

Compliance Assessment Report CAR_NRW0040963

Permit being assessed: AB3891CX, **Deployment reference:** PAN-018735.

For: Mobile Plant, held by Mr Daniel James and Mrs Carys James

At: .

Type of assessment carried out: Site Inspection, Reason: Incident Response (Incident number 2208881).

On 15/12/2022 between 13:00 and 14:00.

Parts of permit assessed: Deployment

NRW Lead Officer: Malcolm Dines.

Report sent to: Dave Powell, TCM on 27/01/2023.

1. Summary of our findings (full details in section 4)

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
C1 - General Management - Staff competency/training	C3 Minor	1.1.1
C2 - General Management - Management system and operating procedures	C3 Minor	2.3.2
C3 - General Management - Materials acceptance	Action only (X)	
C4 - General Management - Storage, handling labelling and Segregation	C3 Minor	2.1.5
E5 - Emissions - Waste	C3 Minor	1.2.1

Result types are explained in more detail in the 'Important Information' section below.

Total number of non-compliances recorded	Total non-compliance score
4	16

How we use the non-compliance score to calculate your annual fee is explained in the 'Important Information' section below.

2. What action is required?

Criteria	Action needed	Complete by
C1	Ensure ALL staff comply with the EMS	28/01/2023
C2	Review EMS and staff training	01/03/2023
C3	Provide evidence of what waste was delivered to Login Farm field 6959 on 15/12/2022 and where it had been taken by 20/01/2023. Compliance with this action will be assessed in a subsequent CAR form	01/03/2023
C4	Review EMS and staff training	28/01/2023
E5	Review EMS and revise if necessary	28/01/2023

Action criteria codes are listed in the 'Important information' section below.

3. What will happen next?

Any non-compliance we have identified and recorded on this form is an offence. It can result in criminal prosecution and/or suspension or revocation of your permit.

You are non-compliant with your permit.

At this time, we are issuing you with a warning for the non-compliance recorded above. Warnings may influence future enforcement response for continued or further non-compliance.

This statement does not stop us from taking additional enforcement action if further relevant information comes to light or offences continue.

4. Details of our assessment

This inspection was carried out by Rhys Brassington an Environment Officer in the Ceredigion Environment Team when he drove past the field on 15th December 2022 and saw that there was a tractor in the field and that spreading equipment was set out. It also appeared to him that material had been spread to the land. The weather conditions at the time were very cold and there had been freezing conditions for the previous week and it was his opinion that the soil would have been frozen at the time these activities appeared to have been carried out.

The field was at Login Farm, Ferwig, Ceredigion, at which you have a deployment (ref: PAN-018735). At the time of the inspection you had notified Natural Resources Wales (NRW) of the intention to spread waste at this deployment as is required by your permit and your deployment application that NRW approved, stated that material would be spread to land in the spring.

Following discussions with your Technically Competent Person (TCP), Dave Powell, it is clear that you did spread wastes to this field, not in accordance with the agreed deployment application and therefore in breach of your permit.

This compliance report is reviewing the activities observed on 15th December 2022 by my colleague Rhys Brassington and information subsequently provided by yourselves and your TCP.

Permit Breaches

C1 - Staff Competency/Training - Cat 3; Permit Condition 1.1.1

You have been given this category 3 breach under the above condition because you have admitted that your Nominated Competent Person (NCP) did not follow the procedures set out in the Environmental Management System (EMS) and that the Nominated Competent Person (NCP) did not contact the TCP for advice.

The NRW guidance document "How to Comply with your Landspreading Permit" (TGN EPR 8.01) states that the NCP should also have a copy of, and be familiar with the relevant documentation including the EMS; they should also:

- ensure all storage and spreading is carried out in accordance with the relevant documents

- raise any issues with the TCP to prevent permit breaches

- report any incidents or non-conformances to the TCP

It is of concern to NRW that you are the NCP as well as the operator and that you failed to comply, not only with your permit, but with your EMS and all relevant documentation.

Action - Ensure that ALL staff comply with your EMS and all other relevant documents **with immediate effect**

C2 - Management system and operating procedures - Cat 3; Permit Condition 2.3.2

You have been given this category 3 breach under the above condition because you were spreading waste on frozen ground. It is reasonably foreseeable that this action could result in a pollution of the environment however, given the location of the spreading it is unlikely that this would be anything more than a minor pollution.

