

# CONTAMINATED LAND

April 2010 Issue 39

BULLETIN

## RISK COMMUNICATION

### NLC speaks out on press reports

North Lanarkshire Council has acted emphatically to quash reports in the press that contamination from a former landfill site under a housing estate in Motherwell is causing health problems for locals after an alleged explosion supposedly released pollutants during a site investigation.

Pollution control manager Charles Penman said: "We are aware of concerns about this site. The evidence with which we have been presented, and which claims to back these concerns, lacks detail. It is, however, being used as the basis of a leaflet campaign which has caused alarm and distress to some residents in the area.

"All parties concerned in acting on this complaint are satisfied all relevant checks were carried out to ensure the land was fit for purpose when it was built on in the 1980s and 90s. We are nonetheless taking this matter seriously. To alleviate residents' concerns, a

full inspection including checks for radioactivity has been carried out."

The council told *CLB* the survey had found no radioactive contamination above background levels. Head of protective services Crawford Morgan said: "The object of this survey was to ensure the levels on this site were not harmful to human health – and that's what it has shown.

"We hope this result will go some way towards relieving local concerns about contamination on the site."

#### Media coverage inflating worry

Penman said: "We absolutely understand that local people have concerns, and that those concerns have spread as a result of the amount of media attention the situation has received. So we will take all reasonable steps to keep people informed of investigation works being planned and the results of these investigations as they

become available.

"The council is attempting to investigate the questions raised in media coverage – for example, allegations of an 'explosion' in January, of which the council has no knowledge or record despite having been present on the site at the time.

"At the moment we are acting on anecdotal information. We have absolutely nothing concrete to support the view that there are dangerous contaminants present here. Nevertheless, we will continue to spend the time and money it takes to complete our investigation until we have a definitive analysis leading to a definitive course of action.

"Our only interest here is the welfare of our residents. Whatever the investigations show, we will tell them. If further action is needed, we will take it. When questions are asked, we will answer them. That's our job and we're

● Continued on page two...

## COMMENT

### Groundwater paper

SEPA has published a position statement *Assigning Groundwater Assessment Criteria for Pollutant Inputs* (WAT-PS-10-01).

The statement provides technical guidance on how to assess significant pollution of the water environment arising from land contamination.

*CLB* was told: "The position statement is primarily aimed at SEPA staff involved in reviewing groundwater quality risk assessments, or setting rules and conditions for authorisations of discharges into groundwater.

"In addition, SEPA considers it will be of particular benefit to those involved in preparing and reviewing assessments of inputs into groundwater arising from land contamination, such as consultants and local authority contaminated land specialists.

"We hope it will reduce the time to prepare groundwater risk assessments for contaminated land and make them quicker and easier to evaluate. It should streamline the process by providing a clear set of rules and reducing the need for protracted discussions."

The document contains a number of new concepts that have been developed to overcome some of the problems that groundwater input assessments have struggled with for a number of years, for example, where should the assessment be made, and should all groundwater be protected?

In addition it has clarified the assessment process by adding detail to topics that were previously vague, such as how background pollution should be considered within the assessment process; and what standards should be used to protect different receptors.

● [www.sepa.org.uk/water/water\\_regulation/guidance/pollution\\_control.aspx](http://www.sepa.org.uk/water/water_regulation/guidance/pollution_control.aspx)

## REMEDIATION

### Olympics land clean up not fit for purpose

Green London Assembly member Jenny Jones claims to have uncovered evidence further remediation of the Olympics site will be required before it is fit for use for some forms of housing.

She said: "Baroness Ford, chair of the Olympic Park Legacy Company, told the assembly family housing would require a 'different level of remediation' than had already been carried out and which

might have been suitable for apartment buildings. Either the Legacy Company or house builders will carry out this extra remediation work.

"It seems a waste of time and money to dig up some areas of the Olympic site in order to redo work which was only carried out a few months ago. It is a shame the original plans for the site did not include family housing, although it is unclear how this differs from

apartments. Whatever the reason, it is clear remediation has not been done to a sufficient level to maximise the use of the site after the games."

Jones also said the OPLC was unclear on the siting of fruit trees and allotments on the site. She said: "I will be asking further questions as the legacy company is unclear on what work has been carried out to ensure planting will not be contaminated."

## HIGHLIGHTS INSIDE...

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#### UNDERGROUND

Health Impacts, cemetery siting and a mysterious warning sign

## IN BRIEF

### Defra plans cuts

Defra has announced it will deliver £194 million of savings as its departmental contribution towards £11 billion of savings being made across government.

Defra will meet its commitment through a range of activities including a reduction in consultancy spend to deliver savings of £25 million by 2012/13.

