

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO AND NEWFOUNDLAND AND
LABRADOR

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
KYRGOIL HOLDING CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, Saskatchewan, Manitoba, Ontario and Newfoundland and Labrador, (collectively, the "Jurisdictions") has received an application from Kyrgoil Holding Corporation ("Kyrgoil") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the provisions of the Legislation relating to delivery of an offer and issuer bid circular and any notices of change or variation thereto, minimum deposit periods and withdrawal rights, take-up of and payment for securities tendered to an issuer bid, disclosure, restrictions upon purchases of securities, identical consideration and collateral benefits (collectively, the "Issuer Bid Requirements") shall not apply to the payment from Petrofac Resources International Limited ("Petrofac") to Kyrgoil of a portion of the purchase price for common shares of Kyrgoil Petroleum Company ("KPC") owned by Kyrgoil by the cancellation of common shares in Kyrgoil owned by Petrofac;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions;

AND WHEREAS Kyrgoil has represented to the Decision Makers that:

1. Kyrgoil, a corporation originally incorporated under the *Business Corporations Act* (Ontario), was continued as an international business company under the *International Business Companies Act* ("IBCA") of the British Virgin Islands ("BVI") effective November 20, 2000.
2. Kyrgoil is a reporting issuer in the Provinces of British Columbia, Alberta and Ontario. Its common shares are listed on the Toronto Stock Exchange (the "TSX").

3. The authorized capital of Kyrgoil is an unlimited number of common shares ("Kyrgoil Shares"). As of the date hereof, 132,444,141 Kyrgoil Shares and 3,040,000 options to acquire Kyrgoil Shares are outstanding.

4. Kyrgoil's primary asset is 50% of the outstanding common shares of KPC (the "KPC Interest"), which owns and operates an oil refinery (the "Refinery") in the Kyrgyz Republic. A company controlled by the government of the Kyrgyz Republic owns the other 50% of the outstanding common shares of KPC. Petrofac manages the Refinery pursuant to a management agreement with Kyrgoil.

5. To the knowledge of Kyrgoil, Petrofac also currently owns 85,302,104 Kyrgoil Shares, or approximately 64.4% of the outstanding Kyrgoil Shares.

6. Kyrgoil is proposing to complete a business combination (the "Business Combination") with a group of companies (collectively, the "PDA Group") engaged in the exploration for, and extraction of, oil and natural gas in Indonesia, Malaysia, Spain and the United Kingdom.

7. The PDA Group consists of the following companies:

(a) Asia Petroleum Development Limited ("Asia-PD"), a corporation incorporated under the laws of BVI on September 2, 2002;

(b) Petroleum Development Associates (Asia) LLC ("PDA-Asia"), a corporation incorporated under the laws of Delaware on December 4, 2001;

(c) Petroleum Development Associates LLC ("PDA"), a corporation incorporated under the laws of Delaware on June 22, 2000; and

(d) Petroleum Development Associates Spain LLC ("PDA-Spain"), a corporation incorporated under the laws of Delaware on October 11, 2001.

8. None of the companies in the PDA Group is a reporting issuer in any of the Jurisdictions.

9. The Business Combination includes the following steps:

(a) the shareholders of Asia-PD, PDA-Asia, PDA and PDA-Spain transferred their shares of such companies to Petroleum Development Associates (Oil & Gas) Limited ("PDA Holdco"), a corporation incorporated in the BVI under the IBCA;

(b) PDA Holdco will complete a private placement (the "Private Placement") of securities (the "Private Placement Shares"); and

(c) PDA Holdco will amalgamate with Kyrgoil under the IBCA to form an amalgamated corporation ("Amalco") on the following basis:

- (i) outstanding shares of PDA Holdco will be exchanged for an aggregate of 23,920,000 common shares of Amalco ("Amalco Shares");
- (ii) each Private Placement Share will be converted into 1.84 Amalco Shares;
- (iii) outstanding Kyrgoil Shares will be exchanged on a one-for-ten basis for Amalco Shares (13,289,414 Amalco Shares);
- (iv) outstanding options to acquire Kyrgoil Shares will be exchanged on a one-for-ten basis for options to acquire Amalco Shares; and
- (v) the exact number of Amalco Shares to be issued as outlined above will be adjusted based on the financial position of the PDA Group and Kyrgoil as at or immediately prior to the closing of the Business Combination.

10. Kyrgoil and the PDA Group have prepared and delivered to the shareholders of Kyrgoil and PDA Holdco a joint information circular (the "Information Circular") in respect of shareholders meetings to be held on or about December 29, 2003 by such companies to consider and vote on approving the Business Combination.

11. In May 2003, the board of directors of Kyrgoil established a special committee (the "Independent Committee"), consisting of Gary Van Nest and Christopher Harrop, directors who are independent of Petrofac. The Independent Committee was established to consider strategic alternatives available to Kyrgoil, including the possible disposition of the KPC Interest, the acquisition of new business opportunities or the liquidation of KPC.

