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GAS CONTRACT DISPUTE – SUPREME COURT TO HEAR TRIAL OF KEY ISSUES

Tap Oil Limited (ASX: TAP) is pleased to advise that the Supreme Court has granted an application for an early trial of issues dealing with certain core aspects of the dispute with Burrup Fertilisers. These issues include the way the liquidated damages regime under the Gas Sale Agreement with Burrup Fertilisers (**GSA**) is to be applied (if required), and are at the centre of the declaratory action brought by Tap in July 2009.

The issues largely involve matters of contractual construction, and as such will be able to be dealt with by the Court in an expedient manner and will not necessitate a lengthy and costly trial process. Timing of the trial of these issues is uncertain at this juncture, however, it is possible that the Court may hear the trial in late 2010 or 2011.

Determination of these issues will go a long way to providing the parties to the dispute with commercial certainty.

Tap's position remains that it has no liability for any shortfall in relation to reserves. Further, Tap has no liability for any future shortfall in delivery that may arise under the GSA as a consequence of force majeure. In the alternative, Tap claims that in the event that force majeure is successfully disputed, damages for a shortfall in reserves or delivery are limited to the liquidated damages set out in the GSA.

Tap's Managing Director, Mr Peter Stickland said:

"Tap welcomes the Court's decision to accelerate the hearing of these contractual construction issues. While Tap remains confident in its force majeure claim, it is prudent to have clarity regarding Tap's potential liability for damages if the force majeure is successfully disputed. The early hearing of these contractual interpretation issues should go a long way towards achieving this."

Background

Gas Sales Agreement

In December 2001 the Harriet Joint Venture parties, including Tap, entered into a Gas Sales Agreement (**GSA**) with Burrup Fertilisers to deliver around 700PJ of gas at around 80TJ/day over 25 years.

The GSA commenced in mid-2005 and deliveries are currently continuing as per the terms of that contract.

Reserves Shortfall Force Majeure

In 2006 the Harriet Joint Venture parties, including Tap, issued force majeure notices in relation to the gas reservation requirements of the GSA.

The GSA requires the Harriet Joint Venture (**HJV**) (of which Tap has a 12.2229% interest as well as a corresponding interest in the GSA) to have gas reserves for supply under the GSA for a prescribed period (currently approximately 20 years). Tap's partners in the HJV, Apache and Kufpec, have also issued force majeure notices to Burrup Fertilisers.

The effect of force majeure is to relieve a party of its obligations under an agreement by virtue of events which are beyond its control. The effect of Tap's force majeure notice is to suspend Tap's obligation regarding reserves under the GSA to the extent it is unable to demonstrate the full reserve requirement. The force majeure events described in the notice include the failure of certain HJV exploration and development wells as previously reported to ASX.

Declaratory Proceedings

In July 2009 Tap instigated declaratory proceedings against Burrup Fertilisers to confirm that any potential future liability for a shortfall in supply under the GSA is limited to the liquidated damages set out in that agreement.

Tap maintains that it has no liability for any shortfall as a consequence of force majeure. Burrup Fertilisers has expressed contrary views in relation to Tap's force majeure notice and these views are rejected by Tap.

Tap commenced the declaratory proceedings to resolve what, if any, damages may be payable if Tap fails to supply gas under the GSA in the absence of force majeure. In these proceedings Tap is seeking confirmation from the Court of its belief that any liability (in the absence of force majeure) is confined to liquidated damages as defined in the GSA. The GSA contains a schedule which provides for annual liquidated damages over the term of the GSA (25 years) in the event of a shortfall of gas supply.

Liquidated damages act to place a cap on damages payable under an agreement to an amount agreed as reasonable by the parties to that agreement. Should liquidated damages be payable by Tap, based on current available reserves, they would be in an amount of approximately US\$20-25 million.

The defence and counterclaim filed by Burrup Fertilisers in the proceedings seeks orders from the Court to declare that general damages may be payable in certain circumstances where there is a shortfall in the level of reserves to be maintained by the sellers or where there is a shortfall in gas supply under the GSA. Tap maintains that the orders sought by Burrup Fertilisers are contrary to the terms of the GSA and has filed a defence to the counterclaim on the basis described above.

Tap believes a Court declaration will resolve a key aspect to the dispute regarding the GSA and will allow the parties to move to resolution of the above matters in a timely manner.

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