Environment secretary Hilary Benn said: "Defra and its delivery bodies are committed to doing their bit to achieve these substantial and vital savings in public spending.

"We intend to make these savings in a way that will have the least possible impact on the people who rely on Defra and its agencies and on what we can achieve as a department, by finding more efficient and effective ways of working."

### NICOLE competition

The Network for Industrially Contaminated Land in Europe has issued a call for entries for its technology award, and is looking for projects that showcase innovative site characterisation tools.

The award is open to individuals or groups of people. Entries from junior academics in universities or consultancy are especially welcome.

Entries will be judged on innovation, potential contribution to cost savings, technical applicability and plans for communication and market availability.

● [marjan.euser@deltares.nl](mailto:marjan.euser@deltares.nl)

### Mounsey reappointed

Dr Helen Mounsey has been reappointed chair of the Coal Authority, energy and climate change minister David Kidney has announced.

Kidney said: "Dr Mounsey has been extremely successful as chair of the Coal Authority for the last three years. I am very pleased to re-appoint her."

The Coal Authority has specific statutory responsibilities that include property and historic liability issues such as treatment of minewater discharges.

## POLICY

# Defra justifies guidance review

Defra has explained its decision to review the statutory Part 2A guidance and set out a provisional timetable for action. Progress on Part 2A has been poor, partly due to a lack of clarity as to how the regime works in practice.

A Defra spokesperson told *CLB*: "It is now ten years since the statutory guidance was first introduced and we believe there is a strong case for considering where it could be amended to reflect experience in delivering the regime and developments in scientific understanding.

"Progress has not been as

effective as hoped, partly due to a lack of clarity as to how the regime works in practice.

"We had hoped to improve the situation with further non-statutory guidance, but concluded the better way to fix the problem was to go to the heart of the matter by looking at whether the statutory guidance can be made simpler and clearer.

Defra hopes to consult the public during the summer and publish revised statutory guidance as soon as possible thereafter.

Defra said: "We've now

begun a series of informal meetings with stakeholders to discuss the key issues and look at what improvements could be made with the aim of formally consulting on proposals to amend the statutory guidance later this year.

"The department hopes that revision of the statutory guidance on Part 2A will go a long way to address the difficulties faced by practitioners in moving forward on contaminated sites, leading to action that will help find the worst sites faster, and speed up decision making."

## CONTINUED FROM PAGE ONE

# Court action after health impact claims

### ● Continued from p1:

committed to doing it. We ask that residents work with us to facilitate this investigation and help us reach a conclusion as quickly as possible, for everyone's sake."

### Report conclusions highlighted

*CLB* understands a resident contacted local media following a site investigation in December with claims of contamination and that the council was checking for radioactivity, and produced the leaflet and visited neighbours.

The results of this initial site investigation were seized upon by the media, with reports stating the conclusion that the site, immediately adjacent to a historical iron and steelworks and within the area of a facility with historical uses including electronics and medical radiological equipment manufacture is "a medium-high risk with respect to contaminated land liability issues".

However, Penman told *CLB*: "The report is extremely precautionary. It does not say there is contamination on the site. It simply concludes that, given the site's history, the possibility of contamination exists.

"It also says, however, that previous tests done on the site showed levels of contaminants

were within acceptable parameters, and that recommendations on how the land was used have been followed.

"Its conclusions, to anyone who has read it properly, are very clear. Cherry-picking specific phrases without setting them in context, with the sole aim of stirring up more concerns, is highly irresponsible and unfair to residents."

### Residents take legal action

Further works have been suspended after a lawyer representing a group of residents went to court to attempt to obtain an order to cease works involving drilling.

Head of protective services Crawford Morgan said: "The council and its contractors want to meet with Elizabeth Craigmyle, the solicitor representing residents on the estate, to determine the exact nature of their concerns before continuing to investigate.

"We have drawn up a draft proposal for further investigation, but the nature of the claims being made has changed dramatically since we were first contacted.

"To be quite sure we're answering people's concerns, we need to know what those are, and we have invited Mrs Craigmyle to meet with us to discuss our next steps.

"Working together we should be able to draw up a plan of action that reasonably addresses key concerns without spending more public money on unnecessary procedures.

"It's our duty to respond to genuine concerns like this. But we also have a duty to protect public funds, so the sooner we can meet with Mrs Craigmyle, the sooner we can determine the most appropriate next steps."

Headaches, nausea, diarrhoea, nose bleeds, a bowel removal operation, lethargy, eczema, irritable bowel syndrome, pneumonia, stomach bugs and sore throats have all been blamed on the claimed contamination by those taking court action against the council, with lawyer Dec Collins, who obtained a high court judgement against Corby Borough Council in the birth defects case, also involved in the proceedings.

