemented in order to maintain control or knowledge of a waste management site after project closure. In the context of the ICP, institutional control consists of those actions, mechanisms and arrangements implemented in order to maintain control or knowledge of a remediated site after project closure and custodial transfer to some form of responsible authority. This control may be active (e.g. by means of monitoring, surveillance, remedial work, fences, etc.) or passive (e.g. land use restrictions, markers, records, etc.). Activities undertaken by the post-transfer custodian could range from the simple act of permanently recording the location of a remediated site, all the way to conducting regular inspections that may include active measurements, the collection of samples for analysis and potentially the eventual maintenance of certain aspects of the property.

"Responsible authority" or "responsible custodian" by that same definition is an appropriate body with the powers to implement any required institutional control. In many cases, the body that has the greatest potential for maintaining these controls is a governmental organization. For the Government of Saskatchewan, the responsible custodian is the ICP and the ministry or ministries assigned the responsibility of implementing and managing the ICP. RISA provides the legislative authority to implement and enforce the ICP. It has been designed so that one or more ministers, and their respective ministries, can be granted the responsibility for RISA or sections thereof. ER is the provincial ministry that has been assigned the responsibility of implementing and managing the ICP.

The primary objectives of the ICP are to:

- Protect human health and safety;
- Protect the environment;
- Ensure future generations are not burdened with the costs of long-term monitoring and maintenance for current mining development;
- Be sustainable; and
- Recognize federal jurisdiction regulatory roles and responsibilities for national and international obligations.

In 2005, an interdepartmental Institutional Control Working Group (ICWG) of senior representatives from the Ministries of Environment, Energy and Resources, Government Relations (Northern Engagement), Justice, Finance and Executive Council was initiated to be responsible for the development of the ICP and undertook consultations with stakeholders of federal regulators, industry, aboriginals and northerners, special interest groups and the general public. With Cabinet approval, RISA was promulgated in 2006 and RISR were approved in 2007 to legislate and implement the ICP. The responsibility for the ICP was assigned to ER. A five year legislated review of RISA identified certain stakeholder and government issues and RISA and RISR were subsequently amended in 2018.

The ICP does not manage the D&R of sites, nor does it manage the responsibility of the D&R regulatory approval and release process. The ICP manages the steps that follow those activities. A site cannot be accepted into the ICP until remediation activities have taken place and regulatory authorities have issued a release or exemption from operations. Similarly, a site cannot be transferred out of the ICP unless a responsible person can provide assurances to regulatory authorities that they have the financial and operational capability to manage site responsibilities.

The ICP as implemented so specific to, and restricted to, remediated mineral quarry and mine/mill sites on provincial Crown land. Acceptance of a broader scope of sites, such as private land or industrial sites is a consideration for the future and the legislation has been designed so that only a regulatory change would be required.

Regulatory Process for Mine/Mill Development

In Saskatchewan, throughout the life of a mine, from exploration through construction, operation and final rehabilitation, mine/mill operations are carefully governed under provincial regulation. Dependent on the specifics of a site, the mineral rights and surface rights may be separate and have separate regulatory processes, and the exploration, environmental, occupational health and safety regulatory processes may be separate and may be the responsibility of individual ministries.

The environmental approval process for a project with the scope of a mine/mill development begins with an Environmental Assessment (EA). The proponent prepares a Terms of Reference which describes what will be included in an Environmental Impact Statement (EIS). The EIS undergoes technical review by ENV and the Saskatchewan Environmental Assessment Review Panel. Public notification is issued both at the application and technical review stages to provide the opportunity for stakeholders, public, aboriginal or impact communities to provide comment before approval is granted. The EIS for a proposed mine/ mill must include a conceptual D&R plan. A proposed mine/mill may also require a review under federal regulation through the *Canadian Environmental Assessment Act, 2012* (CEAA 2012), and specifically for uranium mines and/or mills, the process is undertaken through the CNSC. The CNSC's responsibilities are discussed in more detail further in this document.

Once ministry approval for the proposed mine/mill is received under *The Environmental Assessment Act, The Mineral Industry Environmental Protection Regulations, 1996* (MIEPR) issued pursuant to *The Environmental Management and Protection Act, 2010*, (EMPA) require that any person seeking an approval to operate a pollutant control facility, i.e. mine/mill submit a preliminary D&R plan for review and approval by the Minister and that a financial assurance instrument of sufficient value to ensure the completion of the D&R for the mine site has been approved by the Minister and established by the operator. The regulations further require a detailed review of the D&R plan and the financial assurance instrument at least once every five years, whenever requested to do so by the Minister, or within the 12 months preceding the permanent closure of one or all such facilities.

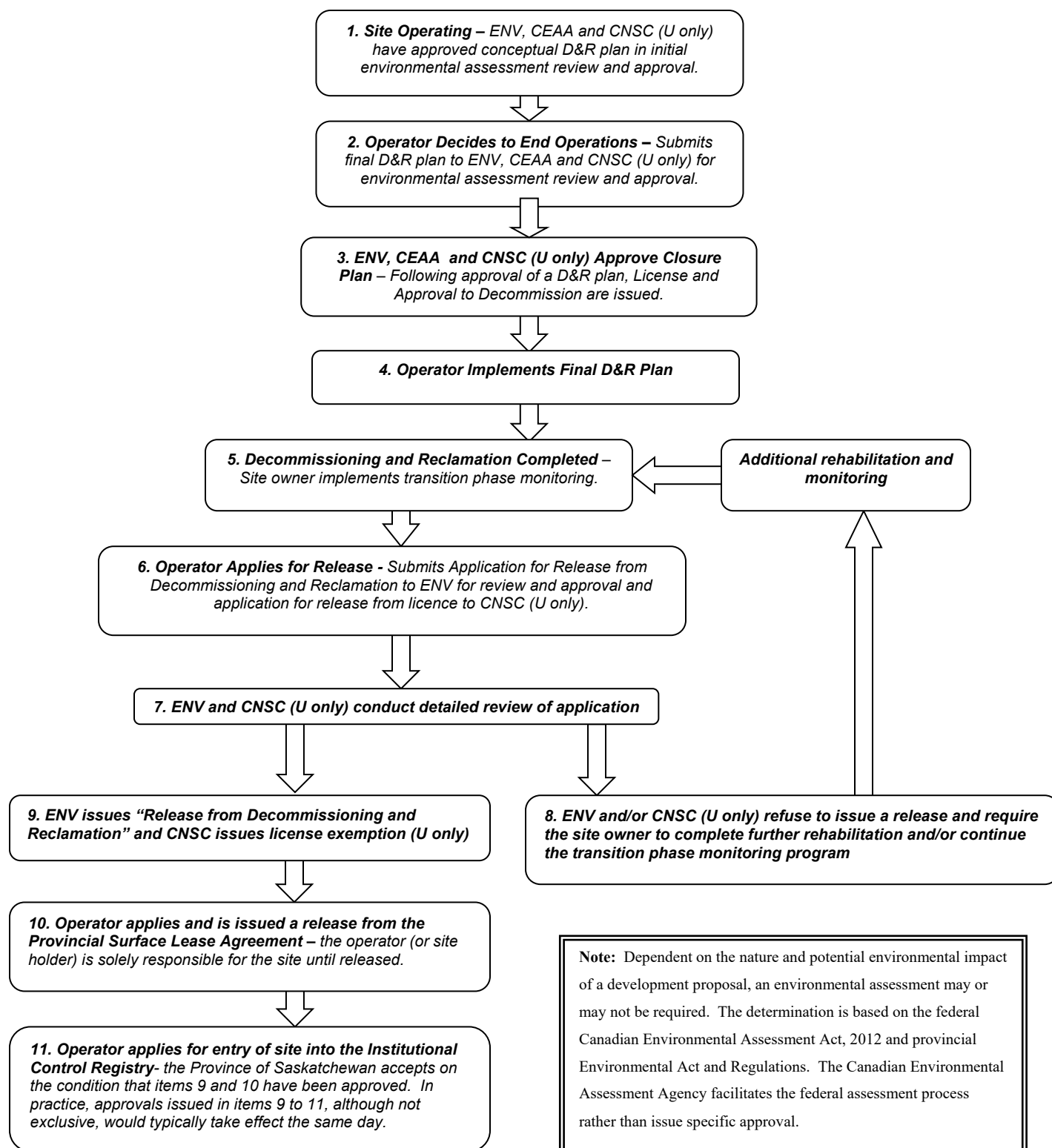
The mine/mill operation proceeds under regulatory permit issued under MIEPR for construction through operation until a decision is made to terminate operations and implement a D&R plan. The operator then submits a final detailed D&R plan to regulators who would determine the level of review and approval that would be required. (see Figure 1)

After an operator has completed the approved D&R activities, the site enters a period of 'transition phase monitoring'. During the transition phase monitoring period, the operator is required to continue monitoring and maintaining the site, as per the requirements in the plan, at their own expense. The operator is also required to maintain financial assurances sufficient to cover the cost of the remaining obligations outlined in the plan and any monitoring and maintenance requirements for the balance of the transitional period as well as a contingency, to be negotiated, for any unexpected occurrences. During the transition phase monitoring period, regulatory authorities continue to conduct periodic regulatory inspections and review of monitoring results. During this period, the operator continues to remain fully liable for any impacts the site may have on the environment, occupational health and safety and surrounding communities both provincially as per the requirements of EMPA and any federal legislation.

If the site performs in accordance with the D&R plan predictions and a transition phase monitoring period has proven the site to be both physically and chemically stable, then the operator may make an *Application for a Release from Decommissioning and Reclamation* in order to obtain a release from further monitoring and maintenance responsibilities and from the obligation to maintain financial assurances. The application is reviewed, and if site performance is confirmed, provincial regulators may issue a *Release from Decommissioning and Reclamation*. With the release approved, the operator may then proceed to apply for, and receive, a release from its surface lease. Release from the surface lease would allow the transfer of custodial responsibility for the property from the operator to the ICP (i.e. the Registry).

