

SCOTTISH ENVIRONMENT PROTECTION AGENCY
WATER ENVIRONMENT AND WATER SERVICES (SCOTLAND) ACT 2003
WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND) REGULATIONS
2005 ("THE REGULATIONS")
NOTICE OF VARIATION OF AUTHORISATION UNDER REGULATION 21(4)


To: Composite Energy Ltd
Address: 66 Queens Road
Aberdeen
Aberdeenshire
AB15 4YE

In accordance with regulation 21(4) of the Regulations, the Scottish Environment Protection Agency hereby gives you notice that it has decided, following application by you, to vary authorisation reference number CAR/S/1017224 granted under Regulation 9 of the Regulations in respect of the carrying on of controlled activity or activities at or near or in connection with

Site or location of activity: Airth Well Production Sites
Letham Farm
Airth
Falkirk
FK2 8QU

on 11 August 2009 ("the Authorisation").

The variations to the Authorisation are specified in the schedule attached to and forming part of this notice and shall take effect on 17 March 2010.

Signed: 

Date: 14 December 2009

Authorised to sign on behalf of the
Scottish Environment Protection Agency

Under the terms of regulation 46(ee) of the Regulations, a person who has been granted the variation of an authorisation on request under regulation 21, but is aggrieved by the removal, addition or amendment of any condition, has a right of appeal. The procedures for making an appeal are set out in Schedule 9 of the Regulations.

**SCHEDULE TO NOTICE OF VARIATION
UNDER REGULATION 21(4)**

The Authorisation has been varied by amending, adding or deleting conditions or other provisions, as follows:

1. The Contents page has been deleted and replaced by a new Contents page, as attached to this schedule.
2. Schedules 1, 2 and 3 of the licence have been deleted and replaced by new Schedules 1, 2 and 3, as attached to this schedule.

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INTERPRETATION OF TERMS

For the purposes of this licence, and unless the context requires otherwise, the following definitions shall apply:

“the Act” means The Water Environment and Water Services (Scotland) Act 2003;

“controlled activity” means an activity to which the Regulations apply, in accordance with regulation 4(1) of the Regulations;

“incident” means any of the following situations:

- Where an accident occurs which has had or could have an adverse impact on the water environment;
- Where any malfunction, breakdown or failure of plant or techniques is detected which has had or could have an adverse impact on the water environment;
- Any event, such as force majeure or actions taken to save human life or limb, which results, or is likely to result, in a breach of any condition of this licence;

“pollution”, in relation to the water environment, means the direct or indirect introduction, as a result of human activity, of substances or heat into the water environment, or any part of it, which may give rise to any harm, and “harm” shall have the same meaning as in the Act;

“SEPA” means the Scottish Environment Protection Agency;

“SEPA officer” shall mean a person authorised by SEPA under regulation 27(4) of the Regulations;

“the Regulations” means The Water Environment (Controlled Activities) (Scotland) Regulations 2005;

“the water environment” means all surface water, groundwater and wetlands; and “surface water”, “groundwater” and “wetlands” shall have the same meaning as in the Act;

“effluent” means any liquid, including particles of matter and other substances in suspension in the liquid;

“parameter” means any defined chemical constituent or measurable physico-chemical characteristic of a sample;

“sewage fungus” means a visible microbiological growth usually consisting of a mixture of bacteria, fungus, protozoa and algae.

Any reference to a numbered Condition, group of Conditions, Schedule, Table, Appendix, Figure or Paragraph is a reference to the condition, group of conditions, schedule, table, appendix, figure or paragraph bearing that number in this licence;

Except where specified otherwise in this licence:

- “day” means any period of 24 consecutive hours,
- “week” means any period of 7 consecutive days,
- “month” means a calendar month,
- “quarter” means a calendar quarter,
- “year” means any period of 12 consecutive months;

and any derived words (e.g. “monthly”, “quarterly”) shall be interpreted accordingly;

Except where specified otherwise in this licence, any reference to an enactment or statutory instrument includes a reference to it as amended (whether before or after the date of this licence) and to any other enactment, which may, after the date of this licence, directly or indirectly replace it, with or without amendment.

SCHEDULE 1 : CONTROLLED ACTIVITIES**1.1 Authorisation of Controlled Activity**

- 1.1.1 The controlled activity set out in the fourth column of Table 1.1 below ("the Authorised Activities") is authorised by this licence subject to the remaining provisions and conditions in this schedule and to the general conditions contained in Schedule 2.
- 1.1.2 Each of the activities authorised in terms of Condition 1.1.1 ("the Authorised Activities") shall be carried on only in relation to the associated waters given for it in the third column of Table 1.1 and only at the national grid reference (NGR) given for it in the first column of that table, which location is referred to throughout this licence by the respective name or reference in the second column of that table.
- 1.1.3 Any discharge of effluent authorised by this licence is subject also to the particular conditions contained in Schedule 3.