The controversy grew as the Food and Environment Research Agency published research to Defra on potential health effects of contaminants in soil which found that worry about the risks from contamination rather than contamination itself explains much of the excess ill health reported by people living on or near contaminated land and potentially contaminated sites.

● See page seven for comment on the FERA research results

## REMEDICATION

# Bishopton planning approval

Renfrewshire Council's planning and economic development policy board has granted planning permission for the remediation programme and construction of a dedicated landfill facility on the site of the former Royal Ordnance Factory at Bishopton.

The council said the decision paves the way for one of Scotland's biggest redevelopment programmes over the next two decades.

The proposed multi-million pound development by BAE Systems Property Investments will lead to the construction of 2,500 homes, a community woodland park, and a £30 million package of new community facilities including a new primary school, community centre, health centre, sports facilities and new motorway junction off the M8.

"The fact Renfrewshire is set for such massive long term investment is a major vote of confidence in the area's future," said Iain Nicolson, convener of the planning and economic development policy board.

"The proposed development

at Bishopton will significantly boost the local and regional economy, provide housing for people who want to live in the area and act as a driver for business growth.

"However, Renfrewshire Council has always made clear that we would only sanction development if a comprehensive, stringent and rigorously monitored remediation programme was first put in place for the site.

"We've worked with independent specialist consultants and SEPA to assess the proposals. There have been no objections to those proposals from SEPA, which will licence the landfill site and be involved in the monitoring of the site, or from Scottish Natural Heritage, Scottish Water or the Health and Safety Executive.

"The planning process has a specific remit to address decontamination and remediation issues. I can assure the community of Bishopton that all the statutory bodies involved will ensure that all works on the site comply with national guidelines and are fully

monitored by the relevant agency."

However, the Bishopton Action Group claimed the works would "result in airborne contamination and includes several landfills and the burning of 245 contaminated buildings".

BAG said: "In total BAE can dump 877,000 cubic metres of waste, but they won't pay a penny in landfill tax for approximately 777,000 cubic metres of that waste, which will be dumped in 'landscape mounds'.

"BAE insist the material in these mounds is not waste, but most people would question that. The UK government has been steadily increasing the landfill tax to deter developers from dumping rather than treating contaminated waste. This fact does not seem to have registered at Renfrewshire Council.

"Another of BAE's bargain basement remediation measures, which Renfrewshire Council has approved, is to decontaminate 245 contaminated buildings by burning them."

## IN BRIEF

## Carbon calculation

European consultancy Tauw has developed a calculation tool to quantify carbon dioxide emissions for different soil remediation techniques.

Tauw said: "There are many different soil remediation techniques. These techniques all appear to differ considerably relating to sustainability. This difference lies mainly in the CO<sub>2</sub> emissions. Tauw has developed a calculation tool to quantify CO<sub>2</sub> emissions for different soil remediation techniques. This tool can be deployed when different remediation variants are considered."

● [www.tauw.com/content.jsp?objectId=tauwintern:56560](http://www.tauw.com/content.jsp?objectId=tauwintern:56560)

## Coal review

Housing minister John Healey has launched a review to "give a new boost to the regeneration of former coal mining areas devastated by the closure of the pits".

The government said it has invested £1.5 billion into initiatives to transform former coalfield communities in the last decade with land the size of 4,500 football pitches brought back into use, some of it the most contaminated in Europe.

But Healey said more needs to be done to revive communities that still face long-term worklessness and poverty and the wide ranging review will look at how to get the best out of national coalfields programmes operating across the region.

He said: "Former coal mining communities were devastated by the pits closures twenty five years ago and it has been a huge task to revive these areas.

"The review is to check the investment we've put in and the schemes we've set up are doing everything they can for people across the country who were hardest hit by the pit closures. Chaired by former miner and retiring Barnsley MP Michael Clapham, it will look at what schemes are working well, what needs to be improved and how we can get the best value for the public money the government invests."

## REDEVELOPMENT

# Sunderland baffled by play area controversy

Washington East councillors have held a public meeting over plans by Sunderland City Council to build a children's play area on the spoil heap of the former Glebe Colliery as part of plans to create or revamp 28 sites with £2.5 million of Play Pathfinder funding.

A local resident told the *Sunderland Echo*: "If it was proved to be safe and there wasn't any threat then I wouldn't have a problem with my son playing there. But the problem is we're not getting any assurances."

Councillor Ian Cuthbert said: "The council's own desktop study says the potential impact to human health is considered to be moderate, which isn't surprising when you consider there is arsenic and other

dangerous contaminants on the site at levels which seem to be high to a layman like myself."