Figure 1 - Progression of a Mine/Mill/Waste Management Site through to Release/Exemption

From Operation, through Decommissioning, Transition Phase Monitoring Release/Exemption and custodial transfer to the ICP.



* The process shown is based on regulatory processes at time of publication. Detailed information and current regulations for the Environmental Approval process is available from the Saskatchewan Ministry of Environment, and federally through the Canadian Environmental Assessment Agency and in the case of uranium facilities, the CNSC.

In the case of uranium sites, the CNSC's approval and licensing processes are as required under the federal the *Nuclear Safety and Control Act* (NSCA) and *Uranium Mines and Mills Regulations* and are exclusive of exploration but are inclusive through site preparation and construction, operation, decommissioning and transition phase monitoring. The CNSC and the province both conduct regulatory inspections and review of monitoring results. If the transition monitoring has confirmed that the rehabilitation is successful, then the operator would apply for release/exemption from CNSC licensing at the time they apply for a provincial release. Release/exemption from CNSC licence is required for the acceptance of the site into the ICP.

Uranium Mine/Mill Properties

To accept a former uranium mine/mill facility into the ICP, the program was developed to meet the requirements of national and international regulatory frameworks surrounding the institutional control of radioactive wastes.

National and International Obligations

It is recognized that the national and international regulatory framework surrounding the institutional control of radioactive wastes (and therefore uranium mine/mill facilities) has changed significantly since uranium was first mined. The Government of Canada is a member of the International Atomic Energy Agency (IAEA) of the United Nations, and party to their safeguards and protocols. Canada has also promulgated the NSCA which is binding on Her Majesty in Right of Canada or a province.

Canada's International Obligations

In 1998 Canada became a "Contracting Party" to the *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (Convention)*(IAEA). As a Contracting Party to the *Convention*, Canada is required to take the steps to ensure that an appropriate institutional control framework is in place to address the long-term management of decommissioned uranium mine/mill facilities in Saskatchewan.

The *Convention* defines the requirements for institutional control measures after closure of radioactive waste management sites, including uranium mine/mill and tailings facilities, by stating:

- Each Contracting Party shall take the appropriate steps to ensure that after closure of a disposal facility:
 - (i) records of the location, design and inventory of that facility required by the regulatory body are preserved;
 - (ii) active or passive institutional controls such as monitoring or access restrictions are carried out, if required; and
 - (iii) if, during any period of active institutional control, an unplanned release of radioactive materials into the environment is detected, intervention measures are implemented, if necessary.
- Each Contracting Party shall establish and maintain a legislative and regulatory framework to govern the safety of spent fuel and radioactive waste management and that the legislative and regulatory framework shall provide for:
 - (vi) a system of appropriate institutional control, regulatory inspection and documentation and reporting.
- Each Contracting Party shall establish or designate a regulatory body entrusted with the implementation of the legislative and regulatory framework (in Canada, this requirement has been addressed by promulgating the NSCA).
- Responsibility for radioactive waste management rests with the holder of the relevant licence and that the Contracting Party shall take the appropriate steps to ensure that each such licence holder meets its responsibility (based on this article, some form of responsible authority will be required to hold a license on a decommissioned uranium tailings management area and, potentially, on some areas of waste rock).

The responsible federal authority for the Government of Canada's obligations under the *Convention* is the CNSC. The CNSC is also the responsible authority for Canada's regulatory framework as it applies to uranium mine and mill facilities pursuant to the NSCA.

Federal Regulatory Oversight

The Government of Canada's regulatory framework as it applies to mine/mill facilities is exercised through a number of departments and agencies and the legislation that empowers them. A site is required to meet the closure objectives of those authorities, in addition to provincial authorities, as part of the D&R prior to a site being considered for entry into the ICP. Once a site has entered the ICP it will be required to maintain those objectives. Federal departments and agencies that provide objectives and regulatory oversight over the development of a mine or mill facility can include:

- Canadian Environmental Assessment Agency (environmental assessment)
- Environment and Climate Change Canada (mining effluent regulation)
- Fisheries and Oceans Canada (fisheries and fish habitat)
- Employment and Social Development Canada (health and safety)

The Government of Canada's regulatory framework as it applies to uranium mine/mill facilities is exercised through the NSCA and associated regulations. The NSCA states that any work or undertaking constructed for the development, production or use of nuclear energy or for the mining, production, refinement, conversion, enrichment, processing, reprocessing, possession or use of a nuclear substance is declared to be a work or undertaking for the general advantage of Canada. The NSCA also states that the Act is binding on Her Majesty in Right of Canada or a province. This grants constitutional jurisdictional authority for uranium facilities to the federal government and the responsible federal authority is the CNSC.

A "nuclear facility", as defined in the NSCA, includes the following facilities:

- A uranium or thorium mine or mill;
- Any other facility that is prescribed for the development, production or use of nuclear energy or the production, possession or use of a nuclear substance, prescribed equipment or prescribed information; and
- This includes, where applicable, the land on which the facility is located, a building that forms part of, or equipment used in conjunction with, the facility and any system for the management, storage or disposal of a nuclear substance.

The NSCA requires that no person can 'possess' a nuclear substance unless it is licensed under the NSCA. In addition, the *General Nuclear Safety and Control Regulations* state that facilities for the management, storage or disposal of waste containing radioactive nuclear substances at which the resident inventory of radioactive nuclear substances contained in the waste is 10^{15} Bq or more are prescribed as nuclear facilities for the purpose of the definition "nuclear facility" in section 2 of the NSCA. a site can contain decommissioned mill tailings and waste rock piles that are defined as 'nuclear substances' and can thus be defined as a 'nuclear facility'.

The Institutional Control Registry (Registry), in conjunction with the monitoring prescribed by the Registry, has been designed to be comparable to an active "licence" issued by the CNSC pursuant to the NSCA. The Registry has also been designed to meet the terms of Canada's obligations under the IAEA's Convention.

Section 7 of the NSCA, authorizes the CNSC to issue exemption from licensing in accordance with the regulations. Section 11 of the *General Nuclear Safety and Control Regulations*, states that for the purposes of section 7 of the Act, the Commission may grant an exemption if doing so will not

- (a) pose an unreasonable risk to the environment or the health and safety of persons;
- (b) pose an unreasonable risk to national security; or
- (c) result in a failure to achieve conformity with measures of control and international obligations to which Canada has agreed.

The CNSC will decide on the exemption from licensing on a site-by-site basis. If a site/site holder does not receive an exemption from licensing from the CNSC, the site will not be accepted into the ICP.

Institutional Control Program Regulatory Framework

RISA granted ER the legislative power to establish the ICP. The stated purposes of the ICP are:

- (a) to set out the conditions by which the Government of Saskatchewan will accept responsibility for land that, in consequence of development and use, requires long-term monitoring and, in certain circumstances, maintenance;
- (b) to ensure that the required monitoring and maintenance are carried out on that land;
- (c) to provide a funding mechanism to cover costs associated with the monitoring and maintenance on that land; and
- (d) to ensure that certain records and information are preserved with respect to that land.

The ICP has two primary components, the Registry and the Institutional Control Funds, specifically the Monitoring and Maintenance Fund (ICMMF) and the Unforeseen Events Fund (ICUEF).

RISR prescribe the conditions under which ER will accept a closed site into the ICP, the requirements of the ICP to monitor and maintain a closed site, the funding method and the requirement for the preservation of records and information. RISR also prescribes the conditions under which ER would transfer a site out of the ICP for future use or development.

Regulatory Process for site transfer to the Registry

A site holder wishing to transfer a closed site into the ICP will be required to submit an application to ER for the site to enter the Registry. ER will assess the compliance of the application with the prescribed conditions for acceptance and identify any site specific conditions and requirements in discussion with the site holder. ER will review the application in consultation with ENV, Labour and Workplace Safety (LWS) and the CNSC (for uranium sites) before making the decision to accept a closed site into the Registry. Included in the review is determining the monitoring and maintenance obligations, the present value of future costs of obligations and unforeseen event costs. Once the application is approved the site holder is required to submit a registration fee and the prescribed fund contributions to the ICMMF and ICUEF.

The following are the conditions prescribed under the RISR for ER to accept a closed site into the ICP:

- (a) the site holder satisfies the minister that the site holder has completed and complied with the conditions of any environmental assessment;
- (b) the site holder has submitted a monitoring and maintenance plan that is satisfactory to the minister and that identifies:
 - (i) the monitoring and maintenance obligations that need to be undertaken when the closed site is accepted into the Institutional Control Program; and
 - (ii) the present value of the future costs associated with the monitoring and maintenance obligations mentioned in subclause (i);
- (c) the site holder satisfies the minister that the site holder:
 - (i) has completed the required decommissioning, reclamation and transitional-phase monitoring activities requirements imposed pursuant to *The Mineral Industry Environment Protection Regulations, 1996*;
 - (ii) is eligible to be released from the decommissioning, reclamation and transitional-phase monitoring requirements pursuant to *The Mineral Industry Environmental Protection Regulations, 1996*; and
 - (iii) will be released pursuant to *The Mineral Industry Environmental Protection Regulations, 1996* from the requirements or obligations set out in a decommissioning and reclamation plan on the closed site entering the Institutional Control Program;
- (d) the site holder satisfies the minister that the site holder is eligible to receive a release or exemption from any and all licences that are issued by the Government of Saskatchewan or any of its agencies or commissions and that are associated with the closed site;

- (e) the site holder satisfies the minister that the site holder is eligible to receive a release from any and all licences that are issued by the Government of Canada or any of its agencies or commissions and that are associated with the closed site;
- (f) if the closed site is required to be licensed pursuant to the *Nuclear Safety and Control Act* (Canada), the Canadian Nuclear Safety Commission has agreed, in writing, to grant the Government of Saskatchewan an exemption from the obligation to hold a licence under the *Nuclear Safety and Control Act* (Canada) for the closed site if the minister accepts the closed site into the Institutional Control Program;
- (g) the site holder satisfies the minister that:
 - (i) the site holder is eligible to receive a release from the surface lease agreements or any portion of them associated with the closed site; and
 - (ii) the site holder will receive the release at the time the minister accepts the closed site into the Institutional Control Program;
- (h) if the site holder owns the mineral rights associated with the closed site, the site holder surrenders or transfers those mineral rights to the minister at the time the minister accepts the closed site into the Institutional Control Program.

