



# Memorandum of Understanding

February 2012

**MEMORANDUM OF UNDERSTANDING (MOU)  
BETWEEN  
THE COAL AUTHORITY (CA) AND  
THE SCOTTISH ENVIRONMENT PROTECTION AGENCY (SEPA)**

**1 AIMS AND OBJECTIVES**

In entering into this MoU both organisations will protect and improve the environment whilst ensuring responsible management of the respective financial resources available to them. They recognise the need to share, information and technical expertise so that respective duties can be undertaken in a consistent and cost-effective manner.

The principal intentions of the two organisations in entering into this MoU are to:

- i. prevent any significant new pollution of controlled waters from outbreaks of minewater from abandoned coal mines;
- ii. enhance the environment by reducing pollution of controlled water from existing discharges from abandoned coal mines through a prioritised programme of remediation;
- iii. provide a coherent framework to bring together the available resources of the two organisations and develop an action plan to assist in fulfilling objectives (i) and (ii) above;
- iv. ensure, so far as their duties and powers allow, that operators of existing mines and open-cast coal sites plan for pollution control prior to abandonment;
- v. use their influence to encourage opencast coal operations in locations where environmental problems arising from previously abandoned mines can be addressed by extraction and restoration techniques .
- vi. further the understanding of the processes involved in minewater rebound and the sustainable prevention and treatment of pollution by minewaters..

**2 THE SEPA/CA LIAISON GROUP**

Both organisations will nominate representatives to form the SEPA/CA Liaison Group. Meetings of the Liaison Group will take place at least twice a year and be chaired alternately by respective representatives. Secretarial support will be provided by the Party providing the representative to act a chairperson.

The principal roles of the Liaison Group will be to:

- i. assess the effectiveness and output of agreed monitoring

programmes for rising minewater and existing discharges;

- ii. discuss the prioritisation of actions to prevent new breakouts from abandoned mines and the remediation of existing discharges;
- iii. provide a forum for considering research, emerging techniques, forthcoming legislation and other issues that may impact on the programmes.

In addition, the respective Chairs and/or Chief Executives will meet annually to discuss and review the operation of the MoU and associated work.

### **3 WORK PROGRAMMES – STRUCTURE, ROLES & COMMUNICATION**

#### **3.1 Monitoring**

SEPA's chemical and biological water quality monitoring programme will be used to identify waters polluted by discharges from the mining sector. SEPA will consider environmental impacts on the basis of scale and severity and use this information to prioritise the need for improvements in known abandoned mine discharges and leachate from bings. SEPA will provide the CA with a prioritised list of minewater discharges from abandoned coal mines.

The CA has a network of facilities to monitor water levels in abandoned coal mines.

The data and relevant expertise within both organisations will be shared and considered by the Liaison Group. Where the CA has information which is relevant to the situation in non-coal mines this information will be made available to SEPA.

It is important to review the current level of knowledge in respect of rising mine waters and to consider the need for further studies to identify if there is a risk of pollution. The Liaison Group will consider the need for further studies or to provide additional monitoring. Data and findings from the monitoring programmes will be supplied to the other party as agreed. Cases identified as requiring preventative or remedial action will pass to the programmes outlined in 3.2 and 3.3 below.

#### **3.2 CA Preventative Programme**

This programme is for those sites where the Liaison Group advise that there is a need to carry out works to minimise the threat of future pollution.

To achieve this objective it is important to employ appropriate risk assessment techniques to consider the likely environmental impacts and financial implications of a preventative scheme. It is also intended to use these techniques to minimise both the number of schemes in this programme area at any one time and the length of time that they remain on this list prior to commencement of works.

Works will be implemented and funded by the CA.

### **3.3 CA Remediation Programme**

SEPA has evaluated and prioritised, through the monitoring programme, the impact of the most significant discharges of minewaters using a methodology agreed between both parties. This has resulted in a Priority List for Remediation. This list will be updated by SEPA and provided to the CA in October each year.

The CA will fund and progress schemes at sites on this list through a programme of scoping and feasibility studies and the commissioning of works. Where appropriate, collaboration and partnerships with other organisations will be encouraged.

It is recognised that external constraints, in particular the ability to acquire land, can impact on the timing and the order in which schemes can be implemented. The CA and SEPA will work together to progress schemes where land acquisition holds up the treatment of priority discharges

### **3.4 CA Operational Programme**

The CA carries out pumping operations at abandoned mines in its ownership to prevent pollution. From time to time it may be necessary or appropriate to modify or cease such operations or to set up new installations. In such circumstances, without prejudice to existing legal agreements, the CA will seek to agree these proposals with SEPA in good time. The information provided will be consistent with the Mines (Notification of Abandonment) Regulations 1998.

Subject to available funding the CA will continue to operate its existing and newly constructed pumping and treatment plants. It will seek to optimise those operations and, with SEPA, identify more appropriate long-term solutions wherever practicable. In considering such proposals, SEPA will operate a presumption in favour of sustainable options provided that environmental risks are controlled at levels which SEPA considers acceptable.

The Authority will also seek to explore the practicality of transferring any of its operations to a more locally based party provided this is consistent with environmental objectives.

## **4 OTHER SOURCES OF POLLUTION**

SEPA may initiate action to prevent or remedy pollution from non-coal mines. Where this is necessary, the CA will provide access to coal mine case studies and will consider favourably any request for technical advice.