But James Blackburn, the councillor responsible for making Sunderland a more attractive city, said: "Sunderland City Council has extensive experience of working with land that has had a previous industrial use, including former colliery sites in many locations in the city.

"I really feel that there is some scaremongering and an attempt to mislead the wider public on this issue."

Initial sampling as part of a desktop study found concentrations of arsenic and selenium with a moderate potential impact on human health, but the report said this could be reduced to low if the spoil mound was capped with

clay and clean topsoil.

It said: "After development works are complete on the site the risks posed to the environment and park users are considered to be minimal. The development will remove any identified risk by providing a means of remedial treatment by mixing and dilution of soils, removing pathways and the use of landscaping materials, providing a barrier between the underlying soil and site users."

CLB was told: "A lot of land is inherently contaminated due to industrial use, and Glebe Park is no different. Remediation of formerly contaminated soil has been carried out, we've done everything expected with this kind of land, and we've a proven track record with this kind of site."

## IN BRIEF

### Wales psyllid approval

Welsh Assembly Government environment minister Jane Davidson has given the go-ahead for the release of the psyllid *Aphalara itadori* to tackle the problem of Japanese knotweed in Wales.

Davidson said: "Biodiversity enhancement and protection is a key part of our commitment as a government to sustainable development. Tackling the problem of Japanese knotweed, which was introduced to Britain in the 19th century, will not only help protect our native plants and animals but also help businesses in Wales.

"As a sustainable, natural approach this project is ground-breaking and will help to reduce the huge cost of treating and killing this devastating plant for local authorities and industry."

The Welsh Assembly Government is working with Defra to pilot the solution at various sites in Wales and England. Knotweed is a particular problem in South Wales with Swansea Council historically being at the forefront of work to control the plant.

### Agency disappointed

The Environment Agency has expressed disappointment at a Planning Inspectorate decision in favour of water companies.

Last April, the Agency announced plans to bring some 4,200 combined sewer overflows under stricter regulation.

Six water companies appealed the plans and the Planning Inspectorate held an appeal hearing in January. The inspectorate's decision was largely in the water companies' favour and the Environment Agency said it was disappointed the overall decision does not go as far as it wished.

However, it said the decision gives some additional protection to the quality of rivers and coastal waters as water companies will now be required to better maintain CSOs to minimise overflows and potential pollution incidents.

## GUIDANCE

# SuRF sustainability framework

The UK Sustainable Remediation Forum has published *A Framework for Assessing the Sustainability of Soil and Groundwater Remediation*, which it said is the "first ever authoritative framework highlighting the importance of incorporating sustainability issues right at the forefront of the remediation and redevelopment process" and is aimed at setting a benchmark for improved remediation and developing better places on brownfield land.

The framework sets out why sustainability issues associated with remediation need to be factored in right from the outset of a project, and identifies opportunities for considering sustainability at a number of key points in a site's development or risk management process.

"It also encourages the inclusion of sustainability issues in local planning strategies, project planning, design of remediation strategies, options appraisal, implementation and verification.

The SuRF steering group said: "While legislation and good practice guidance have encouraged remediation to contribute to sustainable development goals, no formal

and authoritative framework has previously been published to guide such an assessment.

"The framework will be an invaluable part of the decision-making process where remediation measures are required in dealing with historic or new contamination under all relevant regulatory regimes and is flexible enough that it can also be applied to decision-making within regulatory systems beyond the UK."

CL:AIRE chief executive Jane Garrett said: "We are delighted to have been involved in driving such a valuable initiative forward, and are most grateful for the Homes & Communities Agency's support and to industry for the many hours of time they have given.

"The framework document is the main deliverable of phase one of SuRF UK and is the result of a true partnership between industry through SAGTA members, regulators, consultants and CL:AIRE to provide a document that will now provide assessors with the means to undertake a sustainability assessment of soil and groundwater remediation."

CL:AIRE's Nicola Harries told *CLB*: "It's a good one – it will show people how they can fit remediation into

sustainable development, and start thinking of sustainability much further up the chain.

"Often when you're carrying out remediation you think about it much further down the development line, so if you're doing a masterplan for a big redevelopment site, often you would think 'I'll put my open spaces here, and my houses here' – and you wouldn't necessarily consider the contamination and remediation aspects.

"This way you think about it through the process, even though remediation is one small part of the project, and you may end up moving things around so you wouldn't necessarily have to carry out the same level of remediation, which would make it more cost effective and sustainable.

"We want people to read it, to start using it, feeding back, we're going to have some more open forums, and as a steering group we're going to start working up some real case study examples and sharing them with industry to show them how they can do it.

"If people want to start applying the framework we'd be more than happy to hear from them."