The documentation required to be submitted by a site holder such as site information, site holder information, inclusion of release or eligibility to be released from all licenses, permits and leases will undergo a straightforward review by ER. This review is directed at ensuring all required documentation has been included. A description of the format and necessary documentation for a site holder to prove the prescribed conditions have been met is detailed in Attachment 2 “Guidelines for Site Holder Submission”.

The monitoring and maintenance plan, future land use and the future costs associated with the completion of those monitoring and maintenance obligations undergo a detailed review to ensure that they are sufficient and appropriate to meet the long-term environmental, occupational health and safety objectives required of the closed site. ER consults with, and acts on, the recommendations of ENV, LWS and the CNSC (for uranium sites) in making the decision to accept a closed site into the Registry. Stakeholder consultation must be evaluated and may include consultation requirements in the ENV processes to approve the D&R plan or issue a *Release from Decommissioning and Reclamation*, as part of the site holders community engagement during those and the transition monitoring phase, or as notification of impact communities for the ICP acceptance process. The ICP may address concerns identified by stakeholders in the design of the monitoring and maintenance plan and future land use requirements. Site holders may find it beneficial to develop such monitoring and maintenance plans as part of their detailed D&R plans and submit them at the time of application for a *Release from Decommissioning and Reclamation*.

Modern mine decommissioning and reclamation strategies are based on the implementation of passive control methods wherever possible. These methods significantly reduce future monitoring and maintenance costs and the potential for risk of a site failure. However, a site holder cannot be granted complete absolution from site responsibility. EMPA provides for absolute liability of a person responsible for a discharge to continue indefinitely. The authority to waive this liability does not rest with ENV as no such authority is provided in EMPA, and neither ENV or ER can issue a deed of custodial transfer that states that the operator is completely absolved from responsibility for contamination at a site. The ICP limits the province's liability to be held responsible for future remediation costs arising from unforeseen circumstances or company dissolution that are not provided for in EMPA or identified in the *Application for Release from Decommissioning and Reclamation* approved by ENV and upon which the basis of the custodial transfer was undertaken.

A comprehensive transition monitoring plan is necessary to provide assurance that the site has met the performance objectives required by the D&R plan and that the site meets the standard of “safe, secure and stable”. In practice, the standard minimum period for transition monitoring is 10 years prior to making the application to ER for acceptance of the site into the Registry.

Future monitoring and maintenance plans should reflect transition monitoring requirements and may include:

- visual inspections (slumping of underground workings, shafts)
- water, soil samples
- vegetation surveys
- radiation surveys
- engineered inspections (shaft caps, tailings dams)

During the initial years of the ICP when a limited number of sites have been accepted into the Registry, ER, as manager, does not yet employ full time technical expertise to complete the site reviews and post closure management but works cooperatively with other provincial ministries to fulfil the program mandate.

Regulatory Process for site transfer from the Registry

In response to issues identified by stakeholders, RISA and RISR were amended in 2018 and now include the process to approve the transfer of a site out of the ICP to a responsible person so that a site is not prohibited from future development. The regulatory intent is to prescribe conditions that would limit the ICP, government's and former site holder's exposure to environmental and financial liabilities due to activities of a new site holder.

A responsible person who has requested that a site which has been accepted into the Registry be transferred to their custody for development must provide confirmation of the ability to manage the site, as a minimum, in an equivalent manner to the management of the site in the Registry and confirmation of the financial viability to cover the environmental and financial liabilities associated with the site and any liabilities associated with their proposed activities.

The following are the conditions prescribed under the RISR for ER to transfer a site from the Registry to a responsible person:

- (2) The responsible person accepting responsibility for a closed site shall:
 - (a) enter into a written agreement with the minister to accept responsibility that must include:
 - (i) an acknowledgement that the responsible person is aware of and accepts the anticipated future monitoring and maintenance costs, including the costs related to unforeseen events for the closed site, as determined at the time the closed site is transferred from the Institutional Control Program to the responsible person; and
 - (ii) a statement of financial capacity that demonstrates to the satisfaction of the minister that the responsible person has sufficient resources to cover the anticipated future monitoring and maintenance costs, including the costs related to unforeseen events for the closed site; and
 - (b) provide an executed copy of the agreement mentioned in clause (a) to the minister within 30 days after executing the agreement.

The responsible person must also have the capacity to be issued an operating permit, a surface lease and a mineral lease. In practice, these may only be able to be issued effective the date of transfer and in that case the responsible person would be required to provide confirmation of the issuance of those documents by the responsible ministry or agency.

The responsible person must satisfy ER that the responsible person has:

- (a) completed any and all licensing, permitting, approval or other requirements required by the Government of Saskatchewan for the closed site, including:
 - (i) the required licensing, permitting and approval requirements pursuant to *The Environment Management and Protection Act, 2010*;
 - (ii) the provision of a financial assurance in the amount and in the form as required pursuant to *The Environment Management and Protection Act, 2010*;
 - (iii) acquiring any required surface lease agreement or permits; and

- (iv) acquiring any required Crown dispositions pursuant to *The Crown Minerals Act*; and
- (b) provided to the minister, as soon as is reasonably practicable after completing the licensing, permitting, approval and other requirements, a copy of all licences, permits and approvals, as the case may be, and evidence satisfactory to the minister with respect to the person having met any other requirements of the Government of Saskatchewan.

In the case of a former uranium site that was exempted by the CNSC under the NSCA as a condition of acceptance into the Registry, that exemption may be invalidated by activities or new development on that closed site. Prior to consenting to the transfer of that closed site ER is required to do the following:

- (a) the minister shall consult with the Canadian Nuclear Safety Commission with respect to the closed site;
- (b) the minister must be satisfied that the responsible person has completed all licensing, permitting, approval and other applicable requirements pursuant to that Act (*the Nuclear Safety and Control Act*) with respect to the closed site; and
- (c) without limiting the generality of clause (b), the responsible person mentioned in that clause must, as soon as is reasonably practicable after completing the licensing, permitting, approval and other applicable requirements pursuant to that Act (*the Nuclear Safety and Control Act*) with respect to the closed site, provide to the minister a copy of all licences, permits and approvals, as the case may be, and evidence satisfactory to the minister with respect to the person having met any other applicable requirements, as required by that Act (*the Nuclear Safety and Control Act*).

Dependent on when a site is transferred out of the Registry to a responsible person, funds may still be held on account for that site to pay for the continued monitoring and maintenance requirements and a financial assurance may still be required. Stakeholders identified concerns regarding the disposition of those funds if a site was transferred out of the Registry and RISR were amended to grant ER the authority to disperse the funds as necessary.

ER is required to refund or return to the site holder who transferred the closed site to the Registry:

- (a) all moneys for that closed site held on account in the Institutional Control Monitoring and Maintenance Fund; and
- (b) any financial assurance held by the minister with respect to that closed site.

And if the site holder no longer exists:

- (2) ...the moneys held on account and any financial assurance held by the minister are to be transferred into the Institutional Control Unforeseen Events Fund.

Monies deposited in the ICUEF would remain in the ICEUF and provide future benefit to site holders by reducing requirements for financial assurances for site failures, Acts of God, etc.

While queries have been made about sites in the program, to date, no requests have been made and the process as designed has not been implemented.

Financial Requirements

The development and implementation of the ICP for the post closure management of closed sites is a new precedent in governmental management of resource responsibilities. The development of a system to forecast and manage funding for a perpetual management program is subject to the same financial risks as the personal, provincial, and even federal economies. Within a decade of averaged inflation there may have been stock market reductions, international bank failures, limited GIC, bond investment returns and high economic growth in some sectors.

It is not simple to determine a fair and balanced approach that is planned to serve in perpetuity. In development of the ICP in discussion with the Ministry of Finance and stakeholders, ER implemented a conservative approach that is intended to provide fair return on investment in differing economic environments.

ER established the ICMMF and the ICUEF and manages the funds as monies separate from Saskatchewan's General Revenue Fund. ER follows the advice and recommendations from the IC Funds Advisory Committee to generate a fair and reasonable return on the funds until funds balances reach a sufficient level for a decision to be made to use a third party fund manager.

Institutional Control Monitoring and Maintenance Fund

One of the prescribed conditions for a site to be accepted into the Registry is that a site holder must have submitted a monitoring and maintenance plan that identifies the future monitoring and maintenance obligations that need to be undertaken once the site is accepted into the Registry and the present value of future costs associated with those obligations.

RISA granted the authority to establish the ICMMF to fund the monitoring and maintenance obligations and held independent of the Saskatchewan's General Revenue Fund. The ICMMF is managed as a whole but monies held on account are tracked by individual site.

The contribution to the ICMMF must be of a value to generate revenue sufficient to pay those future costs in perpetuity. The contribution is calculated based on the "net present value" of the obligation at a forecast inflation rate and based on forecast investment return rates. The calculation is as follows:

Total ICMMF Contribution = the sum of the individual contributions of each monitoring and maintenance obligation at the site.

For a future cost that has been submitted in current dollars, the future value of an individual obligation in the year it occurs is calculated as follows:

Individual Obligation Future Value = Individual Obligation Cost times Future Value Ratio

where the Future Value Ratio (FVR) is:

FVR = (1 plus the Rate of Inflation (%)) to the power of the number of years in the future the obligation occurs.

