Restoration of derelict open cast coal sites

Summary
RSPB welcomes recent debates in Westminster recognising the significant issue of restoration of open cast coal mines in Scotland and across the UK. The 2013 collapse of open cast coaling in Scotland represented a major regulatory and market failure, resulting in a legacy of damaged sites, significant damage to areas protected for wildlife, and a £200 million estimated funding gap.

Hargreaves has proposed that a Carbon Price Support (CPS) exemption could make funds available for restoration, and support the industry during a difficult period. Whilst we welcome Hargreaves’ proactive approach, which has kick-started a debate about how restoration might be funded through coal revenues, RSPB has a number of concerns about the proposal and whether it would deliver restoration effectively. In particular, we are concerned that this approach would not target restoration funding where it is most needed, and create pressure to consent coaling at inappropriate sites.

We strongly recommend that the UK Government work with the Scottish Government to identify a funding mechanism for restoration which is capable of channelling funds strategically to priority areas.

RSPB consider that a direct, targeted use of public funds is required, and this could be achieved by using CPS revenue to create a restoration fund. This solution would support the coal industry indirectly through restoration jobs without artificially sustaining further coal extraction. We also consider that the industry should contribute to legacy restoration where feasible, in addition to ensuring secure financial mechanisms are in place for restoration at operational sites.

The collapse of the two largest open cast coal operators in Scotland exposed the poor standards of regulation that govern the industry. Restoration of many sites has not happened at all or to the standard agreed, as restoration bonds were not adequately monitored. Some are within designated wildlife sites, and many have resulted in loss of blanket bog, an important carbon sink. The funding shortfall is estimated at £200 million or higher. RSPB has contributed long-standing voluntary input to the industry, working with operators to try to minimise environmental damage.

Hargreaves, who has taken over a number of sites in Scotland, propose that coal purchased from projects that support legacy restoration, or ‘Restoration-Related Coal’, be exempted from the CPS. We welcome their proactive approach, and agree that restoration is an urgent issue requiring Government intervention, however we have a number of concerns about this proposal. The CPS is designed to encourage a transition to a low carbon economy. Whilst legacy restoration is a significant issue necessitating some use of public funds, the proposed exemption would not only fund restoration, which could be achieved through direct support, but would also support an unsustainable industry. In our view this would be at odds with the purpose of the tax. There are also two key areas of uncertainty regarding how an exemption would operate: first, how it would avoid increasing emissions, and second, how it would be designed to ensure restoration is delivered. The focus of our comments is on the latter issue, as RSPB has detailed knowledge of the sites.

Risk of creating pressure to consent coaling at sensitive sites
It is proposed that a CPS exemption should apply to coal from or adjacent to “orphaned” sites, where the operator is bankrupt or liability has fallen back on the State. We are concerned that this approach is contingent on significant further coaling being possible at derelict sites, which have already been damaged by coaling and may be sensitive to more extraction. Hargreaves claim there is enough recoverable coal at these sites for the exemption to generate up to £200 million, however there is no guarantee that the extraction of this coal will be acceptable from a planning or environmental perspective. It is also unclear how the exemption would enable restoration in areas with no further coal resource.
For example, two sites which require restoration are within a Special Protection Area, where failure to restore means risking a breach of EC wildlife law. It is highly unlikely that further coaling would be possible at these sites. It is not clear how these sites would benefit from an exemption, unless the scheme was designed so operators could generate ‘Restoration Related Coal’ from a wider area. It is unclear how this would operate e.g. how much restoration would be required to qualify for the exemption, and why this would be preferable to direct public funding.

Risk of further industry collapse preventing delivery of restoration
We are concerned that the proposal may also lead to new applications and extraction going ahead at sites where the economics are marginal, at a time when the industry is highly vulnerable and companies at risk of further collapse, which could result in an even bigger restoration legacy. Given difficulties experienced in guaranteeing restoration across the UK, including recovery of bonds, we are concerned that a tax exemption linked to further coal extraction is a high risk approach to addressing restoration. **RSPB is clear that relying on new coal extraction to fund legacy restoration i.e. a ‘just keep digging’ approach is unacceptable.**

Supporting transition to a low carbon economy
Open cast coal is a declining industry, under pressure from market conditions and (rightly) from environmental regulations as we move to cleaner energy. Any support mechanisms must be considered as part of a managed winding down of the industry in a way that minimises impacts on communities and the environment. Directly funding legacy restoration would support those employed in the sector, without artificially sustaining fossil fuel extraction where it is not viable without new, additional taxpayer support.

We are concerned by suggestions that the industry should be sustained through state intervention despite environmental and market challenges, as Carbon Capture and Storage technology will enable electricity generation from coal to continue in the long-term. We support CCS development as a potential means of reducing emissions, but the viability of CCS is currently highly uncertain. It would be perverse to artificially sustain an extractive fossil fuel industry based on a possibility that CCS may become widely available.

A simpler, more resource-efficient approach: targeted funding at priority sites
RSPB considers that a direct use of public funds, for example using CPS revenue to create a restoration fund, is needed to address the restoration legacy. This solution would support the industry indirectly through restoration jobs. We believe this approach would accord with the ‘polluter pays’ principle by using revenues from coal generation to support restoration, notwithstanding that sites should have been restored as part of original consents. The approach would also allow funds to be used efficiently, for example by grouping restoration areas, with the involvement of local authorities and environmental groups. Application of the fund could be guided by a set of priorities, for example the restoration of EU Natura sites or priority habitats, where compliance with EU conservation Directives is at issue, thus preventing costly disputes.

Open cast operators should share the legacy restoration burden where possible
Whilst remaining operators may not be directly responsible for unrestored sites, where operators continue to profit from coaling we believe it is appropriate that the industry share the burden of legacy restoration with the taxpayer. Furthermore, if the industry requires support to deliver restoration when the market is challenging, it is necessary to question how the industry should contribute in different circumstances. **RSPB suggests that a mandatory levy, linked to the coal price, should be implemented to ensure that operators contribute to funding legacy restoration where possible.**

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