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Wales

Ein cyf/Our ref: PAN-07398

Eich cyf/Your ref: CRT236

Date: 21<sup>st</sup> December 2022

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## **Decision on your Transitional Licence application**

**Application Ref: PAN-07398**

**Licence number: WA/067/0005/0030**

**Site name: River Dee at Horseshoe Falls**

Dear Dr Comerford,

We are pleased to tell you that your application for a transfer licence to authorise a previously exempt abstraction has been successful.

Please read your licence carefully as it is a legal document. You will have to keep to the conditions shown on it and do any monitoring in line with the licence conditions.

**Your transfer licence will remain in force until 31/03/2039**, in line with our policy on setting time limits. The time limit is linked to future reviews of water resources within a Catchment Abstraction Management Strategy (CAMS) area. At the end of the time limit, we should be able to renew the licence if:

- there is no damage to the environment,
- the need for the abstraction can still be justified,
- water is being used efficiently; and
- you still meet the usual legal requirements for getting a licence.

We do not guarantee that we will renew the licence. We will contact you before your licence ends to tell you about the renewal process.

### **Licence Quantities**

The licence includes restrictions on abstraction quantities to ensure no adverse impact on the River Dee Special Area of Conservation in accordance with the Habitats Regulations 2017, to reflect the requirements of the London Midland Scottish Railway (LMSR) Act 1944 and to ensure the licence reflects the quantities abstracted during the qualifying period in line with the Water Abstraction (Transitional Provisions) Regulations 2017.

The abstraction is required to be measured to demonstrate compliance with the conditions of the licence, to provide information on actual water usage for water planning and operational purposes and to comply with section 5 of the LMSR Act 1944. As advised in our email dated 15 December, you are not currently required to submit returns via our standard returns process. This is due to the fact that United Utilities Water Limited also abstract from the same abstraction point under licence 24/67/05/0057 and it is not possible to solely measure the volumes of water abstracted by Canal & River Trust and United Utilities Water Limited separately. Instead you will be required to continue submitting the total daily abstraction data to our hydrology team, as has happened historically. You may also be required to provide hourly abstraction records, if so requested by NRW.

For the purpose of monitoring compliance the assumption will be that United Utilities Water Limited is abstracting on a continuous basis at the maximum daily rate of 50.006 megalitres per day. The balance will be attributed to the abstraction by Canal & River Trust. As previously advised, if this presents either party with an unacceptable risk of enforcement action and it is possible to agree a suitable alternative to the current arrangement, application(s) to vary the respective licence conditions should be submitted to NRW.

### **Fish screening**

Please note that your licence includes fish screening conditions. Prior to abstraction taking place the intake must be screened with 4mm screens (during the period 1 February to 31 May) and 10mm screens (during the period 1 June to 31 January), in accordance with plans and specifications to be submitted and approved in writing by NRW. These conditions are included to prevent the entrapment, entrainment and impingement of lamprey and salmon at the point of abstraction, to ensure no adverse impact on the River Dee Special Area of Conservation in accordance with the Habitats Regulations 2017.

We acknowledge that you have concerns regarding the justification for these screening conditions (provided to you in our email dated 2 December). To allow you to further consider the justification for these conditions, please find attached a copy of the Habitats Regulations Assessment (HRA) completed in respect of this application.

We also acknowledge the concerns previously raised regarding the inconsistency between the fish screening conditions specified on your licence and those specified on the United Utilities Water Limited licence (24/67/05/0057). As previously advised, internal discussions are ongoing regarding the potential to review / amend the existing conditions on licence

24/67/05/0057. If you have any queries regarding this then please contact the Denbighshire Environment team.

### **Serious Damage**

As NRW considers serious damage to apply where an abstraction is affecting or has the potential to affect sites designated under the Habitats Regulations, the conditions referred to above are also considered necessary to protect against serious damage.

### **Compliance**

We regularly make routine visits to make sure that the terms of licences are up to date and that any work to abstract or impound water keeps to the licence conditions. One of our representatives will contact you, before they visit, to discuss the terms of the licence. They may visit you again later without giving you notice. If you have any queries regarding the future regulation of your licence then please contact the Denbighshire Environment team.

It is your responsibility to make sure that the water you abstract is suitable for the purpose it will be used for. You must continue to monitor the water to make sure you are using it efficiently. It is also your responsibility to make sure that you have any other permission (for example, planning permission) you need in connection with your proposed work.

If you wish to apply to increase your application abstraction quantities you should do this through our normal application procedure, details of which are available on the '[Apply to change an existing abstraction or impoundment licence](#)' page of our website, which can also be found via the following pathway: [Home](#) > [Permits and Permissions](#) > [Water abstraction and impoundment licences](#) > [Apply to change an existing abstraction or impoundment licence](#).

### **Biosecurity**

Any work undertaken should take account of biosecurity risks, and mitigation measures should be put in place. The most important measure is to ensure that all equipment (plant, tools, footwear etc) that come to site, arrive clean, and are cleaned again before leaving site. This applies to all sites, not just those where an invasive non-native species (INNS), pest or disease has been previously identified. Information on how to assess biosecurity risks; simple steps to reduce risks; and specific measures for higher risk activities can be found on the [GBNNSS website](#) for INNS, or for tree health on [our website](#). If you need any further help, please feel free to contact our [INNS and Biosecurity](#) team or our [Tree Health](#) team.

### **EU Exit**

Following the UK's departure from the EU on 31 January 2020 and the end of the transition period on 31 December 2020, the legal obligations relating to compliance with environmental permits and legislation will continue to apply. NRW will continue to issue and regulate all permits and licences in line with our current practice. If you have any questions about your permits or licences and/or site management, please contact our Customer Care Centre on 03000 653 000.

### **Right of Appeal**

If you are not satisfied with the conditions set on your licence, you can appeal to Planning and Environment Decisions Wales at the following address:

Planning and Environment Decisions Wales  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ  
Telephone: 0300 0604400  
Email: [PEDW.Casework@gov.wales](mailto:PEDW.Casework@gov.wales)

You can get a standard notice of appeal from the address above. You must return the notice of appeal **within 28 days** of the date of this notice, and send a copy to us. The notice must give the reasons for the appeal and you must also send:

- the application it relates to,
- any information or reports you sent us with the application,
- this decision notice; and
- any other relevant correspondence.

You must send written notice of the appeal and the documents listed above to Planning and Environment Decisions Wales at the address above. At the same time you must send us a copy of the notice and documents to:

Permitting Service Manager  
Permitting Service  
Natural Resources Wales  
Tŷ Cambria  
29 Newport Road  
Cardiff CF24 0TP  
Phone: 0300 065 3000

You can withdraw an appeal at any time before a decision has been made. In exceptional circumstances, Planning and Environment Decisions Wales have the power to allow a longer period for serving a notice of appeal.

If you have any questions about your licence, please contact me on the number below.

Yours sincerely



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