Table 1.1- Authorised Activities

NGR	Name/Reference/ Description	Associated Waters	Activity
NS 9102 8802	Composite Energy Ltd, Trade effluent to Forth Estuary, Airth	Forth Estuary	Discharge of effluent

SCHEDULE 2 : GENERAL CONDITIONS**2.1 Responsible Person**

2.1.1 The responsible person to whom this licence is issued shall secure compliance with the conditions contained within this licence.

2.2 Records

2.2.1 A copy of this licence and, subject to Condition 2.2.2 below, of every record made in compliance with a condition of this licence shall be kept such that they are readily accessible for examination by all relevant persons and shall be made available to a SEPA officer on request.

2.2.2 Unless otherwise specified in a condition of this licence, every record made in compliance with a condition of this licence shall be preserved for not less than five years from the date of its being made. Every such record shall be kept as set out in Condition 2.2.1 for not less than one year from the date of its being made and thereafter preserved at a location, previously notified to SEPA in writing, if that location is not the site or location of the Authorised Activities.

2.2.3 All records shall be legible, and any amendment made to any record made in compliance with a condition of this licence shall be made in such a way as to leave the original entry clear and legible. The reason for each amendment shall be explained in the said record.

2.3 Reporting

2.3.1 Where any condition of this licence requires information to be reported, a report shall be forwarded, in a format agreed with SEPA (or, failing such agreement, as specified in writing by SEPA acting reasonably), to SEPA at the address for reports specified in the explanatory notes attached to this licence, on the date(s) or within the period or at the frequency specified in Table 2.1 and, where appropriate, the first report shall be due on the date specified in that table. All such reports shall include the reference number of this licence and the name of the responsible person.

Table 2.1 - Reporting Requirements

Summary of Information to be Reported	Condition	Date/Within Period/Frequency to be Reported	Date First Report Due
Incidents	2.4.2	N/A	N/A

2.4 Incidents

2.4.1 In the event of an incident, SEPA shall be notified without delay and in any case by the next working day after identification of the incident, using the contact details for notifications specified in the explanatory notes attached to this licence. This notification shall include: the time and duration of the incident, a description of the cause of the incident, any effect on the environment as a result of the incident and any measures taken to minimise or mitigate the effect and prevent a recurrence.

2.4.2 Where requested by SEPA, a written report shall be made following any incident notified to SEPA in accordance with Condition 2.4.1.

2.5 Maintenance of Monitoring and Measuring Equipment

- 2.5.1 All monitoring and measuring equipment referred to within this licence shall be maintained in accordance with the manufacturers instructions and/or to any relevant current certification standard where applicable, and in all cases to ensure the equipment is in good working order at all times.
- 2.5.2 All monitoring and measuring equipment referred to in this licence shall be calibrated regularly and in accordance with the recommendations of the manufacturer and/or to any relevant current certification standard. Evidence of calibration shall be maintained and available for inspection by a SEPA officer.

2.6 Environmental Harm

- 2.6.1 Other than as specifically permitted or limited by any condition of this licence, none of the authorised activities shall have a significant adverse impact on, or cause pollution of, the water environment.

SCHEDULE 3 : CONDITIONS APPLYING TO DISCHARGE(S) OF EFFLUENT

3.1 Restriction on Volume of Effluent

- 3.1.1 The discharge of effluent shall not exceed a maximum daily volume of 300 cubic metres per day.

3.2 Discharge Point

- 3.2.1 The outlet shall be a 152mm internal diameter plastic pipe.

3.3 Sample Point

- 3.3.1 A sample point at NGR 9134 8746 shall be constructed, maintained and appropriately identified as a sample point so that representative samples of the effluent may be safely obtained. All constituents of the effluent shall pass through the said sample point.

3.4 Operation and Maintenance of Treatment System

- 3.4.1 The effluent treatment system shall be operated and maintained in accordance with best practice such that:
- (a) it remains fully operational, except at times of unavoidable mechanical or electrical breakdown; and
 - (b) following any such mechanical or electrical breakdown all reasonably practicable means shall be used to return it to a fully operating condition.

3.5 Descriptive Conditions

- 3.5.1 Any discharge authorised by this licence shall not cause significant increased foaming in the receiving waters.
- 3.5.2 Any event involving one or more of the effects described in Condition 3.5.1 above shall be regarded as an incident and dealt with in accordance with the requirements of Condition 2.4.