12. In July 2003, Kyrgoil commenced a bidding process for the sale of the KPC Interest. In August 2003, the Independent Committee selected a preferred bidder (the "Bidder") for the KPC Interest. However, in August and September 2003, the Bidder could not establish that it would be able to complete the transaction on terms satisfactory to the Independent Committee.

13. Kyrgoil appointed a qualified and independent valuator (the "Valuator") to prepare a formal valuation of the KPC Interest in 2001, which was completed in May 2002. The Independent Committee requested an updated valuation from the Valuator to reflect changes in KPC's operations and financial performance. The Valuator delivered a final valuation of the KPC Interest (the "Valuation") to the Independent Committee in September 2003.

14. On October 6, 2003, Christopher Harrop, the Senior Vice President of Canaccord Capital Corporation, resigned from the Independent Committee due to a perceived conflict of interest with respect to his interest in Canaccord Capital Corporation, which was retained to provide financial advice to the PDA Group in connection with the Private Placement.

15. On October 6, 2003, Kyrgoil received an unsolicited bid from Petrofac for the KPC Interest, which the Independent Committee subsequently determined was superior to the bids previously received by Kyrgoil. On October 13, 2003, the Independent Committee notified the Bidder that its bid was rejected.

16. On October 16, 2003, the board of directors of Kyrgoil, on the recommendation of the Independent Committee, approved the sale of the KPC Interest by Kyrgoil to Petrofac (the "KPC Interest Sale"). On October 22, 2003, Kyrgoil and Petrofac executed a share purchase agreement (the "Share Purchase Agreement").

17. The aggregate purchase price for the KPC Interest under the Share Purchase Agreement is US\$4 million, to be satisfied at closing by (i) a cash payment by Petrofac of US\$1 million and (ii) the cancellation of 50,000,000 Kyrgoil Shares or, if the closing occurs after completion of the Business Combination, the number of Amalco Shares corresponding to 50,000,000 Kyrgoil Shares (the "Kyrgoil Share Cancellation"). The number of Kyrgoil Shares to be cancelled was determined by dividing the portion of the purchase price to be satisfied by the Kyrgoil Share Cancellation, that is US\$3 million, by the average closing price of the Kyrgoil Shares on the TSX for the 20 trading days prior to October 16, 2003.

18. The Independent Committee also retained the Valuator to prepare a formal valuation of the Kyrgoil Shares to be cancelled in the Kyrgoil Share Cancellation (the "Non-Cash Consideration Valuation"). The Valuator delivered the Non-Cash Consideration Valuation to the Independent Committee in November 2003.

19. The closing of the KPC Interest Sale is not conditional upon the completion of the Business Combination. However, completion of the KPC Interest Sale is conditional, among other things, upon receipt of the approval of the minority shareholders of Kyrgoil, approval of the TSX or TSX Venture Exchange and consent of the government of the Kyrgyz Republic (collectively, the "Consents"). The parties intend to close the KPC Interest Sale as soon as practicable after receipt of the Consents.

20. The Kyrgoil Share Cancellation is an issuer bid for which no exemption is available from the Issuer Bid Requirements. The number of Kyrgoil Shares that Petrofac would deliver to Kyrgoil for cancellation (i) constitutes more than 5% of the outstanding Kyrgoil Shares and (ii) is anticipated to constitute more than 5% of the Amalco Shares outstanding after completion of the Business Combination.

21. Details of the KPC Interest Sale and the Kyrgoil Share Cancellation have been described in detail in the Information Circular.

22. The KPC Interest Sale constitutes a related party transaction under Ontario Securities Commission Rule 61-501 ("Rule 61-501") because Petrofac owns more than 10% of the outstanding voting securities of Kyrgoil. Kyrgoil has complied or intends to comply with the valuation and minority approval requirements of Rule 61-501 by having obtained the Valuation and the Non-Cash Consideration Valuation and by asking the minority shareholders of Kyrgoil

to vote on approving the KPC Interest Sale at the special shareholders' meeting to consider the Business Combination to be held on or about December 29, 2003.

23. Petrofac has represented to Kyrgoil that Petrofac did not, at the time the Share Purchase Agreement was entered into, and does not at this time, know of any material non-public information in respect of Kyrgoil, KPC or the Refinery.

AND WHEREAS pursuant to the System, this Mutual Reliance Review System Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the Issuer Bid Requirements of the Legislation shall not apply to the Kyrgoil Share Cancellation.

December 23, 2003.

"H. Lorne Morphy"

"Suresh Thakrar"

Headnote

Clause 104(2)(c) - Issuer exempt from the issuer bid requirements of Part XX in connection with the proposed acquisition and purchase for cancellation of common shares of the issuer where the cancellation of the shares is consideration for the purchase of 50% of the shares another company - transaction between issuer and majority shareholders of issuer - transaction approved by special committee of independent directors - transaction is a related party transaction subject to OSC Rule 61-501 -- Issuer intends to comply with the minority approval and valuation requirement of Rule 61-501- full disclosure is provided in the information circular.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 95, 96, 97, 98, 100 and 104(2)(c).