The Rate of Inflation is determined by ER and assigned following an application by a site holder. The rate is calculated based on a method agreed upon in discussion with the site holder. The present method is to calculate the rate of inflation as a 10 year average based on annual values reported by Statistics Canada. The detailed example for June 2018 is included as Attachment 5.

and:

Individual Obligation Contribution = Individual Obligation Future Value times Discount Rate Ratio

where the Discount Rate Ratio (DRR) is:

DRR = 1 divided by ((1 plus Rate of Return (%)) to the power of the number of years in the future the obligation occurs)

The Rate of Return is defined as the interest rate applied at the time the site is accepted into the Registry. The rate is determined by ER and assigned following an application by a site holder. The present method is to establish the Rate of Return in reference to the Rate of Inflation (i.e. Rate of Inflation + X%) as recommended by the Ministry of Finance. The detailed example for June 2018 is included as Attachment 4.

A sample calculation table for a site is shown in Attachment 5.

As per RISA, ER can only access a site specific deposit and its generated return for site specific monitoring and maintenance. ER cannot access monies on deposit for one site to fund expenditures at a separate site. Site specific responsibilities can include:

- (a) maintenance costs anticipated at the time the closed site is accepted into the Institutional Control Program and for any other general costs that should have reasonably been anticipated at the time the closed site was accepted into the Institutional Control Program; and
- (b) costs incurred for the purpose of determining the required monitoring and maintenance of the closed site.

A comprehensive monitoring and maintenance plan with sound cost estimates significantly reduces the risk of a cost overrun on monitoring and maintenance activities. Cost estimates submitted by contractors for scheduled monitoring or maintenance may vary based on industry variance and availability which highlights the importance of detailing cost components and broad averaging of component costs.

Detailed cost estimates should include:

- sufficient time for documentation review
- travel and expenses to site (if a local or site airport closes, alternate travel methods required)
- sufficient site time and personnel for the inspection (safety, engineering)
- sufficient time for final documentation completion
- maintenance estimates may also include cost of transportation of materials and use of maintenance specific personnel (eg a welder)

The monitoring and maintenance schedule is calculated based on a 100 year timeframe with cost contingencies forecasted to reflect a perpetual valuation. Initial inspections after acceptance into the Registry are typically performed in the first 5 years and if the site performs as predicted monitoring intervals may increase to 25 and, later, 50 years. Satellite sites that supplied a common processing facility or sites in a concentrated geographical area and are owned by the same operator may be grouped for reduced site travel costs for monitoring and maintenance, or for document review and report completions. The decision to allow the grouping of sites and conditions for that grouping are site specific and would be determined in discussion between ER and the site operator.

Institutional Control Unforeseen Events Fund

In addition to the contribution to the ICMMF, a site holder must include a contribution to the ICUEF. The contribution to the ICUEF must be of sufficient value to generate revenue to pay the costs of future unforeseen events and once that value is reached a site holder may be released from a financial assurance requirement. The contribution is calculated as follows:

- (a) for a closed site without tailings or engineered structures, 10% of the Total ICMMF Contribution; and
- (b) for a closed site with tailings or engineered structures, 20% of the Total ICMMF Contribution.

The calculation and assignment of percentages was determined in negotiation with industry. In short, it is based on the assumption that a site with an engineered structure presents twice the risk of a site without a structure and that the contribution had to be at a monetary level sufficient to provide growth potential.

Under RISA, ER can only access this fund for the purposes of:

- (a) maintenance obligations that are not covered by the Institutional Control Monitoring and Maintenance Fund for a closed site that has been accepted into the Institutional Control Program; and
- (b) costs incurred for the purpose of determining the maintenance obligations mentioned in clause (a).

The ICUEF is, in effect, a “rainy day fund” to manage the cost contingencies of unforeseen events. Notably, this fund, with no forecast withdrawal, can reach significant levels in the future. With continued deposits and interest earnings from sound financial management, the province and stakeholders agree that in the future the fund could reach significant levels such that financial assurances and further deposits will not be required.

The ICEUF is managed in its entirety and, unlike the ICMMF, is not tracked by individual site specific monetary deposit.

The ICP will limit the province's liability to be held responsible for future remediation costs arising from unforeseen circumstances or company dissolution that are not provided for in the EMPA or identified in the *Application for Release from Decommissioning and Reclamation* approved by ENV and upon which the basis of the custodial transfer was undertaken. Should an unforeseen event occur, the Registry should perform an investigation such as a root-cause analysis to determine cause and responsibility. Funding sources for such events may include the ICUEF, a financial assurance, the former site holder or the province.

In discussion with stakeholders concern was raised regarding the classification of costs for increasing regulatory standards, and whether the costs would be considered as monitoring and maintenance costs or unforeseen event costs. Historically, some regulatory standards for contaminant levels have increased but it is not on a forecasted timeline nor is it assured that it will occur. In view of industry's concern and that regulatory standards are a provincial responsibility the province agreed that maintenance or remediation costs that are determined to be required as a result of regulatory change would be categorized as an unforeseen event cost for the purposes of those activities.

Institutional Control Funds Management

During the development of the ICP particular concern was identified by stakeholders that the funds be prudently managed and that their site specific monetary deposits and investment earnings were not expended elsewhere subjecting a former site holder to future cost liabilities who had made initial deposits in good faith. RISA grants ER the authority to invest moneys in an account of the ICMMF or ICUEF, that are not presently required for the purposes of those accounts, in any security or class of securities authorized for investment pursuant to *The Pension Benefits Act, 1992*.

Initially, ER consulted with and acted on the recommendations of the Ministry of Finance to manage the monies until such time as they would reach sufficient levels to transfer to third party management. ER and stakeholders subsequently identified that new investment options had become available that would qualify for authorized government use and provide better return than the recommended bonds. In 2013, under RISA authority, ER established an Institutional Control Funds Investment Advisory Committee (FAC) to assist in the direction of how the fund's assets should be invested in the long term. The FAC operated under a Terms of Reference (attached for reference as Attachment 7) and is made up of ER employees and industry stakeholders (former site holders and the Saskatchewan Mining Association) whom provide direction for investment activity of the funds until the funds are self-sufficient and a third party manager is assigned.

The FAC was established with the following purpose:

- review, report, and provide recommendations to the minister regarding Institutional Control Funds investment operations, plans and strategies to ensure sustainable funding for the long-term future of the ICP;
- advise the minister of any matters of concern of former or current site holders considering Institutional Control Funds; and,
- consider any other matters or duties concerning the Institutional Control Funds which may be referred to it by the minister.

One of the issues identified during the review of RISA by members of the FAC was that the members be granted exemption from liability from the investment decisions. As a result, the specific authority to appoint the committee, the exemption from investment liability and other clauses of the Terms of Reference were enshrined both in legislation and regulation with the RISA and RISR amendments of 2018. The authority to appoint the committee and grant exemption provided in RISA now states:

- (1) The minister may, in the prescribed manner, appoint a committee to be called the Fund Advisory Committee to advise the minister with respect to any matter related to the administration of the Institutional Control Monitoring and Maintenance Fund and the Institutional Control Unforeseen Events Fund and to perform any other prescribed functions.

(2) No action or proceeding lies or shall be commenced against any member of the Fund Advisory Committee where that member is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that member pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

Similarly the RISR were amended in 2018 to specify details of membership, duties and responsibilities as agreed on in the Terms of Reference and state:

6.1(1) For the purposes of section 12.1 of the Act, the minister may appoint as members of the Fund Advisory Committee:

- (a) one senior representative from the ministry over which the minister presides, who is to act as chairperson;
- (b) one representative of each site holder who has deposited moneys into the Institutional Control Monitoring and Maintenance Fund; and
- (c) one representative nominated by the Saskatchewan Mining Association.

(2) In addition to the members of the Fund Advisory Committee appointed pursuant to subsection (1), the employee assigned by the minister to oversee the Institutional Control Program and the employee assigned by the minister to administer the Institutional Control Monitoring and Maintenance Fund are non-voting members of the committee who serve in an advisory capacity.

(3) The Fund Advisory Committee is responsible to the minister with respect to the following:

- (a) on the request of the minister, reviewing the Institutional Control Monitoring and Maintenance Fund and the Institutional Control Unforeseen Events Fund investment operations, plans and strategies;
- (b) providing a report and recommendations, within the period and in the manner specified by the request made pursuant to clause (a), with respect to the review mentioned in that clause for the purpose of ensuring sustainable funding for the long-term future of the Institutional Control Program;
- (c) advising the minister promptly with respect to any concerns expressed by former or current site holders regarding the management of the Institutional Control Monitoring and Maintenance Fund and the Institutional Control Unforeseen Events Fund;
- (d) considering any other matters or performing any other duties respecting the Institutional Control Monitoring and Maintenance Fund and the Institutional Control Unforeseen Events Fund that the minister may refer to it.

To further the prudent management of funds, ER, as the ministry responsible, and the FAC operate under governance rules stated in the Terms of Reference as follows:

The Committee shall be governed by the following:

- (1) One representative or delegated representative from each former site holder who has deposited monies into the Institutional Control funds shall have one vote;
- (2) The representative or delegated representative from the SMA shall have one vote. The delegate acting on behalf of the SMA is also granted the ability to abstain from the vote or to return to the SMA for a decision on the casting of the SMA vote should a conflict or perceived conflict of interest exist;
- (3) The quorum for any meeting of the Committee shall be 50 per cent of the former site holders when there are two former site holders and a minimum of 50 plus 1 per cent of former site holders where there are more than two former site holders, with the Chair being present;
- (4) The decisions of the Committee shall be taken by majority vote of the members present at the meeting. In the event of a tie vote, two recommendations may be provided to the Chair who will have the authority to make the decision on which recommendation shall be followed;
- (5) The Committee will meet at least once a year, with more frequent meetings called by the Chair as necessary. In lieu of meeting in person, the Committee may hold meetings by telephone conference call. Where a vote or decision is required, the meeting may be held through email correspondence with member responses considered as official authority or vote for a decision;

- (6) The Manager, or designate, shall keep a record of the Committee's decisions and will ensure records are kept that contain all documents, reports and correspondence received by the Committee. The Manager, or designate, will record the minutes of each meeting and will ensure that minutes are distributed to the Committee within one month following each meeting;
- (7) Each representative or delegated representative from each former site holder may invite an additional representative to serve in a non-voting advisory capacity to the voting Committee representative. The Chair will also give proper consideration to requests for the attendance of non-committee members;
- (8) No Committee member will knowingly permit his interest, monetary or otherwise, direct or indirect to conflict with the proper exercise of his duties and responsibilities; and
- (9) The Committee shall review the membership numbers, conditions, requirements and governance once every five years within the year of establishment.