● [www.claire.co.uk/surfuk](http://www.claire.co.uk/surfuk)

## SITE INVESTIGATION

# Angus takes on two more sites of concern

Angus Council is carrying out investigations at two further sites of concern within the district. Works have begun at the former Montrose airfield, which was used for fuel storage. A second project is planned for the Eastmill Road Caravan Park at Brechin to determine if groundwater is contaminated by waste from a former battery manufacturer.

The council wants to redevelop the airfield site, where some of the tank and pipe infrastructure remains. Money for the investigation is being provided by the council, with the expectation that the

outlay will be recouped when the land is sold.

Angus said: "A phase I desktop report has not yet been completed for the site and will need to be undertaken prior to phase II intrusive geo-environmental site works."

*CLB* was told: "Site works to create boreholes are now complete and groundwater monitoring and sampling is ongoing at the site. Water sample reports will be completed and studied in the next couple of months."

The council is seeking suitable consultants to carry out the caravan park investigation

"with a demonstrable track record of undertaking specialist studies in order to describe the condition of contaminated land under Part 2A".

The site is currently a residential and touring caravan park, but was historically filled with waste from a nearby battery manufacturer. The council said previous studies have gone some way towards describing the extent and type of contamination and the current study will quantify the impact on the water environment through the installation of six or more monitoring wells.

## INDUSTRY

## Amec expands with Entec buyout

Amec has acquired Entec, a consultancy with a large presence in the contaminated land sector.

The international engineering and project management company paid an initial £61.2 million on a cash free/debt free basis. Further payments may be made subject to retention and performance.

Amec said Entec has a "leading position in the water services and wastewater sector" and also provides contaminated land and regeneration, renewable, nuclear and other energy services, industrial engineering, environmental

planning and project management. The company has around 700 professional employees and is headquartered in Newcastle, with 14 offices across the UK.

"Acquiring Entec Holdings is another important step in our strategy of enhancing our water and environmental consulting capabilities internationally," earth & environmental division president Roger Jinks said.

Executive vice president for Europe and UK Elaine Moore said: "The addition of Entec's high quality people significantly enhances our position in the water sector

around the world. The acquisition also supports our goal of strengthening the division's footprint in Europe."

CLB was told: "The contaminated land sector has always been an important area of specialism for our existing UK-based environmental business and the acquisition of Entec provides us with true critical mass in a key consultancy area. The increase in depth of capability and geographic spread positions us as one of the leading UK environmental consultancies and provides a springboard for future European growth."

## REGENERATION

## Further Ravenscraig funding package agreed

A new funding package has been agreed that will help identify options for the second phase of the Ravenscraig regeneration project.

Scottish Enterprise, North Lanarkshire Council and Wilson Bowden have agreed to provide £2 million funding, which will go towards the preparation of detailed area planning briefs for the second

phase of the project to look at options for the development of a new town centre, industrial area and business park on the former steelworks site.

Wilson Bowden and Scottish Enterprise will contribute £800,000 each, with the council contributing £400,000.

Liz Connolly, Scottish Enterprise's operations director for the west of Scotland, said:

"The detailed planning briefs will be an important milestone for the project and are an important first step in terms of how we will take forward options for phase two. This is a long term project and as the first phase nears completion, it is important all partners can evaluate progress and identify how we can continue to attract private sector interest."

## IN BRIEF

### Olympics land deal

A land deal that "will help provide thousands of homes and jobs" has been agreed between the government and the mayor of London.

The Olympic park land and Three Mills site will be transferred from the London Development Agency to the Olympic Park Legacy Company and work will begin on creating a new city district.

Communities secretary John Denham said: "This is an important deal that will help create up to 10,000 homes and up to 10,000 jobs in the Olympic park, schools, health centres and other facilities to ensure this area has a firm future."

### SEPA guidance

SEPA has published guidance to promote the sustainable reuse of greenfield soils by avoiding unnecessary requirements and reducing administrative burdens.

Excess soils from development sites are generally regarded as waste, so their use or disposal requires a waste management licence or a registered exemption. However, providing the correct criteria is met and with the completion of a single page declaration, SEPA will no longer require such authorisation. This will not only mean a financial saving of up to £803 each time, but also reduce the time spent on the associated administrative burdens.

Permitted use of greenfield soil covered by the guidelines include movement from one development to another development where the soil is required for engineering works as per the planning permission (such uses include soil for front and rear gardens); in developments on brownfield land to meet site-specific capping requirements for remediation; in sustainable urban drainage schemes; and in the construction of roads and road verges.