Where the CA proposes a scheme to address or prevent pollution from a coal mine, it will consider representations from SEPA for addressing environmental risks caused by other sources of pollution associated with the site. It is recognised that this would have the potential to provide cost-effective environmental protection. The CA and SEPA will work with other interested parties who may have a responsibility.

## **5 SEPA CONSENTS**

SEPA will ensure a consistent technical approach to the application of consent conditions.

SEPA will grant consents to protect the environment, having regard to costs and benefits and the aims of any wider improvement programmes. Descriptive consents will be issued, where appropriate.

Should any review of consent be proposed, SEPA will provide reasonable prior notice to allow both consideration of the impact on the wider programmes and cost implications of any works necessary to ensure compliance with suggested revised conditions.

The CA or their agents will operate the plant or facility in accordance with good operational practice so as to minimise the risk of pollution and comply with the requirements of the consent.

## **6 LICENSED COAL MINES AND OPENCAST COAL EXTRACTION**

Both organisations will seek, so far as their powers and duties allow, to ensure that licensed coal mine operators address issues relating to the potential for future pollution on abandonment of a mine or cessation of opencast operations.

SEPA will inform the CA of any notifications by mine operators under the Mines (Notification of Abandonment) Regulations 1998 together with information given in the notice under section 30Z(2) of the Control of Pollution Act, 1974.

The CA will notify SEPA, subject to matters of confidentiality, of a proposal by an operator to abandon a coal mine.

## **7 RIVER BASIN MANAGEMENT PLANNING**

The CA is a member of the National Advisory Group and the Clyde and Forth Area Advisory Groups. These groups exist to contribute to the river basin management planning process in the Scotland River Basin District. The CA was identified as a member of these groups because of the pressures on the water environment from active and historical coal production. As a member of these groups The CA contributes to:

- i. the preparation, delivery and implementation of the Scotland River Basin Plan and the Clyde and Forth area management plans;
- ii. the identification of priorities and the measures required to deliver environmental improvement and protection;
- iii. Ensuring participation, co-operation and consensus of key national, regional and local stakeholders in river basin management planning.;

- iv. Building relationships and involving other key AAG member bodies in partnership initiatives where appropriate to ensure economic use of funding;
- v. Increasing awareness of mining related matters through the NAG and AAG forums ;
- vi. Identifying the need for more detailed plans and programmes and to help facilitate such plans/programmes; and

Advise SEPA and the National Advisory Group on any matter which relates to the preparation of the River Basin Management Plan for the Scotland RBD which falls within their remit

## **8 RESEARCH**

- i. Both organisations will seek to ensure, within their powers and duties, that investigation and research relating to minewater, its treatment, and the reuse of the water and treatment by-products, is carried out in a coordinated and targeted manner. Neither party will commission research in this area without notifying the other.
- ii. Research will form an Agenda Item at all meetings of the Liaison Group and any approaches by third parties in respect of research relating to minewater will be raised.
- iii. The CA and SEPA will make available to each other (subject to matters of confidentiality and legal restrictions) all relevant information, studies and reports in their possession on specific and general matters relating to existing or potential discharges from abandoned coal mines.

## **9 INFORMATION AND COMMUNICATION**

Each Party accepts that it is the data controller of its own data, in terms of the Data Protection Act, 1998. Each Party accepts, conform to the rights and duties given to it in terms of the Freedom of Information Act 2000, the Freedom of Information (Scotland) Act 2002, the Environmental Information Regulations 2004 and the Environmental Information (Scotland) Regulations 2004 ("the aforesaid laws") respectively that each Party may disclose information in compliance with the aforesaid laws or any other law, or, as a consequence of judicial order, or order by any court or tribunal with the authority to order disclosure. Further, each Party may also disclose all information submitted to it to the United Kingdom Parliament or Government or to the Scottish Parliament or Government (otherwise termed Executive) or any other department, office or agency of Her Majesty's Government whether in the United Kingdom generally or in Scotland (and therefore including all devolved departments, offices and agencies), in right of the United Kingdom or the Scottish Administration, and their servants or agents. Any such disclosure shall not be treated as a breach of this agreement. Each Party shall endeavour to consult with the other Party prior to making any disclosure and shall, in particular, endeavour to take account of any objections made by any Party to any such intended disclosure.

In relation to publicity and media interest, when press releases relating to abandoned mines are being generated both parties shall endeavour to to notify the other party in advance, whenever possible and appropriate.

## 10 DISPUTES

- i. Where there appears to be a fundamental disagreement between the CA and SEPA, either party may call a meeting at Corporate level which should be held as quickly as possible (preferably within 7 days of request) in an attempt to resolve the disagreement. Requests for such meetings by the parties should be made to:
  - a) Director of Operations The Coal Authority 200 Lichfield Lane  
Berry Hill Mansfield, Notts. NG18 4RG  
  
Telephone Number: 01623 427162  
Fax Number: 01623 621955
  - b) Director of Operations  
SEPA  
Erskine Court  
The Castle Business Park  
Stirling  
FK9 4TR  
  
Telephone Number: 01786 457700  
Fax Number: 01786 431795
- ii. Any dispute arising which cannot be resolved and could result in litigation between the two parties shall be referred to the respective Chief Executives who, if they consider it appropriate, will meet to discuss the issues involved and the action needed to avoid litigation.

Nothing in this MoU shall affect the statutory duties or responsibilities of either party and, should either party feel that it is no longer appropriate to continue, they can give three months notice of termination in writing after which time the MoU shall cease.

On behalf of the CA

Signed:




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Chief Executive

On behalf of SEPA

Signed:



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Chief Executive

