

Investor Alert – Rey Resources Ltd: Duchess Paradise coal mine

Rey Resources Ltd's controversial proposed Duchess Paradise thermal coal mine near Derby faces significant risks which could derail the project.

Investors should be aware that there is no secure mining lease and the project faces an unusually high degree of environmental problems, regulatory hurdles and community opposition.

KEY RISKS

- **Rey Resources still has no mining lease for this project**

On **31 January, 2012** Rey Resources' subsidiary, Blackfin Pty Ltd, will appear in the WA Mining Wardens Court in relation to the objections to its proposed mining lease over the project area.

- **Environmental approvals for the project look highly uncertain**

This project faces a high level environmental impact assessment and regulatory hurdles and. Recent WA experience is that new greenfields coal mines are unlikely to receive the necessary environmental approvals. Both State (WA) and Commonwealth environmental approvals are required for the project.

- **Opposition from Traditional Owners**

This project faces increasing opposition from Nyikina and Mangala traditional owners and native title holders. The necessary agreements have not been secured.

- **Significant community and parliamentary opposition to a new coal mine in this area is likely**

The two most recently proposed new coal projects in Western Australia were rejected by the Environmental Protection Authority and government for similar reasons to the problems facing this project.

A Mining Lease has not been secured

Rey Resources has not yet been able to secure a mining lease over the proposed project area. In an unusual step, community members and Traditional Owners have commenced proceedings to try to stop Rey Resources' ('Blackfin Pty Ltd') application for mining lease 04/453 and miscellaneous licence 04/58. In a surprising move, the Mining Warden decided on 22 December 2011 that it would hear these objections even though they were lodged out of time. **This matter is listed at the WA Mining Warden's Court on 31 January 2012.**

This project lacks the most fundamental requirement – a secure mining lease.

The outcome of these legal proceedings remains uncertain. Even if Rey Resources is able to overcome the objections, the Mining Lease and Miscellaneous Licence may not be granted unless and until the West Australian Environment Minister has made a final decision on whether to grant



environmental approval to this project. If Rey Resources is unable to overcome the objections in the court proceedings, it will not secure a Mining Lease or Miscellaneous Licence and the project will not progress further. Either way, Rey Resources appears unlikely to secure a mining lease in a timely manner.

In Western Australia, it is highly usual for mining leases to be opposed with this kind of legal action. Rey Resources lodged its application for a Mining Lease back on 17 December 2010. The opposition to Rey Resources' mining lease represents a greater than usual hurdle for this project and indicates the depth of the community opposition even at these early stages.

While Rey Resources continues to have rights to explore the project site, it has no rights to mine.

Permission from Traditional Owners may be difficult to obtain

Rey Resources has yet to reach an agreement with Nykina and Mangala Traditional Owners of the project area.

The proposed project area is significant cultural landscape with extensive sites; including burial grounds, mythological connections, artefacts, ceremonial grounds and cave paintings.

It is likely that Rey Resources will need to make an application pursuant to the WA *Aboriginal Heritage Act* to disturb Aboriginal sites. Rey Resources has not yet commenced such an application. If and when Rey Resources lodges this application, the Aboriginal Cultural Material Committee (ACMC) will consider Rey's application along with objections from persons who will be sufficiently affected.

The ACMC will then make a recommendation to the Minister for Indigenous Affairs as to whether the sites should be disturbed. The Minister for Indigenous Affairs then makes a final decision. Based on existing opposition from Nykina and Mangala people and the length of previous opposition, is not possible to anticipate how long this process will take or whether Rey's application will be successful.

Although the Nykina and Mangala people reached a Heritage Protection Agreement (HPA) with Rey Resources and its subsidiary Blackfin Pty Ltd, the HPA does not allow any rights to mine. The project cannot commence until an access agreement has been reached and consent has been granted to disturb Aboriginal sites.