● [www.sepa.org.uk/waste/waste\\_regulation/guidance\\_position\\_statements.aspx](http://www.sepa.org.uk/waste/waste_regulation/guidance_position_statements.aspx)

## IN BRIEF

### Southall gas works

Mayor of London Boris Johnson has approved plans for the controversial Southall gas works site, which he said will create up to 3,750 new homes, of which 30% will be affordable, and generate a significant number of job opportunities during construction.

Johnson said: "Having had the chance to listen in person to all the arguments for and against this proposal, and consider the application in greater detail, I am satisfied that all major concerns have been addressed. This application is clearly of major significance to London, with the homes it will deliver and the jobs it will create."

## CIWEM appoints Winder



The Chartered Institute of Water and Environmental has named Gary Winder as chair of its new global contaminated land network. Winder, an environmental director at WYG Environmental, said: "CIWEM's vision for the network is to bring together all those interested in contaminated land so as to share knowledge and good practice, support the vital relationship between academic research and general practice and be a sounding board for current and new initiatives."

## IN BRIEF

### Excavated soils survey

The International Committee on Contaminated Land has completed an international survey of many of its member countries on the management of excavated contaminated soil.

Countries returning summary information were: Austria, Belgium, Canada, Germany, Denmark, Spain, Finland, Italy, the Netherlands, Russia, Sweden, Slovakia, the US and South Africa.

● [www.iccl.ch/meeting\\_helsinki.html](http://www.iccl.ch/meeting_helsinki.html)

### Chernobyl proposals

Farmers still paying the price of the Chernobyl disaster 24 years after radiation settled the Lake District fells would be given more money under Liberal Democrat proposals, according to South Lakeland MP Tim Farron.

Restrictions remain in place which stop farmers whose land is still affected by the radiation from freely selling their animals or products. Each animal has to be individually checked and cleared by the government before it can be sold. The Food Standards Agency has the authority to take the sheep away to do tests. In these cases farmers are given compensation of £1.30 per animal, the same amount they were given in 1986.

Farron expressed concern the government is failing to increase the rate of compensation. He said: "When dealing with the long-term effects of a disaster like Chernobyl, it's vital proper safety precautions are taken.

"But given that the crisis happened over 24 years ago, I'm amazed that the FSA has yet to review the system.

"Hill farmers in South Lakeland earn on average less than £6,000 a year. They don't need another needlessly bureaucratic obstacle that will leave many of them further out of pocket.

"If the FSA maintain that these tests are needed, the Liberal Democrats will immediately increase the level of compensation to ensure there isn't a continued exodus from the hill farming industry."

## ENVIRONMENTAL LAW

# Love launches specialist practice

Solicitor Barry Love has launched Environmental Law Chambers, which he said would service the needs of businesses and local and public authorities rather than "simply objecting to everything on behalf of protest groups".

The company is a breakaway from the environmental law team at Scottish firm Semple Fraser and is based in Glasgow but available to advise on environmental law throughout the UK.

Love said: "Most of the legal profession shies away from environmental law – they see it as complex, almost a black art. Specialist law firms aren't a new thing but a specialist environmental law firm is unusual, especially when it exists to service the needs of businesses and local and public authorities, rather than (as some firms do) simply objecting to everything on behalf of protest groups."

He told *CLB*: "There's a tendency in certain quarters to portray industry as all being at it, trying to cut corners and wreaking havoc on the environment, but in fact that's not the case in our experience, most businesses we've acted for have been genuinely doing their best. They don't want to waste money, but want to be made aware of the obligations they're

under so they can look at ways of complying at least cost.

"Industrial clients are also often struggling to stand up to what the regulators are telling them. Regulatory requirements are often based on an overly cautious approach and it is often possible to query that to try to find a bit more middle ground."

Love also criticised "fly by night operations offering environmental justice for all" that attempt to block development by raising spurious environmental concerns. He said: "I'm convinced there's a place for lawyers wanting to come at it from the other side. If there was a Corby case mark II my inclination would be to assist the local authorities – those the

ambulance chasers are going after. However, it is more of a phenomenon in England so far than in Scotland that these litigation law firms are setting up to take group actions.

"There are obviously justifiable cases, but equally we're seeing a move towards residents clubbing together and getting court orders on costs and that kind of thing just to try and have a go at an industrial operator's insurance policy.

"A lot of the arguments are entirely spurious, for example people bring up some kind of biodiversity argument or claim a development isn't sustainable – there's a lot of nonsense kicking about. Often it is simply visual amenity objections couched in environmental terms."



Solicitor Barry Love has launched a specialist environmental firm

## PART 2A

# Plymouth moves on playing field lead levels

Plymouth City Council has sealed off land contaminated with lead on playing fields in Lipson Vale ahead of remediation works.

The site was determined under Part 2A on 29 January.

