



The Coal  
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Our Ref: CA11/OP/95/0084/C

27 September 2023

Merthyr (South Wales) Ltd  
Bradbury House  
Mission Court  
Newport  
Gwent  
NP20 2DW

████████████████████  
**BY POST ONLY**

Dear ██████████

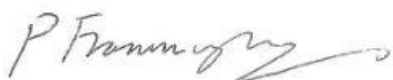
**Notification of final enforcement order relating to breach of operating licence  
Ffos-y-Fran Land Reclamation Scheme**

1. I enclose by way of service a final enforcement order ("**the Order**") issued by the Coal Authority ("**the Authority**") pursuant to s. 31 of the Coal Industry Act 1994 ("**CIA 1994**").
2. The Authority issued a final enforcement order notice ("**the Notice**") on 14 July 2023, pursuant to s. 32(1) CIA 1994. The Authority allowed 28 days for any representations or objections to the Notice to be made. The Authority is in receipt of representations made by Merthyr (South Wales) Ltd ("**MSWL**").
3. The Authority has considered the representations made by MSWL (including those from MSWL's geotechnical specialist) pursuant to s. 32(1) CIA 1994.
4. In addition, the Authority undertook an inspection of the Ffos-y-Fran Land Reclamation Scheme ("**the Site**") on 30 August 2023 and has consulted independent geotechnical experts. The Authority has had due regard to these matters.
5. The Authority has concluded that MSWL is carrying on coal-mining operations in contravention of s. 25(1)(a) CIA 1994. More specifically, in contravention of cl. 3.1 of licence ref CA11/OP/95/0084/C ("**the Licence**", taking into account all subsequent variations), MSWL is undertaking coal-mining operations (applying the definition in s. 65(1) CIA 1994) outside of the Licensed Area (as defined in Part 1 of Schedule 2 to the Licence), in the approximate position shown cross-hatched in green on the plan attached to the Order.
6. The Authority has considered the matters raised by MSWL in its representations against the issue of a final enforcement by the Authority. In particular, the Authority has considered MSWL's claimed

justification for the carrying on of coal-mining operations in contravention of s. 25(1)(A) CIA 1994. The Authority does not consider that MSWL's claimed justification is well founded or supported by robust evidence. Accordingly, having regard to the factors that weigh in favour of enforcement action, in particular the public interest in the maintenance of an effective licensing regime, the need to ensure compliance with the Licence and the potential long term adverse safety risks arising from MSWL's unlicensed coal-mining operations, the Authority has concluded, on balance, that the Order should be issued for the purposes of securing that there is no contravention of s. 25(1) CIA 1994 by MSWL.

7. In reaching this conclusion, the Authority has also concluded that:
  - 7.1. Applying s. 31(5)(a) CIA 1994, MSWL has not agreed to take – and is not taking - all such steps as it appears to the Authority for the time being to be appropriate for MSWL to take for the purposes of securing that there is no contravention of s. 25(1) CIA 1994. In particular, MSWL has refused to cease the coal mining operations outside of the Licensed Area.
  - 7.2. Applying s. 31(3)(b) CIA 1994 the contravention of s. 25(1) CIA 1994 by MWSL are not of a trivial nature, having regard to the scale, nature and extent of the contravention.
8. The Order takes effect on 27 September 2023. This is the earliest practicable time for the purposes of s. 31(6)(b) CIA 1994. The Order requires MSWL to (1) cease all extraction of coal outside of the Licensed Area; and (2) to confirm in writing to the Authority that all extraction of coal outside of the Licensed Area has ceased. The first requirement must be complied with immediately from the date that the Order takes effect. The second requirement must be complied within 1 week from the date that the Order takes effect.
9. Pursuant to s. 33(1) CIA 1994, if the person to whom the Order relates is aggrieved by the Order and desires to questions its validity on one of the grounds in s. 33(1)(a) or (b), they may, within 42 days from the date of service of the Order on them, make an application to the court under that section.
10. Pursuant to cl. 13.1(b)(iv) of the Licence, the Authority will seek to recover all reasonable fees and expenses from MSWL incurred by the Authority in connection with this enforcement action. Further, the Authority will publish the Order in our Statutory Register, in accordance with s. 35(1)(g) CIA 1994, as well as publishing this information on our licensing enforcement webpage.

Yours sincerely



Paul Frammingham  
Chief Finance and Information Officer