3.6 Listed or Hazardous Substances

- 3.6.1 SEPA shall be notified in writing, using the contact details for notifications specified in the explanatory notes attached to this licence, if any known material change occurs, or is proposed, that may increase or introduce into the effluent any List I or II substances as defined under EC Directive 76/464/EEC or Annex X Priority and Priority Hazardous Substances as defined under EC Directive 2000/60/EC, within 28 days of the responsible person identifying, or being informed of, any such change.

3.7 Discharge Quality Standards

- 3.7.1 No instantaneous sample of effluent shall contain more than:
- (a) 200 milligrams per litre of suspended solids (measured after drying at 105°C); or
 - (b) 150 milligrams per litre of biochemical oxygen demand (determined in the presence of excess allyl-thiourea after 5 days at 20°C).
 - (c) 15 milligrams per litre of total iron; or

(d) 20 micrograms per litre of cadmium; or

(e) 5 micrograms per litre of mercury.

3.7.2 The pH of any sample of effluent shall be not less than 5.0 or greater than 10.0.

3.7.3 The hydrocarbon oil concentration of any sample of effluent shall not exceed 15 mg/l. Compliance with this concentration limit shall be judged by analysis carried out in accordance with "Method A" as described in "The Determination of Hydrocarbon Oils in Waters by Solvent Extraction, Infra Red Absorption and Gravimetry 1983" (ISBN 0-11-751728-3).

EXPLANATORY NOTES

(These explanatory notes do not form part of the licence)

1. THE WATER FRAMEWORK DIRECTIVE

The Water Framework Directive (WFD) is a wide-ranging piece of European environmental legislation which became law in Scotland at the end of 2003 through the Water Environment and Water Services (Scotland) Act 2003 and in April 2006 through the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (the "Controlled Activities Regulations").

The WFD establishes a legal framework for the protection, improvement and sustainable use of the water environment across Europe by requiring member states to:

- Prevent deterioration and enhance status of aquatic ecosystems, including groundwater;
- Promote sustainable water use;
- Reduce pollution; and
- Contribute to the mitigation of floods and droughts.

The Controlled Activities Regulations establish the regulatory framework for achieving some of the aims of the WFD in Scotland, by creating a regime for authorising "controlled activities", e.g. point source discharges, abstractions, impoundments and engineering activities. They provide for three levels of authorisation, dependent on the risks associated with a controlled activity. A licence is the highest level of authorisation.

Having differing levels of authorisation allows for proportionate and cost-effective controls, so that environmental protection can be achieved whilst minimising the regulatory burden.

2. WATER EFFICIENCY

Regulation 6 of the Regulations imposes a general duty to use water efficiently:

"It shall be the duty of any person carrying out a controlled activity authorised under these Regulations to take all reasonable steps to secure efficient and sustainable water use."

For example, water efficiency could be the management of the total quantity of water abstracted from a source of supply using measures to minimise wastage, optimise use and reduce consumption.

The means of achieving this can be varied but may include good housekeeping, management systems and procedures, reusing and recycling water and the redesign of operations.

Water audits are the first step to using water efficiently. Water audits develop an understanding of the water system, enable detection of leakages and areas of water wastage and are a means of identifying opportunities for reduced water use.

3. APPEALS

If you are aggrieved by any of the conditions of the licence or the level of authorisation, you may appeal to the Scottish Ministers. Further information on your right of appeal and the appeals procedure is contained in regulations 46 to 49 and Schedule 9 of the Regulations.

Formal notice of appeal under regulation 46(b) or (c) is to be given within three months of the date that the licence is issued. Paragraph 2 of Schedule 9 lists the documents that the appellant has to submit to the Scottish Ministers.

4. SUBSISTENCE CHARGES

An annual subsistence charge may be payable in respect of the licence in terms of the current Water Environment (Controlled Activities) Fees and Charges (Scotland) Scheme, copies of which are available from SEPA. Where a subsistence charge is payable, an invoice will be sent to you.

The charging scheme provides that it is a condition of every authorisation that the fees and charges prescribed in the scheme are paid in accordance with the scheme. Failure to pay such charges may therefore constitute an offence.

5. GENERAL STATUTORY REQUIREMENTS

A licence under the Controlled Activities Regulations does not disapply any other statutory requirements applicable to the licence holder or his/her operations, such as any need to obtain planning permission or a building warrant, or any responsibilities under legislation for health, safety and welfare in the workplace.