Plymouth said that following advice from the Health Protection Agency, it is taking a number of interim precautionary measures at the school and on the pitch.

At the school, a small area of raised beds will initially be covered with polythene before being removed altogether. Fencing will also be erected

around a larger raised bed and a membrane and wood chips put on the play area.

Goal posts are being removed ahead of temporary fencing going up to stop people from using the pitch until a longer-term solution is found.

Contaminated land officer Leah Clark told *CLB* investigations began in 2007 as part of a planning application for a flood alleviation proposal for the playing fields. She said: "We only had the last gas monitoring visit in March, which eliminated any risk.

"We don't really know why

lead levels are high, and can only assume the source is the cap. The landfill was capped in the 1950s, so obviously they weren't really aware of the issues and just came along with whatever they'd stockpiled to use as a cap and spread it over the top.

"We're just about to go out to tender for a remedial options appraisal, which we also have Defra funding to carry out. I think it's quite probable it will come back as either capping or removal, but we're hoping to see something a little more inventive."

# FERA upsets the applecart

**Seamus Lefroy-Brooks of LBH Wembley Geotechnical & Environmental and chairman of the AGS contaminated land working group comments on FERA research for Defra on potential health effects of contaminants in soil**

**T**his is a report from a fairly inconspicuous government research group that you may well have never heard of... but its very existence may hold some important clues as to in what direction the UK regulation of contaminated land is headed.

The project was first presented to me – as the AGS representative – and other members of the National Brownfield Forum at a gathering back in December of last year. At the time I was shocked by the frankness of its key findings, and even mischievously wondered whether it was intended simply to stir up debate between the government's other expert agencies, the Environment Agency and Health Protection Agency. However, as time passes and events unfurl it is perhaps less surprising that this key piece of work was given to a new agency that was created only last summer (from the former Central Science Laboratory at York).

The project looks into the potential health effects of contaminants in soil and sets contaminated land health risks against the perspective of other health risks.

Is it significant that, despite its name, the Food and Environment Research Agency is apparently unfettered by any direct organisational connection with either the Food Standards Agency, HPA or indeed the Environment Agency. Could you imagine similar research conclusions emanating from one of the others?

The declared objectives of the research are to provide an overview of the different types of risk to human health posed by contaminated land; assess uncertainty associated with determining health impacts from contaminated land and quantify the variable conservatism of the Clea SGV model; estimate the overall risk to human health due to exposure to contaminated land, including likely levels of uncertainty; compare risks to human health from exposure to contaminated land with those from other sources of exposure to the contaminants through diet, drinking water, air etc; compare overall risk to human health from exposure to contaminated land with other risks to human health; and consider the potential health implications that may arise from labelling land "contaminated".

## Key findings

However, perhaps the key finding is that there is very little evidence of harm to

human health from contaminants in soil and no evidence for widespread impacts of contaminated land on human health.

The research also found that worry about the risks from contamination rather than contamination itself explains much of the excess ill health reported by people living on or near contaminated land and potentially contaminated sites.

## Risk comparisons

Also importantly, the researchers found that in decision-making assessments, contaminated land risks are not compared against other sources of risk exposure. For example, one could suggest that the total impact on human health associated with air pollution from road transport is several orders of magnitude larger than that associated with exposure to contaminated land. This should prompt questions about the relative costs of mitigating health impacts from the two sources, and thus inform a debate about the relative merits of different policy options.

Other, perhaps less surprising findings were that to produce robust screening values, Clea is conservative in its approach and has produced some figures that are similar to background exposure, and that the current state of knowledge is insufficient to quantitatively estimate overall impacts, if any, of contaminated land on human health.

Estimates of risk of health impacts from contaminated land have very large uncertainties associated with assessing exposure, calculating dose and inferring potential health impacts. This is not properly understood or communicated in the decision-making process and has led to some over-protective decision-making.

## What response can we expect?

But can we expect these findings to be supported by either the Agency or the HPA? The teams at Defra/CLG are keen to put an end to the long-standing criticism they have failed to deliver and carry through a cohesive UK contaminated land policy.

In January of this year the AGS reminded both departments through the NBF that there was still a lack of government movement to achieve a working framework for dealing with contaminated land. A week



AGS land group chairman Seamus Lefroy-Brooks

later, Defra announced their overall review of the statutory guidance under Part 2A, and sensibly have started out by looking at what we have in place at the moment in terms of regulatory systems to see whether what we have is really useful, whether the regulatory advice is all pointing in the right direction, what is still missing and what barriers are still discouraging investment in brownfield development.

In short, are we taking the right medicine?

This piece of research by FERA fits into its place within this review. But what importance will be attached to these research findings? Will the importance of land contamination now be further reduced in government thinking or is this report an indirect wider explanation of their past inaction?

