



Paul Frammingham  
Chief Finance and Information Officer  
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**Your reference: CA11/OP/95/0084/C**

Dear Mr Frammingham,

**Enforcement action at the 'Ffos-Y-Fran Land Reclamation Scheme', Merthyr Tydfil**

We welcome the enforcement action you are taking relating to breach of the operating licence at the coalmine known as the 'Ffos-Y-Fran Land Reclamation Scheme'. This is set out in your [letter](#) of 14 July 2023 to the mine's operator, Merthyr (South Wales) Ltd.

As you're aware, the letter gives notice of a final enforcement order and encloses a draft of that order. It invites representations or objections, both from the operator and from those likely to be affected by the breach. It explains that you will consider any representations or objections before making or withdrawing the proposed final order. As a longstanding opponent of the mine<sup>1</sup> Friends of the Earth England, Wales and Northern Ireland is affected by the breach. For the reasons below we fully support the order, and we would urge that you make it final in the terms set out in the draft.

The regulatory breach you identify is not a one-off. Since September 2022, when planning permission expired, the operator has been extracting coal at the site in what is a clear, serious and ongoing breach of planning control. It has done this unilaterally - bypassing the democratic planning system; notwithstanding its retrospective application to extend mining timeframes which was refused by Merthyr Tydfil Council. Continued mining has caused untold misery to local residents, including those in our local network, not to mention irreversible climate damage, given the coal that continues to be unlawfully extracted cannot be put back into the ground. This has undermined public confidence, brought the planning system into disrepute, and set a harmful precedent that might encourage other developers to act in a similar manner. The operator has already rightly been accused of gaming the planning system<sup>2</sup>, it is important not to allow it to game the licensing system also.

In relation to the breach identified in the draft enforcement order, we make the following representations.

- We are aware that a local resident has been reporting the boundary transgression to the minerals planning authority, Merthyr Tydfil County Borough Council, regularly, over an approximately 3-year period. This has included photographic evidence over time showing the mined area, including transgression in the top northern corner of the site, and undercutting the overburden mound on the northeast side of the mine. We are not aware of any action taken by the council as a result of these reports. We also understand that the resident concerned has recently requested that the Coal Authority investigate this issue. From this it does appear that the breach of the license has occurred and continues

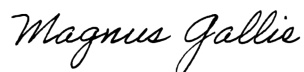
to occur.

- Allowing this breach to continue would effectively amount to an extension of existing coaling operations in Wales. As the Welsh Government has recognised, this would add to the global supply of coal and have a significant effect on Wales' and the UK's legally binding carbon budgets as well as international efforts to limit the impact of climate change<sup>3</sup>. The loss and damage caused by the climate crisis is well documented. These climate impacts have not been considered under the planning system, as should normally happen. The previous grant of permission was not based on any assessment whatever of climate impacts<sup>4</sup>, and in any event that permission has now expired.
- Allowing the breach to continue risks bringing the licensing system into disrepute, given the track record of the operator and the resulting negative publicity connected with the unlawful coaling at the site. On this we note, from your 14 July letter, the apparent failure of the operator to engage with the Coal Authority in the discharge of your functions.
- In all the circumstances, it seems clear to us that the contravention has occurred knowingly and over a considerable length of time, and is not of trivial nature.

We also agree that extraction outside the licensed area should stop immediately. Given the irreversible climate harm being caused, the detrimental impacts on local residents and the attitude of the operator, this is entirely justified.

We look forward to welcoming the order's confirmation in due course.

Yours sincerely,



Magnus Gallie MRTPI  
Planning Specialist

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<sup>1</sup> For example see this July 2023 letter to Julie James, Climate Change Minister, asking the Welsh Government to use its powers to stop unlawful coaling at the site: <https://foe.cymru/welsh-government-must-stop-unlawful-mining-ffos-y-fran>. A similar letter was sent to the local authority. These were the latest in a long line of interventions opposing the mine.

<sup>2</sup> Legal opinion of James Maurici KC and Toby Fisher, 21 June 2023, paragraph 87.

<sup>3</sup> Coal policy statement, 22 March 2021.

<sup>4</sup> Legal opinion, paragraph 73.