

Compliance Assessment Report CAR_NRW0040744

Permit being assessed: WP3231NB.

For: The Creamery , held by Dairy Partners (Cymru Wales) Limited

At: Aberarad, Newcastle Emlyn, Carmarthenshire, SA38 9DQ.

Type of assessment carried out: Site Inspection, Reason: Incident Response (Incident number 2206511).

On 01/09/2022 between 14:00 and 16:00.

Parts of permit assessed: Incident response

NRW Lead Officer: Gary Evans, accompanied by Lee Mills, Megan Herbert-Evans.

Report sent to: John Potter, HSE Lead on 14/02/2023.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
E3 - Emissions - Surface water	C1 Major	3.1.1 There shall be no point source emissions to water, air or land except from the sources and emission points listed in schedule 3 tables S3.1 and S3.2

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

Total number of non-compliances recorded	Total non-compliance score
1	60

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
E3	Improve operations	31/07/2023

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.

We are currently considering taking enforcement action against you for the non-compliance recorded above. We will contact you in due course.

4. Details of our assessment

Introduction

This CAR Form has been produced in response to an incident relating to an unauthorised discharge from within the permitted site boundary of Dairy Partners Limited that resulted in numerous fish being killed on September 1st 2022 in the River Arad, Newcastle Emlyn. This CAR Form has considered the investigation information obtained along with submissions from Dairy Partners Limited.

Incident Overview

On the 1st of September 2022 at approximately 9:00am a member of the public called NRW's Incident Communications Centre and logged an incident (WIRS Ref 2206511) reporting that foam had been noted in the reporter's garden in the Afon Arad downstream of the Dairy Partners installation.

At 12:30pm an Environment Officer from the Carmarthenshire Environment Team, Megan Herbert-Evans attended site at the reporter's address. The Officer was directed to the Afon Arad in the back garden of the complainant where numerous dead fish could be seen in a small pool. The Officer began walking upstream towards the Dairy Partners installation and witnessed dead fish on the whole stretch. Towards the site boundary of Dairy Partners the Officer noted a foul odour and could see a visible film/foam on the surface of the water. A water sample was taken at this point with the Officer noticing a slight blechy odour. Another sample was taken upstream of the Dairy Partners installation by the Officer and it was noted that no dead fish were present at this location.

At 14:34 Gary Evans (Senior Specialist, South West Industry Regulation Team) and Lee Mills (Senior Officer, South West Industry Regulation Team) accompanied Megan Herbert-Evans to the Dairy Partners installation to further investigate the potential source of the water pollution. A Code B was issued to the acting Plant Manager Daryl White at 14:34 by Gary Evans. NRW's presence on site was then explained to Mr White.

At approximately 14:45 the 3 NRW Officers began walking along the Afon Arad downstream to the boundary that runs through the centre of the Dairy Partners installation and immediately noted numerous dead fish. The Officers then turned around and followed the Afon Arad upstream until they came to an area where the dead fish stopped and a slow but steady discharge could be seen coming from an old sluice gate area at NGR SN 31591 40159. Megan Herbert-Evans took a sample of the discharge at NGR 31591 40159 and another sample slightly upstream the water appeared clean at this point.

Conclusion

NGR 31591 40159 is not a permitted discharge point within the site boundary of Dairy Partners Limited.

The notification of this event was made by Dairy Partners in accordance with the permit requirements (EPR WP3231NB) under condition 4.3.1.

Part A

Permit Number	EPR/WP3231NB
Name of operator	Dairy Partners (Cymru Wales) Ltd
Location of Facility	Newcastle Emlyn
Time and date of the detection	01 September 2022, approx. 15:00 (via complaint to NRW)

(a) Notification requirements for any activity that gives rise to an incident or accident which significantly affects or may significantly affect the environment

To be notified Immediately

Date and time of the event	01 September 2022, approx. 15:00 (via complaint to NRW)
Reference or description of the location of the event	Sluice gate on decommissioned sump site, ref:SN3159340158
Description of where any release into the environment took place	Preliminary analysis report by NRW identified in locality of sluice gate valve
Substances(s) potentially released	See attached chemical analysis from NRW. Preliminary analysis report by NRW identified high levels of numerous parameters including COD, chloride and elevated metals.
Best estimate of the quantity or rate of release of substances	Unknown
Measures taken, or intended to be taken, to stop any emission	We will launch an immediate, full investigation and report findings to NRW. Temporary measures to be put in place to ensure the leak is stopped.
Description of the failure or accident.	Situation: Presently unknown. Under investigation.

The release to water was not from a permitted release point (EPR WP3231NB) at the Dairy Partners Installation and is therefore contrary to the permit condition 3.1.1 (Table S3.2).

The effect of the release has been scored a Compliance Classification Score (CCS) 1. Due to the Potential to have a major, serious, persistent and/or extensive impact or effect on the environment, people and/or property.

The root cause of the incident has not been scored in this specific incident and further investigation will take place with the operator to determine potential sources.

End.

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.