Action - Review and, if necessary, revise your EMS and submit relevant sections to NRW **By 1st March 2023**.

C3 - Materials acceptance - Action Only; Permit Condition 2.2.1

You have been given this action-only breach under the above condition because you explained that the waste an NRW Officer witnessed being delivered to this deployment on 15th December 2022 were not originally intended to be delivered there, but to another of your storage facilities in the area. However, due to the icy road conditions the vehicle was not able to access the site at Bolafron. On 20th January 2023 an NRW Officer noticed that the nurse tank was no longer in Field 6959 at Login Farm.

Condition 2.2.1 of your permit states that waste shall only be accepted if, "it conforms to the agreed deployment form".

Action - Submit details of the material delivered to this deployment on 15th December 2022; where the material has subsequently been taken, as well as copies of the Waste Transfer Note, to NRW **By 11th February 2023**.

C4 - Storage, handling labelling and Segregation - Cat 3; Permit Condition 2.1.5

You have been given this category 3 breach under the above condition because you carried out landspreading activities that were not in accordance with the agreed deployment form for this location and which had not been otherwise agreed by NRW.

The Deployment Agricultural Benefit states:

- Field 6959 will be spread in spring 2023 prior to cultivations and planting of the spring barley crops or into the growing spring barley crops in spring 2023.

- Spreading of the wastes will be carried out in accordance with the Code of Good

Agricultural Practice and in accordance with the requirements of the deployment and Environmental Permitting Regulations.

- NRW will be informed at least 48 hours prior to any spreading commencing and no spreading will occur within 48 hours of forecasted heavy rainfall.

- The wastes will be spread onto the fields with a trailing hose applicator ('dribble bar') or a shallow slot injector assuming ground conditions are suitable at the time of waste receipt. Should the ground or weather conditions mean it's unsuitable for spreading then contingency temporary storage in nurse tanks may also be required. These potential locations are detailed on the attached field map and within the LPD1 form.

You have admitted that wastes were spread in December 2022, without pre-notifying NRW and not in accordance with CoGAP - as they were applied to land that had been frozen for a week and was unlikely to have thawed out at the time the activity was identified. In addition you have admitted that application was by deep-injection which was not an approved technique.

Was a RA done for this field to identify any land drains before application?

Action - Review your EMS and revise if necessary **with immediate effect**

E5 - Waste - Cat 3; Permit Condition 1.2.1

You have been given this category 3 breach under the above condition because you spread waste to land when it would not provide agricultural benefit to the land. Permit condition 1.2.1 states that the operator must take measures to comply with the waste hierarchy. This material became "waste generated by the activity" as it could have been returned to the nurse tank or another suitable storage facility and used elsewhere. This is "Disposal" as the material was not spread at the appropriate time of year and therefore there was not providing benefit to land as it was being spread in December and on frozen ground.

Action - Review your EMS and revise if necessary **with immediate effect**

E5 - Waste - Cat 3; Permit Condition 1.2.1

In this document 'Natural Resources Wales' means the Natural Resources Body for Wales established by Article 3 of the Natural Resources Body for Wales (Establishment) order 2012.

If you have any queries about this report, or to discuss completion of any actions, please contact the NRW Officer named above.

Important information

Legal status of this report

Your permit is issued to you under the Environmental Permitting Regulations. You have a responsibility to comply with the conditions of your permit and prevent pollution/harm of the environment. You must also ensure that you comply with any other relevant legislation that may apply to your site's operations.

This report explains the findings of our assessment and any action you are required to take. We categorise non-compliance using our guidance for assessing non-compliance at regulated sites.

When we find potential non-compliance/s we will normally give you advice on how to maintain compliance.

To correct non-compliance, we may:

- require you to take specific actions
- issue a notice
- review the conditions of your permit.

Any advice and guidance we give will be without prejudice to any other enforcement response that we consider may be required.