In 2009 the Food and Environment Research Agency's knowledge management team won the "prestigious" Whitehall & Westminster world civil service award for knowledge management and analysis.

Let's wish them well for 2010 as the contaminated land community sets out to scrutinise the substance of their research and strives to find a balance between over-precaution and irresponsibility.

## Phantom symptoms?

As the Food and Environment Research Agency publishes research finding that worrying that your garden is contaminated is more likely to make you sick than any possible contamination, stories keep on springing up in the media where residents claim a wide range of health problems can be blamed on the soil under their feet.

Home-owners on an estate in Motherwell report symptoms including headaches, nausea, diarrhoea, nose bleeds, a bowel removal operation, lethargy, eczema, irritable bowel syndrome, pneumonia, stomach bugs and sore throats – despite the North Lanarkshire Council having found no evidence of contamination so far.

And the *Motherwell Times* reports a local mother is convinced her son's diagnosis with Hodgkin's lymphoma is due to contamination from the Ravenscraig site.

But unfortunately, cancer does happen. While it is impossible to rule out a link between the sites and the medical problems reported, it appears increasingly unlikely that contamination can be blamed. However, following the Corby case, councils should expect

more legal actions to come about as the public begins to link land with health.

## Mystery mineshaft sign

A mysterious warning sign has appeared on land over a former mine in Bolton, which Wigan Council insists is safe.

Pemberton councillor Jeanette Prescott expressed her worry to the *Wigan Observer* about the piece of land, saying she was concerned gas underneath was unable to escape.

Wigan and Leigh Housing, which owns the land, conducted an investigation to detect hazardous gases, but found there was no immediate threat.

Despite this, someone has installed a warning sign stating "hazardous area" without the council's knowledge.

Resident Michael Leyland told the paper: "Wigan Council told us there was no methane trapped between the houses, but someone has stuck a sign on the fence saying hazardous area. We don't know what is going on. It is frightening people."

However, environmental services director Steve Normington said: "There is believed to be an entry to a mine on the site. Investigations are taking place to look at how this might affect any future

use and what measures need to be taken to bring the plot back into use.

"According to the most recent environmental records, shallow mine workings do exist in the area, but they are often flooded and there is no evidence of significant levels of gas."

## Washington cemetery row

Contaminated land is a factor in a row in Washington over cemetery siting.

The *Sunderland Echo* reports that residents of the Wearside town are "demanding the right to rest in peace in their hometown". However, Sunderland City Council says it cannot find a suitable site in Washington.

Washington South councillor Graeme Miller told the paper: "I don't think it's acceptable that you can't be buried in the town that you lived in."

But council cemeteries and crematorium manager John Blyth said his team had looked at 21 different sites in Washington, but investigations had shown land was unsuitable due to the area's mining past. "Most sites were contaminated with waste and I was told we couldn't dig at the riverside area because of the remains of the Newalls chemical works," he said.

## CONTAMINATED LAND EVENTS 2010

**April 20-21**

### SUSTAINABILITYLIVE!

To be held in Birmingham. Call (020) 8651 7106.

**April 23**

### LQM – INTRO TO CONTAMINATED LAND MANAGEMENT PART 3: HUMAN HEALTH RISK ASSESSMENT

To be held in Nottingham. Email [administrator@lqm.co.uk](mailto:administrator@lqm.co.uk).

**April 28**

### WHAT'S THE HARM IN THAT? UNDERSTANDING THE HEALTH RISKS FROM CONTAMINATED LAND

An Environmental Protection UK event, to be held in London. Call (01273) 878776.

**May 4**

### UNEXPLODED ORDNANCE – IS IT A REAL ISSUE

A CIRIA event, to be held in London. Visit [www.ciria.org](http://www.ciria.org).

**May 5**

### APPLYING THE ENVIRONMENT AGENCY'S REMEDIAL TARGETS METHODOLOGY

An ESI event, to be held in Shrewsbury. Email [coursesuk-esi@esinternational.com](mailto:coursesuk-esi@esinternational.com).

**May 19**

### CL:AIRE WASTE & BROWNFIELD DEVELOPMENT TRAINING COURSE

To be held in London. Email [katheryna.baker@claire.co.uk](mailto:katheryna.baker@claire.co.uk)

**June 8**

### CL:AIRE MODULE 9 – SOIL WASHING

To be held in London. Call (020) 7258 5321.

**September 22-24**

### CONSOIL 2010

To be held in Salsburg, Austria. Visit [www.consoil.de](http://www.consoil.de).

**November 10-11**

### WWEM 2010: WATER MONITORING IN THE 21ST CENTURY

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