

## Aquila and Vale in dispute over Queensland coal project

By: Esmarie Swanepoel  
Published: 15th June 2010



PERTH (miningweekly.com) – The Eagle Downs hard coking coal project, in Queensland, has hit another snag as joint-venture (JV) partners Aquila Resources and Vale face off in another dispute.

The mining companies' subsidiaries – Aquila Coal and Bowen Central Coal (BCC) – were disputing the capital works component of the proposed 2010/11 budget for the start of construction at Eagle Downs.

The Australian miner said that BCC wanted the capital works component to be conditional on a feasibility study and the project participants making a decision to undertake mine development.

But Aquila Coal wanted to include a clarification that the feasibility study should take into account port and

rail logistics, in support of finance, while BCC was disputing the need to include this clarification.

"Aquila notes that in terms of the JV agreement, that a feasibility study for the purposes of the JV agreement demonstrates the commercial feasibility and viability of the project to a standard customarily required by major financial institutions in support of project finance.

"Although Aquila does not consider it a prerequisite that binding commitments for port and rail logistics be entered into in order for the feasibility study to be delivered, Aquila is of the strong view that port and rail logistics, which are sufficiently certain to be acceptable to relevant financial institutions, are a necessary component for a feasibility study to be complete and of the standard required by the terms of the JV agreement."

The latest dispute between the JV partners follows on a court action in March, when Aquila initiated proceedings against BCC for damages, after it issued a default notice to the Vale subsidiary in relation to the infrastructure arrangements for the Eagle Downs project.

At the time, Aquila said that it had been offered four-million tons a year of the expanded capacity at the Abbot Point coal terminal, subject to the completion of take or pay contracts during the first quarter of 2010.

Both Aquila and BCC had to agree to procure the execution of the relevant agreements by their respective parent companies before the close of business on February 26, but BCC did not support the arrangements.

The two companies are also arguing about the value of Aquila's share in the Belvedere coal project, which Vale is acquiring. The Brazilian giant bought a 24,5% stake in the project from AMCI for \$92-million, but Aquila believed that the purchase price was not reflective of the fair market value for its stake in the project.

Vale owns 75,5% of Belvedere after it bought AMCI's stake and it is moving to take full ownership of the project by acquiring Aquila's share.