The ICMMF and the ICUEF are managed openly and transparently. As a provincial government managed fund, the Provincial Auditor audits the accounts and transactions and ER tables an annual report on the business of the funds and a financial statement in each fiscal year. The annuals reports are available on the government website or by request to ER for public and stakeholder review.

Financial Assurance

A financial assurance requirement has been implemented to minimize the ICP's financial risk during the initial years while the ICUEF is building in value. In negotiation with industry, while implementing a condition to reduce its risk, the province also took steps to minimize the financial impact on good corporate citizens through the acceptance of corporate guarantees as a financial assurance. It is understood that once the ICUEF has reached a sufficient level to manage the total cost for unforeseen contingent events, the financial assurance requirement will be removed.

The financial assurance requirement for ER to accept a site into the ICP is specifically stated in Section 5 of RISA:

- (c) the site holder has provided a financial assurance in the form and amount acceptable to the minister.

The financial assurance value is the amount equal to the cost of a maximum failure event that could occur at the closed site or any such reduced amount agreed on by the minister. The maximum failure event is identified in the application submitted to the minister for entry into the Registry. The maximum failure event is site specific and typically references a failure of the largest engineered structure that exists on the site.

The financial assurance must be of one of the following types:

- (a) cash;
- (b) cheques and negotiable instruments;
- (c) government bonds, government guaranteed bonds, debentures, term deposits, certificates of deposit, trust certificates or investment certificates;
- (d) corporate guarantees, irrevocable letters of credit, performance bonds or surety bonds; and
- (e) any other financial instrument or security that is acceptable to the minister.

For a financial assurance that is posted as a corporate guarantee, the minister requires that the site holder providing that corporate guarantee prove that they are of sufficient financial credit rating to ensure the ability to cover the amount of the assurance. Acceptable investment-grade credit ratings are defined as the rating assigned by Standard & Poor, Moody's or Dominion Bond Rating Service of, respectively, BBB/ Baa3/ BBB(low) or higher. A corporate promissory note has also been accepted by the minister as an acceptable form of financial assurance for a corporation that has proven their financial capacity.

A financial assurance for a specific site is to be reviewed approximately once every five years, or upon the request of the site holder if the minister is satisfied that a review is appropriate, to determine if it continues to be required and at what level that requirement will be. In conducting the review, the Registry shall consider: the condition of the closed site; the amount estimated as standing to the credit of the closed site in the ICMMF; and the financial solvency of the site holder.

The Registry can only access the financial assurance if the minister is obligated to undertake significant maintenance obligations at the site and withdrawing the funds for the required maintenance will unduly deplete the amount standing to the credit of the closed site in the ICMMF or the ICUEF; or the minister determines that the security provided as part of the assurance fund is about to expire and that no replacement security has been provided.

Registration Fee

The final cost component of the ICP is the prescribed registration fee of \$500. This is a fixed fee prescribed in RISR. The fee will provide for processing of applications, document transfer and program administration.

Payment

Currently the preferred method of payment is by cheque or direct deposit. The contributions to the ICMMF and the ICUEF are paid to ER as the ministry responsible for the ICP and the registration fee is paid to the Minister of Finance as the ministry responsible for government finances.

Institutional Control Registry

A primary component of the ICP is the Registry. The Registry is the record and information archive for accepted sites, and is also responsible for ensuring that the monitoring and maintenance is performed and enforcing compliance with land use restrictions. It is the portal for public access to information and responsible for reporting on all its activities to regulatory authorities, national and international.

Records and Information

As a record and information archive the Registry requires and maintains the following records and information:

To be submitted by a site holder:

- (a) location of the closed site;
- (b) identification of the site holder of the closed site;
- (c) a description of the closed site and the activities that were conducted on the closed site;
- (d) the release from decommissioning and reclamation issued pursuant to *The Mineral Industry Environmental Protection Regulations, 1996*;
- (e) a reference to and the location of the documents provided by the site holder pursuant to *The Mineral Industry Environmental Protection Regulations, 1996* for the purposes of applying for the release mentioned in clause (d), including a reference to and the location of a full and complete set of 'as-built' reports;
- (f) a description of the monitoring and maintenance obligations;
- (g) a reference to and the location of the documentation provided to the site holder when the site holder is released from any surface lease agreement that governed the closed site;
- (h) in the case of a closed site that was a uranium facility, a reference to and the location of Canadian Nuclear Safety Commission licensing documentation and all Canadian Nuclear Safety Commission decisions related to the closed site;
- (i) a notation of the location of all documentation that the minister considers applicable to the closed site and that is in the control of the site holder; and
- (j) surface and underground plans submitted pursuant to *The Mines Regulations, 2003* or any predecessor to those regulations.

A detailed description of the site holder submission requirement, e.g. format and content, is included in Attachment 2 "Guidelines for Site Holder Submission".

A site holder's submission is not specifically required to include all historical records and data previously submitted to a government department, agency or commission and retained on file. Certain historic records may have been submitted under previous ownership or are department specific. That information is to be submitted by the responsible government department, agency or commission. A site holder may also choose to submit historical records that it no longer wishes to, or is required to, maintain.

To be submitted by the Government of Saskatchewan, the Government of Canada or any agency or commission of those governments:

- (a) notation of the location of all documentation that the minister considers applicable to the closed site and that is in control of the relevant Government, agency or commission;
- (b) a description from the department of the Government of Saskatchewan responsible for the management of the surface lands that are part of the closed site and that are owned by the Government of Saskatchewan, identifying and specifying any surface land use restrictions for the closed site;
- (c) a description from the department of the Government of Saskatchewan responsible for the management of mineral lands that are part of the closed site and that are owned by the Government of Saskatchewan, identifying and specifying any mineral disposition restrictions for the closed site;
- (d) in the case of closed site that was a uranium facility, a reference to and location of Canadian Nuclear Safety Commission licensing documentation and Canadian Nuclear Safety Commission decisions related to the closed site;
- (e) a note indicating whether the property is registered as a land disposition administered by the minister responsible for *The Environmental Management and Protection Act, 2002*;
- (f) reference to and location of any final surface lease agreement respecting the closed site provided by the department of the Government of Saskatchewan responsible for the management of the surface land; and
- (g) a copy of any surface, underground and final closure plans respecting the closed site that are provided to any department of the Government of Saskatchewan responsible for management of those plans.

A governmental submission of historical records may take the form of a letter identifying the applicable records for which that agency is responsible, i.e. a list and location. That agency would be expected to maintain those records in perpetuity. The submission may take the form of a physical transfer of documentation should the agency not wish to maintain those records. Similarly, responsibility for records already archived should be transferred.

Site Monitoring and Maintenance

The Registry is required to monitor and maintain a closed site in accordance with the monitoring and maintenance plan as submitted by the site holder and approved as a condition of acceptance into the ICP.

As the site matures those monitoring requirements may be amended based on the site having proven the ability to further stabilize at or below environmental and safety regulatory objectives and standards. An example is a site that enters the program with a once-in-5 year monitoring cycle that confirms the site is performing as predicted may move to a once-in-10 year monitoring cycle in 25 years time under the regulator approved monitoring schedule at the time of site acceptance.

The Registry shall also be required to carry out all maintenance on a closed site to ensure the site meets environmental and safety regulatory objectives. This can include the replacement of a cement cap on a mine shaft with a 75 or 100 year design life (funded by the ICMMF), to the repair of a containment dyke following a once in a thousand year rainfall (funded by the ICUEF).

In carrying out the monitoring and maintenance responsibilities when there are a limited number of sites, the Registry may not yet have employed full time qualified personnel. In such cases, the Registry retains the services of qualified persons. This may be achieved by requesting qualified employees of the Government of Saskatchewan to carry out those responsibilities; or engage the services of private technical, professional or other adviser, specialist or consultant personnel. The Registry will also provide a copy of monitoring reports and maintenance work to the site holder that remediated the site to further ensure the site is performing as planned and that the Registry has undertaken any corrective maintenance prior to failure of engineered structures. The Registry will access the appropriate account of the ICMMF or, as the case requires, the ICUEF for payment of the performance of those services.

Land Use Access/Restriction

At the time of application into the ICP, a site holder is required to relinquish the associated surface lease. For sites in northern Saskatchewan the lease is managed by the Ministry of Government Relations (Northern Engagement Branch). Based on a site's operational use and the remediation measures incorporated in the D&R plan, it may be necessary to restrict future surface use to ensure the stability and function of engineered structures. As an example, it would not be prudent to allow an access road to be built across a decommissioned engineered tailings facility. The Registry may restrict or prohibit access to a closed site that has been accepted into the ICP if it is considered to be in the public interest. The land use restrictions are determined at the time an application is made to enter a site into the ICP and the Registry will retain the authority to enforce those restrictions.

In northern Saskatchewan the surface responsibility following surrender of the lease reverts back to ENV who issue a *Miscellaneous Use Permit* (MUP) to the Registry. The Registry is then the delegated authority with the responsibility of permitting permissible land use subject to the restrictions on record within the Registry. The intent is not to prohibit future use but ensures that the development does not impact remediated areas under the Registry's monitoring and maintenance management. When a site is transferred out of the Registry a new surface lease would be issued and the MUP terminated.