6. ADDRESS FOR REPORTS

The contact address for all information to be **reported** in terms of Condition 2.3.1 of the licence, is as follows:

Scottish Environment Protection Agency
Registry Department
Clearwater House
Heriot Watt Research Park
Avenue North
Riccarton
EDINBURGH
EH14 4AP

7. CONTACT DETAILS FOR NOTIFICATIONS

The contact address and telephone number for **notifications** in terms of the licence, is as follows: -

Scottish Environment Protection Agency
Stirling Office
Bremner House
Castle Business Park
Stirling
FK9 4TF

During office hours
Tel No: 01786 452595
Fax No: 01786 461425
Tel No: 0800 80 70 60

8. SEPA REVIEW AND VARIATION OF CONDITIONS

The conditions of the licence will be periodically reviewed by SEPA and may be varied under regulation 19 of the Regulations as a result of that review.

9. OPERATOR-INITIATED VARIATION OF CONDITIONS

The responsible person may apply to SEPA under regulation 21 for a variation of the conditions of the licence.

10. TRANSFER OF AUTHORISATION

A responsible person may apply to transfer the licence to another person under regulation 22 by making a joint application with the other person.

11. SURRENDER OF AUTHORISATION

Where the controlled activities authorised by the licence have ceased, or it is intended that the controlled activities will cease, the responsible person may apply to SEPA to surrender the licence under regulation 24.

12. SUSPENSION AND REVOCATION OF AUTHORISATION

SEPA may at any time suspend or revoke an authorisation (in whole or in part) by serving a notice on the responsible person under regulation 26.

13. ENFORCEMENT NOTICES

Where SEPA is of the opinion that an activity:

- a) has contravened, is contravening or is likely to contravene any condition of the licence or
- b) has caused, is causing or is likely to cause significant adverse impacts on the water environment or
- c) has caused, is causing or is likely to cause a direct or indirect discharge into groundwater of substances listed in Schedule 2 of the Regulations

SEPA may serve an enforcement notice on the responsible person under regulation 28.

This notice will specify the steps, to be taken by the responsible person, which SEPA considers to be necessary or appropriate to prevent, mitigate or remedy the contravention, the impact on the environment or the discharge into groundwater.

14. OFFENCES

It is an offence to carry on, or cause or permit others to carry on, any controlled activity except insofar as it is authorised under the Regulations and carried on in accordance with that authorisation.

It is an offence to fail to comply with or contravene, or cause or permit others to fail to comply with or contravene, a water use licence, including any condition imposed.

It is an offence to fail to comply with, or cause or permit others to fail to comply with, the requirements of an enforcement notice.

It is an offence to intentionally make, or cause or permit others to make, a false entry in any record required to be kept under a condition of an authorisation.

Further details on these and other offences and on penalties liable to be imposed upon conviction for an offence are provided in regulation 40 of the Regulations.

Directors, managers and other individuals within a company may be held personally liable for offences under the Regulations.

All personnel who are responsible for fulfilling any condition of the licence should be made aware of these facts.

Please note that your licence authorises you to carry out the activity or activities outlined in your application to SEPA in accordance with the licence and its conditions. Be aware however, that any activity outwith the terms of the licence is prohibited under regulation 5 of the Regulations. Should you undertake any activity which does not conform to the terms of your licence, you may be subject to criminal proceedings in accordance with regulation 40(1)(a) of the Regulations. This prohibition encompasses any 'accidental' activity which is liable to cause pollution of the water environment, as "activities liable to cause pollution of the water environment" are controlled activities within the definition of section 20 of the Water Environment and Water Services (Scotland) Act 2003, even if SEPA would not grant an authorisation for such an activity.

The statutory definition of pollution, as set out in that section, is as follows:

"Pollution", in relation to the water environment, means the direct or indirect introduction, as a result of human activity, of substances or heat into the water environment, or any part of it, which may give rise to any harm, and "harm" means –

- (a) *harm to the health of human beings or other living organisms,*
- (b) *harm to the quality of the water environment, including-*
 - (i) *harm to the water environment taken as a whole,*
 - (ii) *other impairment of or interference with, the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,*
- (c) *offence to the senses of human beings,*
- (d) *damage to property, or*
- (e) *impairment of, or interference with, amenities or other legitimate uses of the water environment.'*

15. DISCHARGES TO LAND

For non-sewage discharges to land, the design and construction of the infiltration system or soakaway should be in accordance with the current Building (Scotland) Regulations 2004. Section 3 of the Technical Handbook, Scottish Building Standards Agency available at www.sbsa.gov.uk/current_standards/tbooks.htm provides guidance on achieving compliance with the Building (Scotland) Regulations 2004. The Building Control section of your local authority should be contacted for advice.