Assessment results and non-compliance categories (used in section 1):

Assessment result	Description
Assessed (A)	Assessed or assessed in part, no evidence of non-compliance found
Action only (X)	Action only relating to the activity assessment
Ongoing (O)	Ongoing non-compliance, not scored

Non-compliance category	Description	Score
C1 Major	Potential to have a major, serious, persistent and/or extensive impact or effect on the environment, people and/or property	60
C2 Significant	Potential to have a significant impact or effect on the environment, people and/or property	31
C3 Minor	Potential to have a minor or minimal impact or effect on the environment, people and/or property	4
C4 No environmental impact	Non-compliance at a regulated site that cannot foreseeably have any impact on the environment, people and/or property	0.1

How we use assessment scores

The number and severity of non-compliances recorded in a year will affect your annual subsistence fee the following year. A non-compliance factor is added to your site's Operator

Performance Risk Appraisal (OPRA) score when we calculate your fee to reflect the additional resource we use to assess permit compliance.

What are suspended scores?

In line with our guidance, we may suspend scores for up to six months to allow time for remedial action to be taken. Suspended scores will be re-instated if the action is not completed.

Full list of Industry and Waste action criteria (used in section 1 and 2):

A: Permitted activities

- A1 Specified by permit

B: Infrastructure

- B1 Infrastructure – Engineering for prevention and control of emissions
- B2 Infrastructure – Closure and decommissioning
- B3 Infrastructure – Site drainage engineering (clean and foul)
- B4 Infrastructure – Containment of stored materials
- B5 Infrastructure – Plant and equipment

C: General management

- C1 General management – Staff competency/training
- C2 General management – Management system and operating procedures
- C3 General management – Materials acceptance
- C4 General management – Storage, handling, labelling and segregation

D: Incident management

- D1 Incident management – Site security
- D2 Incident management – Accidents, emergency and incident planning

E: Emissions

- E1 Emissions – Air
- E2 Emissions – Land and groundwater
- E3 Emissions – Surface water
- E4 Emissions – Sewer
- E5 Emissions – Waste

F: Amenity

- F1 Amenity – Odour
- F2 Amenity – Noise
- F3 Amenity – Dust/fibres/particulates and litter
- F4 Amenity – Pests/birds and scavengers
- F5 Amenity – Deposits on road

G: Monitoring and records, maintenance and reporting

- G1 Monitoring and records, maintenance and reporting – Monitoring of emissions and environment
- G2 Monitoring and records, maintenance and reporting – Records of activity, site diary/journal/events
- G3 Monitoring and records, maintenance and reporting – Maintenance records
- G4 Monitoring and records, maintenance and reporting – Reporting and notification to Natural Resources Wales

H: Resources efficiency

- H1 Resource efficiency – Efficient use of raw materials
- H2 Resource efficiency – Energy efficiency

Enforcement response

Any permit condition non-compliance is an offence and we may take legal action against you. Action we take can include prosecution, serving a notice on you and/or suspension or revocation of your permit. See our Enforcement and Sanctions Guidance for further information.

Data protection notice

You should make sure that anyone named in this report knows that the information it contains will be processed by Natural Resources Wales to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s).

We may also use and/or disclose the report in connection with:

- offering or providing you with our literature or services relating to environmental matters
- consulting with the public, public bodies and other organisations (e.g. Health and Safety Executive, local authorities) on environmental issues
- carrying out statistical analysis, research and development on environmental issues
- providing public register information to enquirers
- investigating possible breaches of environmental law
- assessing customer service satisfaction and improving our service
- Freedom of Information Act or Environmental Information Regulations requests.

We may also pass it on to our agents or representatives to do these things on our behalf.

Disclosure of information – this report will be available to view on-line

If you think this report contains commercially confidential information that should not be placed on our public register, you must contact your local Natural Resources Wales office within **fifteen working days** of receiving this report, using the contact details in the accompanying email or letter. You must give a full explanation of why it should not be added to our public register, including specifying which information is commercially confidential. We will assess your request and respond to you within 20 working days to let you know if we agree to your request.

What do I do if I disagree with the report or have a complaint?

If you disagree with this compliance assessment report, you should contact the lead officer without delay to discuss your concerns.

If you are unable to resolve the issue with the lead officer or their line manager you should contact our Customer Contact team on 0300 065 3000 (Monday to Friday 08:00 – 18:00), or email enquiries@naturalresourceswales.gov.uk for details of how to raise your dispute further through our Complaints and Commendations procedure.

If you are dissatisfied with our response, you can contact the Public Services Ombudsman for Wales by phone on 0300 7900203 or by email at ask@ombudsman.wales

Welsh Language Standards

We are committed to establishing Natural Resources Wales as a naturally bilingual organisation. We will provide compliance reports in your preferred language.