Similarly at the time of application into the ICP, a site holder is required to relinquish the associated mineral dispositions. Mineral dispositions are issued by ER. Based on the engineered structures incorporated in the remediation of the site, it may prove necessary in the public interest to restrict mineral activities such as exploration that may damage surface structures, successfully remediated areas or intersect underground workings. The establishment of a Crown Reserve at a closed site is not intended as a ban on any activity but is intended as to force a review of proposed activity that may impact the integrity of the site before a decision to lift the Crown Reserve is made and a mineral disposition issued. Alternatively, the RISA amendment of 2018 also allows for a site in the ICP to be transferred to a responsible person who takes full financial responsibility for the site and impacts of their proposed activities and with that transfer the Crown Reserve would be lifted and the MUP issued to the ICP would be terminated. A mineral reserve can be established at the time of application into the ICP, when a site holder is required to relinquish the associated mineral rights. The method implemented for relinquishment of mineral rights is for ER to issue a public notice pursuant to Section 21 of *The Crown Minerals Act*, for the notification of withdrawal of dispositions for the lands impacted by reclamation or existing engineered structures that continue under the Registry's monitoring and maintenance management. Once the public notice is complete, ER issues a Crown Reserve which is identified in the Registry records.

In both the cases of establishing surface access restrictions and mineral reserves, ENV and ER cooperate to minimize the footprint of those restrictions and reserves to lands impacted by former operations.

Administration

The Government of Saskatchewan accepted the responsibility to fund the one-time costs to establish and implement the Registry. ER, as the manager of the Registry funds the annual operating costs which include:

- Staffing the Registry;
- Facilities to house the Registry;
- Costs associated with entering each newly acquired site into the Registry;
- Maintaining the electronic access to the Registry; and
- Reviewing each registered site and retaining the required inspections/monitoring reports.

The Registry is required to prepare a report every five years, to be known as the *Institutional Control Report*, identifying the condition of all closed sites accepted into the ICP. As with the Registry records, this report is made available for public and other jurisdictional access.

The Future

In May 2009, the former Contact Lake gold operation was the first site to be accepted into the ICP and, later in 2009, five former uranium sites at the Beaverlodge operation were accepted. The first inspections of those

sites under their monitoring schedules took place in 2014 and the sites were proven to be performing as predicted with the next inspections scheduled for 2019.

The ICP is a voluntary program and only a limited number of sites have applied for, and been accepted. The ICP process undergoes regular review to better define and streamline applications and approval processes. In 2018 with the culmination of the legislative review, RISA and the associated RISR were amended both to clarify and address issues identified by ER and stakeholders. The most significant inclusion was to provide the authority under RISA to transfer a site out of the ICP to a new operator for the purpose of new mineral development or the further production of remaining reserves once deemed uneconomic. The funds require ongoing review by the Institutional Control Funds Advisory Committee to generate sustainable income and to determine a level at which it is economic to assign management to a third party, i.e. that time where funding levels have grown to sufficient levels to eliminate the need for deposits to the ICUEF and for financial assurances.

The RISA amendment in 2018 retained the requirement for a five year legislative review and future considerations are the inclusion of other site types (non-mining industrial, private land ownership, active water treatment).

Current program information, reports, financial documents are available on the Government of Saskatchewan website at: <https://www.saskatchewan.ca/business/agriculture-natural-resources-and-industry/mineral-exploration-and-mining/institutional-control-program> .

Attachment 1

Glossary of Terms

In the interpretation and implementation of the Institutional Control Program the following terms are defined within RISA and RISR:

- (a) “**closed site**” means an industrial site at which all decommissioning, remediation and reclamation measures have been carried out and transitional-phase monitoring has been completed;
- (b) “**minister**” means the member of the Executive Council to whom the administration of the Act is assigned;
- (c) “**site holder**” means the person who is in possession of a closed site immediately before the closed site is accepted into the Institutional Control Program;
- (d) “**engineered structure**” means any structure built or deposited in a designed manner that results from, or is constructed to protect, all or a portion of a closed site;
- (e) “**environmental assessment**” means an environmental assessment required by the Government of Saskatchewan or the Government of Canada or any agency or commission of those governments;
- (f) “**licence**” means any licence, permit, approval or letter of authorization that is associated with an industrial site and that was issued by the Government of Saskatchewan or Government of Canada or any agency or commission of those governments;
- (g) “**surface lease agreement**” means a contractual agreement between the Government of Saskatchewan and a lessee that grants the lessee authority to occupy land owned by the Government of Saskatchewan;
- (h) “**industrial site**” means that portion of a mine site or a mill site located on land owned by the Government of Saskatchewan that requires monitoring and possibly maintenance and includes other land owned by the Government of Saskatchewan that the site holder and the minister may agree to include;
- (i) “**transitional-phase monitoring**” means the post-decommissioning and post-reclaiming monitoring program that demonstrates that an industrial site is in compliance with the decommissioning and reclamation requirements set out in *The Mineral Industry Environmental Protection Regulations, 1996*.
- (j) “**Canadian Nuclear Safety Commission (CNSC)**” is the federal government agency established to regulate the health, safety, security and environmental aspects related to the use of nuclear energy and nuclear materials and to fulfill Canada’s international commitments on the peaceful use of nuclear energy. The Commission reports to the Parliament of Canada through the Minister of Natural Resources Canada and receives its authority from the *Nuclear Safety and Control Act*, which is binding on Her Majesty in Right of Canada or a province. The CNSC functions as a quasi-judicial administrative tribunal with the power to establish regulations, issue and enforce licenses and generally perform all regulatory activities prescribed by the *Nuclear Safety and Control Act* and associated regulations;
- (k) “**custodial transfer**” means the transfer of custodial responsibility to a new custodian willing to accept any residual liability (if it exists) and responsibility for long-term management;
- (l) “**decommissioning**” means the activity of disassembling, dismantling, disposal, removal or otherwise addressing all infrastructure associated with the project;

Attachment 1 (pg. 2)

Glossary of Terms (continued)

(m) “**deed of custodial transfer**” means documentation confirming that reclamation or remediation objectives have been met and custodial transfer has been accepted by the new custodian from the transferring agent. (The ‘*Release from Decommissioning and Reclamation – Release Number XX*’ issued by Saskatchewan Environment);

(n) “**institutional controls**” means consists of those actions, mechanisms and arrangements implemented to maintain control or knowledge of a remediated site after custodial transfer. This control may be active (e.g. by means of monitoring, surveillance, remedial work, fences, etc.) or passive (e.g. land use restrictions, markers, records, etc). Activities undertaken by the post-transfer custodian can range from the simple act of permanently recording the location of a remediated site all the way to conducting regular, frequent inspections that may or may not include active measurements and the collection of samples for analysis and potentially the eventual maintenance of certain aspects of the property;

(o) “**Institutional Control Registry**” means an institution of the Government of Saskatchewan charged with the mandate of maintaining a formal record of all mining properties that have achieved closed site status and for which the Province has accepted custodial responsibility and discharging the institutional control duties defined by the Registry for each property recorded therein;

(p) “**Institutional Control Working Group**” is the interdepartmental working group assigned to develop the institutional control policy framework. The group consisted of representatives from:

- Saskatchewan Environment;
- Saskatchewan Industry and Resources (now Energy and Resources);
- Saskatchewan Northern Affairs (now Government Relations);
- Saskatchewan Justice;
- Saskatchewan Finance; and
- Executive Council;

(q) “**project closure**” is the action of completing all decommissioning, reclamation measures and transition phase monitoring to the satisfaction of the succeeding custodian;

(r) “**reclamation**” means actions intended to return the land surface to an equivalent undisturbed condition. Reclaimed land has achieved the desired condition; and

(s) “**rehabilitation**” means the process of reshaping and re-vegetating land to restore it to a stable condition with a land-use that is appropriate for the particular location.

Attachment 2

Guidelines for Site Holder Submission

1(1) Commencing on the date *The Reclaimed Industrial Site Regulations* come into force, application to enter an industrial site into the Institutional Control Registry must be filed with a minimum of one hard copy and electronically on an appropriate and widely-used medium in a format acceptable to the minister.

(2) Attachments and concordant information of a historical nature included with an application may be provided in the original format or with one hard copy and electronically on an appropriate and widely-used medium in a format acceptable to the minister.

2 An application to enter an industrial site into the Institutional Control Registry must contain, at a minimum, the following information:

- (a) a description and map clearly identifying the name and location of the site;
- (b) the identification of the current site holder and the names and addresses of the Director and Officers if the site holder is a corporation;
- (c) a description of the operational history of the site;
- (d) a confirmation from the site holder that an environmental risk assessment the required environmental compliance work has been completed;
- (e) a listing and copy of any and all current approvals, licences, leases, permits, dispositions, and letters of authority issued by government regulatory agencies and held by the current site holder;
- (f) a listing of any and all approvals, licences, leases, permits, dispositions, letters of authority issued by a government regulatory agency for which the current site holder has applied for release and a confirmation from that agency that the site holder is eligible for a release;
- (g) a detailed monitoring and maintenance plan for the management of the site in perpetuity;
- (h) a decommissioning and reclamation plan identifying activities required of any and all engineered structures located on the site in the case a maximum failure event occurs; and
- (i) a proposal, if required, for a financial assurance to cover the cost of conducting the activities identified in 2(h).

3 Environmental risk assessment work completed by the site holder and submitted for the purpose of obtaining the minister's approval for entering an industrial site into the Institutional Control Registry must contain documentation from the appropriate government regulatory agency that the work carried out on a site has met the prescribed conditions of that agency.

4 All submissions must contain written confirmation from the appropriate government regulatory agency that the site holder is entitled to be issued a release from that agency's licence, lease, permit, disposition, letter of authority or any other form of approval issued by that agency. Specifically, those confirmations shall include:

- (a) written confirmation from Saskatchewan Environment that the site holder is entitled to receive a *Release from Decommissioning and Reclamation* under *The Mineral Industry Environmental Protection Regulations, 1996* for the site;
- (b) written confirmation from Saskatchewan Government Relations of the registered Surface Lease Agreement number and that the site holder is entitled to receive a release and termination of the current Surface Lease Agreement for the site;
- (c) written confirmation from Saskatchewan Energy and Resources that all applicable Crown mineral dispositions that had been issued within the site have been terminated or surrendered;
- (d) in the case of a former uranium mine or mill, written confirmation from the Canadian Nuclear Safety Commission of the current licence approval number and that the site has met the current licence conditions and will qualify for a licence exemption at the time the site enters the Institutional Control Registry; and
- (e) written confirmation from any other applicable government department, commission or agency that issues a licence, lease, permit, or other form of approval from time to time that the site holder is eligible for and will receive a release and termination such licence, lease, permit or other form of approval for the closed site.