Environmental approvals look highly uncertain

On 10 August 2011 the West Australian Environmental Protection Authority (EPA) determined that the project is to be subject to the highest level of environmental assessment applied in Western Australia – 'Public Environmental Review (PER)'. In addition, on 19 October 2011 the Commonwealth Department of Sustainability, Environment, Water and Communities (SEWPaC) determined that the project will require assessment under the *Environment Protection and Conservation Biodiversity Act* before it can proceed.

The project cannot proceed without approval from Traditional Owners

Rey Resources faces an unusually difficult and lengthy environmental and heritage assessment



Therefore this project will require assessment from both the State and Commonwealth environmental agencies including an eight week public submission period and a subsequent statutory appeals process, prior to both WA and Federal Environment Ministers making their final decisions on the project.

This high level of environmental assessment is due to this greenfields minesite being situated in close proximity to the Fitzroy River in the Kimberley region, close to nationally-listed heritage sites and wetlands; the risk of surface and groundwater contamination; the presence of migratory and threatened species; and risks associated with shipping coal on the Kimberley coast. As the mine area has not been subjected to extensive scientific study, a thorough environmental assessment could take much longer than for comparable coal projects in other parts of Australia.

New coal projects in Western Australia face robust parliamentary and environmental scrutiny

Recently, the EPA has demonstrated a reluctance to recommend approval of new coal mines. In 2011 the EPA rejected two separate proposed coal projects: LD Operations failed in its bid to mine coal at Osmington near Margaret River while in February 2011 the EPA rejected a proposal by Central West Coal Pty Ltd to mine coal at Eneabba. The Central West Coal proposal was rejected by the EPA after a Public Environmental Review and SEWPaC assessment process very similar to the process being undertaken for Rey Resources' project.

Crucially, the EPA's decisions to reject both of West Australia's most recent coal proposals were upheld by the WA Environment Minister. The Environment Minister's decisions to reject the coal proposals may have been at least partially based on strong community opposition towards new coal projects.

Based on these recent cases, coal mining in Western Australia is facing increasing political, environmental and community scrutiny.

Community opposition to new coal mines may make it politically difficult to gain the necessary ministerial approval to operate.

Likely timeline for Duchess Paradise project

22 December 2011 – Mining Warden's Court decided that objections to the mining lease and miscellaneous licence can be heard.

16 January 2012 – a first draft of the Environmental Scoping Document (ESD) released for public comment and objection.

30 January 2012 – public comments and objections to the ESD are received.

31 January 2012 – Rey Resources' subsidiary Blackfin Pty Ltd will appear in the Mining Warden's court in Perth in relation to the objections to the grant of the miscellaneous licence 04/58 and mining lease 04/453 concerning the project.



Second Quarter 2012 – Rey Resources must prepare a Public Environmental Review Document which is acceptable to the EPA. This document will be open for an 8 week public consultation period. Public objections are likely to be extensive.

Third – Fourth Quarter 2012 - The EPA submits its report and recommendations to the WA Environment Minister.

First Quarter 2013 – If the EPA recommends development of this project, the EPA’s report will be open to appeal from the public. We expect that significant appeals to the WA Environmental Appeals Convenor will occur.

Second Quarter 2013 – the WA Environment Minister will make a decision on this project based on EPA recommendations and public appeals.

Second Quarter 2013 – If the WA Environment Minister approves this project, the Mining Warden will decide on whether to grant a mining lease to Rey Resources (if he has not previously done so). If the Mining Warden decides to grant a mining lease, this decision may be appealed.

Second-Third Quarter 2013 – If the WA Environment Minister approves this project, SEWPaC will use information from the WA EPA to make its own assessment. This process is likely to take 10 weeks or longer.

Third-Fourth Quarter 2013 - If the project is granted all necessary approvals by the EPA and the WA Environment Minister, the Commonwealth Environment Minister will make a decision on the project.

The Aboriginal heritage approvals process and native title process runs concurrently. The length of these processes is unknown.

What should Investors do?

Investors and Analysts should be aware that this is not an advanced or secure project.

There is:

- no secure mining lease in place;
- no certainty that environmental or cultural heritage approvals will be granted;
- no permission from Traditional Owners;
- likely to be significant community and political opposition to this new coal project.

For further information call:

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