Compliance Assessment Report CAR_NRW0040950

Licence being assessed: 24/67/2/0001.
For: , held by Dwr Cymru Cyfyngedig.
At: .

Type of assessment: Report/Data Review, Reason: Incident Response (Incident number 2207874).
On 05/09/2022.
Parts of licence assessed: As below

NRW Lead Officer: Simon Roberts.
Report sent to: Joanne Cullen, North Area Water Resources Manager, on 16/02/2023.

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

Part of licenced activity assessed (criteria)	Assessment result	Licence condition
WR-C1 - Surface/groundwater level and protected flow - Minimum hands-off flow/level requirements	C4 No impact	Subsection: Quantity of water authorised to be abstracted

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

2. What action is required?

Criteria	Action needed	Complete by
WR-C1	Maintain statutory minimum compensation flow of 0.737m3/s annually between 1st of April and 30th September	31/03/2023

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 or civil sanctions being imposed depending on the circumstances of the offence.

You are non-compliant with your licence.

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 Compliance Assessment Report (CAR) form is being issued regarding a non-compliance on the 5th September 2022 of Permit Condition 'Quantity of Water Authorised to be Abstracted' of licence 24/67/2/0001:

The abstraction of water at Llyn Celyn reservoir is permitted by license 24/67/2/0001, regulated by Natural Resources Wales (NRW).

Subsection: ‘‘Quantity of water authorised to be abstracted” outlined within license 24/67/2/0001 refers to: (a) (Llyn Celyn) in accordance with the general directions for the time being of the River Authority, as provided for in the Liverpool Corporation Act, 1957.

Section 17 of the Liverpool Corporation Act of 1957 requires a discharge into the Afon Tryweryn in a uniform and continuous flow "at a rate of no less than fourteen million gallons per day during the months from April to September".

14 million gallons converted to m^3/s equates to $0.737m^3/s$.

Section 2.2.1 of the Dee General Directions also stipulates a requirement of $0.737m^3/s$ compensation flow at Llyn Celyn between the 1st of April and 30th of September.

On the 5th of September 2022 air founds it's way into the crown of siphon 5. This set off a chain of events which resulted in a discharge being made between 11:30 and 12:10 (GMT) which was less than the required minimum compensation flow of 0.737m3/s, with the actual discharge reaching a minimum of 0.7056m3/s.

It has been stated that this non-compliance was the result of unusual operations during dry weather and low reservoir levels.

A Category 4 score has been issued in response to this non-compliance on this occasion due to the non-compliance having occured in September. This could be considered a less critical time of year for newly hatched alevins/fry which would emerge from the gravel earlier in the year and have established their territory in the margins of the river during the critical spring months.

This is the fourth recent non-compliance at Celyn Weir as an incident resulting in the under release of compensation flow at Llyn Celyn also occurred on the 10th of August 2020, the 29th May 2021 and more recent the 10th of June 2022. NRW are concerned about the frequency of non-compliance incidents at Celyn Weir, especially considering that the non-compliances occur upstream of the Afon Dyfrdwy SSSI and SAC designated site.

The compensation flow on the Tryweryn is seen as the minimum flow to protect the margins of the river drying out. Any flows below the agreed compensation flow at could potentially result in alevins being stranded and lost, especially during the critical spring

months.

Dŵr Cymru Welsh Water have stated that they are investigating the issue to see what can be done to prevent a reoccurrence. Please keep us updated on these investigations and any remedial actions that you intend to introduce to prevent a reoccurrence of this nature.

Summary of breaches noted upon this inspection:

CAR sub criteria – WR-C1 – Minimum Hands-Off Flow Level Requirements, Permit condition, Subsection: ‘‘Quantity of water authorised to be abstracted”. Compliance Classification Scheme Score Category 3.

'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 licence is issued to you under the Water Resources Act 1991 as amended by the Water Act 2003. You have a responsibility to comply with the conditions of your licence and prevent pollution/harm to 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.

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

If your assessment result in Section 1 is suspended, what does this mean?

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

Full list of Water resource action criteria (used in section 1 and 2):

WR A: Abstraction specified by Licence
- WR-A1 Source of supply
- WR-A2 Points of abstraction
- WR-A3 Means of abstraction
- WR-A4 Purposes of abstraction
- WR-A5 Period of abstraction
- WR-A6 Quantities
- WR-A7 Land
- WR-A8 Other specified on licence

WR B: Abstraction measurement and records
- WR-B1 Means of measurement
- WR-B2 Recording
- WR-B3 Reporting

WR C: Surface / Groundwater level and protected flow
- WR-C1 Minimum hands-off flow/level requirements
- WR-C2 Flow/level measurement devices
- WR-C3 Recording
- WR-C4 Reporting

WR D: Environmental monitoring and information
- WR-D1 Recording
- WR-D2 Reporting
- WR-D3 Notifications

WR E: Fish and eel passage
- WR-E1 Infrastructure specified by licence
- WR-E2 Maintenance and records

WR F: Discharge
- WR-F1 Point of discharge
- WR-F2 Infrastructure
- WR-F3 Measurement
- WR-F4 Recording
- WR-F5 Reporting

WR G: Impoundment specified by licence
- WR-G1 Inland water to be impounded
- WR-G2 Manner and extent of impoundment
- WR-G3 Point(s) of impoundment
- WR-G4 Construction and removal requirements
- WR-G5 Other specified on licence

WR H: Borehole infrastructure
- WR-H1 Infrastructure and accessibility
- WR-H2 Maintenance and calibration

Enforcement response

Any licence condition non-compliance is an offence and we may take legal action against you. Action we take can include prosecution or civil sanctions. 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 (Mon to Fri 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.