Attachment 2 (pg. 2)

Guidelines for Site Holder Submission

- 5(1)** All detailed monitoring and maintenance plans for the management of the site in perpetuity shall include:
- (a) a proposed schedule for, type (e.g. air, water, soil, biota, vegetation) and location of, environmental samples to monitor the condition of the industrial site in perpetuity to ensure the site continues to meet the conditions specified at the time of entry into the Institutional Control Registry;
 - (b) a proposed schedule for, type (e.g. installation, replacement) and location of, maintenance required to ensure that the condition of any engineered structure that exists on the site meets the standards specified at the time of transfer into the Institutional Control Registry; and
 - (c) an estimate of the costs of performing the activities identified in clauses 3(b)(i) and (ii) of the regulations in perpetuity. The cost estimate shall be calculated as the present value of those activities based on the date at which they are to occur.
- (2)** All applications must clearly identify all engineered structures and associated liabilities located on a site, including but not limited to mine shaft caps and tailings management facilities. For each engineered structure the following must be included:
- (a) a decommissioning and reclamation plan to replace and return the site and structure to the condition and standard that existed at the time the site was entered into the Institutional Control Registry should a maximum failure event occur; and
 - (b) an estimate of the costs to complete the decommissioning and replacement of the structure.
- 6(1)** All technical, environmental, engineering and geological surveys performed for the purpose of an application to obtain approval for an industrial site to be entered into the Institutional Control Registry must be conducted under the supervision of a qualified professional, engineer, geologist or any other person that the minister considers acceptable.
- (2)** An application for approval for an industrial site to be entered into the Institutional Control Registry must be accompanied by a letter from a person mentioned in subsection (1) that:
- (a) is duly signed and dated; and
 - (b) acknowledges that person's responsibility for the content of the submission.
- 7(1)** All submissions must include a location map that is formatted to print on letter-size paper (21.5 centimetres by 28 centimetres) and that shows the boundaries and serial numbers of all relevant surface leases, mineral dispositions, pertinent topographic features, scale bar, north arrow and the National Topographic Survey map reference.
- (2)** If available, digital co-ordinates must be presented in UTM with the NAD 83 datum and the zone indicated.
- (3)** If in a surveyed area, the location map should include references to the Saskatchewan Grid.
- (4)** Areas covered by detailed maps must be clearly identified on the location map.
- (5)** Detailed maps must contain all surface lease and mineral disposition boundaries and numbers, pertinent topographic features, scale, north arrow and baseline azimuth and must be inset with a location or key map where appropriate.
- 8** All reports and maps submitted as evidence of work must be submitted in duplicate unless otherwise noted in this Appendix.
- 9** Subject to section 7, for all submissions, reports and maps must conform to the following standards:
- (a) reports and maps must contain all relevant data obtained as a result of work carried out on the site and must include a full description and interpretation of that data;
 - (b) reports must be typed and formatted to fit on letter-size paper (21.5 centimetres by 28 centimetres);
 - (c) reports must include:
 - (i) a list of accompanying maps;
 - (ii) the registered lease number for the site on which the work was performed;
 - (iii) the name and address of the site holder;
 - (iv) the covering dates of the work, being the dates when the site work commenced and ended; and
 - (v) the names and responsibilities of all persons engaged in the site work;
 - (d) maps must be legible copies of final drafts;
 - (e) any individual map must be formatted so as not to exceed 86 centimetres by 120 centimetres;

Attachment 2 (pg. 3)
Guidelines for Site Holder Submission

- (f) maps must:
- (i) be legible copies of final drafts;
 - (ii) include a complete legend, scale bar, north arrow, baseline azimuth and date of compilation or revision;
 - (iii) for location maps, be formatted to print on letter-size paper (21.5 centimetres by 28 centimetres) and pertinent local topographic features and show the boundaries and serial numbers of all relevant Surface Leases, mineral dispositions, pertinent topographic features, scale bar, north arrow and the National Topographic Survey map reference;
 - (iv) if available, present digital co-ordinates in UTM with the NAD 83 datum and the zone indicated;
 - (v) have areas covered by detailed maps shown on the location map;
 - (vi) for detailed maps, contain all Surface Lease, mineral disposition boundaries and numbers, pertinent topographic features, scale, north arrow and baseline azimuth and must be inset with a location or key map where appropriate; and
 - (vii) show site data at a scale sufficient to clearly depict all observations made; and
- (g) reports, maps and accompanying documentation, including a cover letter, must be clipped together and submitted in a clearly labeled, sealed package.

Attachment 3

Institutional Control Registry Database – Sample Entry

IC REGISTRY	ICR #	ICR - 01
	Date of Acceptance	November 1, 2008
SITE DATA	Name	Bullwinkle Mine
	Site Holder/Operator	Boris Incorporated
	Original Operator	Rocky Incorporated
SITE LOCATION	Region	La Ronge
	NTS	73-P-07
	UTM-N	6136138
	UTM-E	507533
	Zone	NAD 83
SITE DESCRIPTION	Commodity/Mineral	Gold
	Operational History	1961-1964
	Operation Description	Site consisted of one decline, two raises to surface, one mill and tailings management area.
	Release Description	Adit filled, tailings management area decommissioned, mill dismantled and hauled off site, waste rock contoured, site revegetated.
SITE PERMITS	Release from Decommissioning and Reclamation	IR-111
	Operating Permit at time of Release	SERM-9090, issued October 31, 1998
	Mineral Disposition	ML 9999
	Mineral Release/Crown Mineral Reserve	CR-9191
	Surface Lease Agreement	Surrendered
	Surface Lease Agreement at time of Release	SNA-5050, issued October 31, 2003
	CNSC Exemption (if applicable)	N/A
	CNSC License at time of exemption (if applicable)	N/A
SITE CONTROLS	Land Use Restrictions	MUP #609083. No permanent residence, exploration activity or land disturbance allowed. Unrestricted temporary recreation allowed.
	Monitoring/Inspection Requirements	Recommended 5 year frequency, beginning 2013 as per submitted plan.
	Date of last monitoring	April 30, 2008
	Maintenance/Inspection Requirements	No maintenance frequency required, maintenance required based on visual inspection of engineered structure at time of monitoring inspection as per submitted plan.
	Date of last maintenance	October 31, 1998
	Site holder application	May 30, 2008
SITE RECORDS	Monitoring and Maintenance Plan	on file at Energy and Resources (IC Registry).
	Financial Assurance Plan/Type	Corporate Bond
	Monitoring and Maintenance Fund Account	\$50,000
	Decommissioning and Reclamation Plan	on file with Environment
	Mine/mill plans (as-built)	on file with Labour and Workplace Safety
	Mine/mill historical maps/plans	on file with Energy and Resources (Mines Branch)
	Saskatchewan Mineral Deposit Index reference	0759
	Mineral Assessment files	73P07-0009;-0020;-0024;-0045;-0034;-0050;-0090;-0120;-0121;-0155;-0162;-0201;73P07-0252
	CNSC License/Exemption	N/A
ADDITIONAL	Comments	AA

Attachment 4

Institutional Control Funds Calculation Factors - Sample calculation

The development of a system to forecast and manage funding for a perpetual management program is subject to the same financial risks as the personal, provincial, and even federal economies. In development of the ICP in discussion with the Ministry of Finance and stakeholders, a conservative approach was recommended to provide fair return on investment in differing economic environments.

For that conservative strategy, ER uses a 10 year average inflation factor. This is deemed as representative of a longer term economic approach that balances short term variances and is considered as reflective for forecasting future costs in the long term. In consultation with the Ministry of Finance it was decided that forecast investment rate of return of inflation plus 2.0%. In a comparative review of government and pension investment returns, this was deemed a reasonable rate of return for a long term investment strategy.

The inflation rate and rate of return factors for the calculation of the IC fund contributions can then be calculated as follows:

Year	GDP at market prices*	Inflation
2007	100.0	
2008	104.0	4.00%
2009	101.6	-2.31%
2010	104.5	2.85%
2011	107.9	3.25%
2012	109.2	1.20%
2013	111.0	1.65%
2014	113.2	1.98%
2015	112.3	-0.80%
2016	113.0	0.62%
2017	115.6	2.30%
	10 Year average	1.48%

Annual inflation calculated as:

$(\text{GDP Year 2} - \text{GDP Year 1}) / \text{GDP Year 1}$

Average inflation calculated as:

Sum of 2008 to 2017 inflation rates/10

*Source: Statistics Canada CANSIM Table 380-0102, June 13, 2018

In the example above for June 2018, based on Statistics Canada reported GDP, the inflation factor is calculated as 1.48%. The rate of return factor for June 2018 from the inflation plus 2.00% method thus is calculated as 3.48%.

Effective June 30, 2018

Attachment 5

ICMMF and ICUEF contributions - Sample calculation

The calculation for the contributions to the ICMMF and ICUEF may be simply done in an excel spreadsheet or equivalent. The example below is based on the spreadsheet output with some blank lines for purposes of display in this attachment.

Example: Minesite calculation for 100 years – Shaft cap replacement at 100 years, starting with 5 year inspections moving to 10 years in 2033, in 2043 travel costs to site increase when local transportation is no longer available.

	Year	Obligation cost (2018 dollars)	Sask. Inflation Rate* (10 yr avg to Dec 2017)	FVR	Obligation future value (in year required)	Sask. Rate of Return* (Inflation plus 2.0%)	DRR	Obligation Contribution
Enter in ICP	2018		1.48%	1.000		3.48%	1.000	
	2019		1.48%	1.015		3.48%	0.966	
	2020		1.48%	1.030		3.48%	0.934	
	2021		1.48%	1.045		3.48%	0.902	
	2022		1.48%	1.061		3.48%	0.872	
	2023	\$ 6,900	1.48%	1.076	\$ 7,425.94	3.48%	0.843	\$ 6,258.49
	2024		1.48%	1.092		3.48%	0.814	
	2025		1.48%	1.108		3.48%	0.787	
	2026		1.48%	1.125		3.48%	0.761	
	2027		1.48%	1.141		3.48%	0.735	
	2028	\$ 6,900	1.48%	1.158	\$ 7,991.97	3.48%	0.710	\$ 5,676.62
	2029		1.48%	1.175		3.48%	0.686	
	2030		1.48%	1.193		3.48%	0.663	
	2031		1.48%	1.210		3.48%	0.641	
	2032		1.48%	1.228		3.48%	0.619	
	2033	\$ 6,900	1.48%	1.247	\$ 8,601.14	3.48%	0.599	\$ 5,148.84
	2043	\$ 16,900	1.48%	1.444	\$ 24,400.47	3.48%	0.425	\$ 10,374.99
	2053	\$ 16,900	1.48%	1.672	\$ 28,261.99	3.48%	0.302	\$ 8,535.48
	2063	\$ 16,900	1.48%	1.937	\$ 32,734.62	3.48%	0.215	\$ 7,022.12
	2073	\$ 16,900	1.48%	2.243	\$ 37,915.08	3.48%	0.152	\$ 5,777.09
	2083	\$ 16,900	1.48%	2.599	\$ 43,915.37	3.48%	0.108	\$ 4,752.80
	2117	\$ 136,284	1.48%	2.797	\$ 381,133.37	3.48%	0.091	\$ 34,763.83
ICUEF calculation: For closed site with engineered structures, apply percentage: 20%					Contribution to ICMMF		\$ 88,310.25	
					Contribution to ICUEF		\$ 17,662.05	
					Total Contribution		\$105,972.30	

*Saskatchewan inflation rate and rate of return from Institution Control fund factor document June 2018.

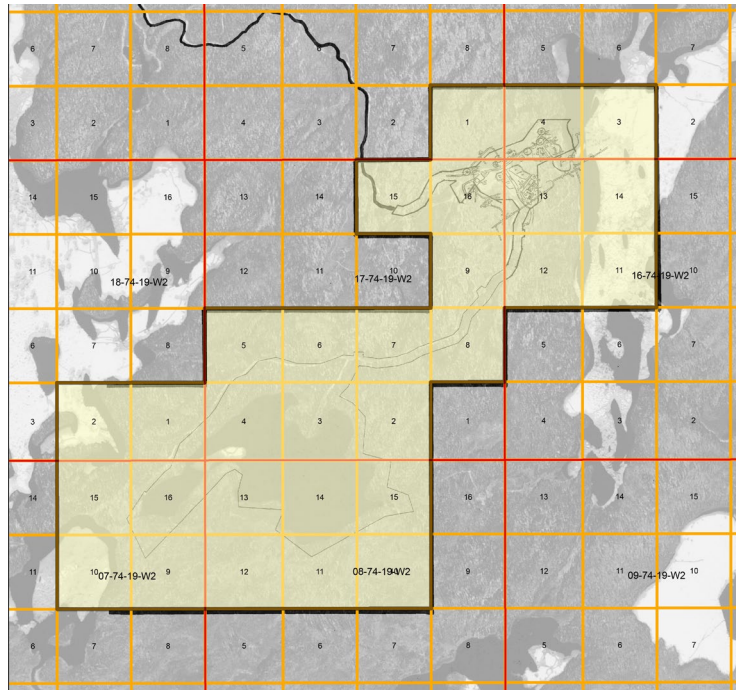
**Note: Lines included in the original spreadsheet are not shown for purposes of brevity.

Attachment 6

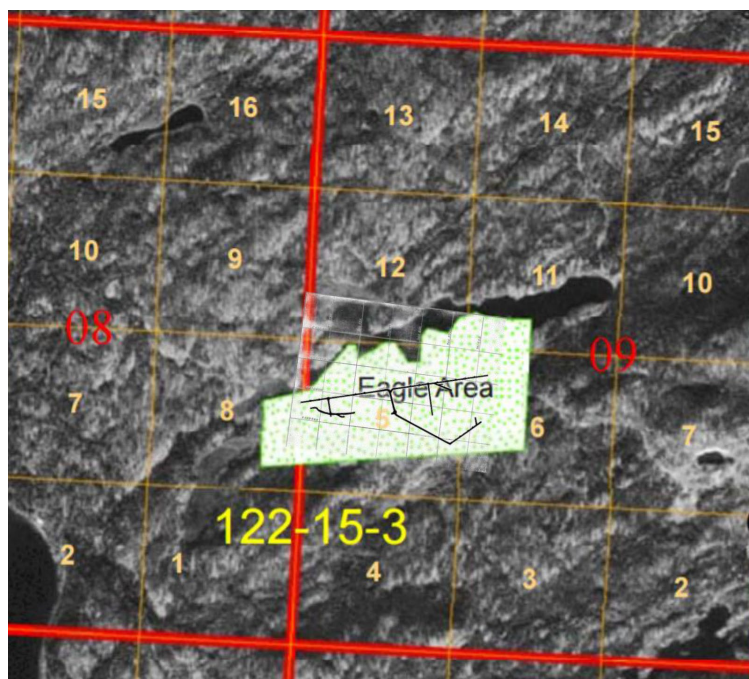
Site Impact Area for Crown Reserve and Miscellaneous Use Permit - Sample

The determination of impact lands for a closed site determines lands identified for future monitoring and maintenance plans and land use restrictions. The recommended practice is for ENV to determine surface lands impacted by mining/milling activities and for ER to determine surface lands below which underground mine workings exist. The combined extent of those lands is the area proposed for the establishment of the Crown Reserve (mineral rights) and Miscellaneous Use Permit (surface rights). The recommended buffer zone to be included in that area is a 25 meter buffer around underground workings and engineered structures. A buffer around surface areas that were not impacted by site activities and had no surface structures may be reduced on a site specific basis. Site Impact Areas may be based on a theoretical land grid or on detailed GPS coordinates conforming to the geographic area.

Contact Lake example:
(uses theoretical land grid - upper right section is mine/mill and underground workings, lower left is tailings facility)



Beaverlodge example:
(uses GPS coordinates – underground workings shown overlain on area which includes surface impact area as outlined by ENV)



Attachment 7

Institutional Control Funds Investment Advisory Committee – Terms of Reference

Pursuant to Section 9 of RISA, the minister has established an Institutional Control Funds Investment Advisory Committee under the following terms of reference:

Terms of Reference

A) PURPOSE

The purpose of the Institutional Control Funds Investment Advisory Committee ("Committee") is to:

- (1) review, report, and provide recommendations to the minister regarding Institutional Control Fund investment operations, plans and strategies to ensure sustainable funding for the long-term future of the Institutional Control Program;
- (2) advise the minister of any matters of concern of former or current site holders considering Institutional Control Funds; and,
- (3) consider any other matters or duties concerning the Institutional Control Funds which may be referred to it by the minister.

B) DUTIES AND RESPONSIBILITIES

The Committee shall be responsible for:

- (1) the review of the investment portfolio returns, programs and strategies once every year and recommend amendments, if required, to the minister; and,
- (2) to conduct an in-depth review of the investment portfolio at least every five years, and recommend amendments, if any are required, to the minister which may include:
 - a) categories of investments;
 - b) diversification of the investment portfolios;
 - c) asset mix and rate of return expectations;
 - d) liquidity of investments; and,
 - e) the selection and retention of an investment manager.

C) MEMBERSHIP

The Committee shall consist of:

- (1) One senior representative from the Ministry of the Economy, as the ministry responsible for the Institutional Control Program, who is to act as chairperson;
- (2) One representative or delegated representative from each former site holder who has deposited monies into the Institutional Control funds;
- (3) One representative named by the Saskatchewan Mining Association (SMA); and,
- (4) Serving in an advisory capacity to the Committee shall be the following employees of the Ministry of the Economy:
 - a) the Institutional Control Program Manager ("Manager"); and,
 - b) the Financial Services Manager.

D) GOVERNANCE

The Committee shall be governed by the following:

- (10) One representative or delegated representative from each former site holder who has deposited monies into the Institutional Control funds shall have one vote;
- (11) The representative or delegated representative from the SMA shall have one vote. The delegate acting on behalf of the SMA is also granted the ability to abstain from the vote or to return to the SMA for a decision on the casting of the SMA vote should a conflict or perceived conflict of interest exist;
- (12) The quorum for any meeting of the Committee shall be 50 per cent of the former site holders when there are two former site holders and a minimum of 50 plus 1 per cent of former site holders where there are more than two former site holders, with the Chair being present;
- (13) The decisions of the Committee shall be taken by majority vote of the members present at the meeting. In the event of a tie vote, two recommendations may be provided to the Chair who will have the authority to make the decision on which recommendation shall be followed;

Attachment 7 (pg. 2)
Institutional Control Funds Investment Advisory Committee – Terms of Reference

- (14) The Committee will meet at least once a year, with more frequent meetings called by the Chair as necessary. In lieu of meeting in person, the Committee may hold meetings by telephone conference call. Where a vote or decision is required, the meeting may be held through email correspondence with member responses considered as official authority or vote for a decision;
- (15) The Manager, or designate, shall keep a record of the Committee's decisions and will ensure records are kept that contain all documents, reports and correspondence received by the Committee. The Manager, or designate, will record the minutes of each meeting and will ensure that minutes are distributed to the Committee within one month following each meeting;
- (16) Each representative or delegated representative from each former site holder may invite an additional representative to serve in a non-voting advisory capacity to the voting Committee representative. The Chair will also give proper consideration to requests for the attendance of non-committee members;
- (17) No Committee member will knowingly permit his interest, monetary or otherwise, direct or indirect to conflict with the proper exercise of his duties and responsibilities; and
- (18) The Committee shall review the membership numbers, conditions, requirements and governance once every five years within the year of establishment.