

## Compliance Assessment Report CAR\_NRW0041837

**Licence being assessed:** WA/065/0014/013.

For: , held by Geraint Ellis.

At: .

**Type of assessment:** Site Inspection, Reason: Routine.

On 28/07/2022, between 15:00 and 16:00.

Parts of licence assessed: 3.1, 4.8

**NRW Lead Officer:** Swyn Spencer, accompanied by Stuart Jones.

**Report sent to:** Owen Geraint Ellis, Owner, on 22/06/2023.

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

Part of licenced activity assessed (criteria)	Assessment result	Licence condition
WR-G2 - Impoundment specified by licence - Manner and extent of impoundment	C3 Minor	3.1
WR-E1 - Fish and Eel passage - Infrastructure specified by licence	C3 Minor	4.8
WR-G4 - Impoundment specified by licence - Construction and removal requirements	Action only (X)	

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

### 2. What action is required?

Criteria	Action needed	Complete by
WR-G2	V notch should be bigger. It needs to be rectified, to deliver correct hands off flow	20/07/2023
WR-E1	Install an eel pass substrate as per licence.	20/07/2023
WR-G4	Maintain sediments directly behind v notch. Ensure the V - notch is kept clear of obstructions.	20/07/2023

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 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 HEP scheme is licenced by Abstraction licence WA/065/0014/012 and Impoundment licence WA/065/0014/013**

**This report is in reference to the Impoundment Licence WA/065/0014/013**

The 'Owen Geraint Ellis Hydropower' site at Gelli Ffrydau, Nantlle, Caernarfon was visited on the 28/7/2022 at 3pm by Environment Officers Swyn Spencer and Stuart Jones from Natural Resources Wales. The weather was sunny and dry. The scheme was Abstracting water on the day of the visit.

During the inspection the following **compliances** were noted:

### **Point of Impoundment – Point Q**

As in condition 9.4 and point Q placed on the Map of the abstraction licence report. Therefore compliant.

### **Dimensions – Note: Some parts of Condition 9.2 were compliant, not all.**

Measurements were taken of the weir structure which were found to be correct as per drawings (abstraction screen and residual flow), except for the V- notch dimensions, which were not compliant as explained in the non-compliance section of both reports.

During the inspection the following **Non-compliance** with the licence conditions have been noted:

### **V - notch measurements as in condition 3.1 (& drawings in licence)**

As the V – Notch size is incorrect, there is a breach of condition 3.1 in the Impoundment licence. This is because the scheme is not completely built to specifications and drawings.

During the visit it was found that it is of incorrect measurement. It is of smaller size than in the licence, therefore allowing less flow of water downstream. On the day of inspection, I measured it at 100mm across and 50mm depth. It should measure bigger at **172mm** across and **86mm** depth.

The v-notch forms a part of the protected low flow, to ensure that the rates of abstraction are compliant. Therefore, affecting the flow of water immediately downstream as in point 9.5 (i) & 9.5 (ii) of the abstraction licence, as described in CAR form; CAR\_NRW0041815.

As well as rectifying the size of the V notch, you must also ensure the V notch area is clear of sediment and stone always build up directly behind to allow the correct flow downstream.

Through compliance with rates of abstraction, and maintenance of the in-river ecology is

also protected.

### **Fisheries – Breach of Condition 4.8 (also in condition 3.1)**

You are not compliant with 4.8 of the impoundment licence. There was no visible passage for eels. It states in the licence:

4.8 (i) This licence shall only take effect so as to authorise the abstraction provided that the Licence Holder has constructed an eel passage structure, approved in writing by NRW, under the Eels (England and Wales) regulations 2009, to allow the passage of elver, yellow and silver eel.

(ii) the Licence Holder shall maintain, repair, or replace the eel passage structure to ensure that it always remains effective at all times.

The diagram in the licence demonstrates that there is a rocky ramp to aid fish/eel passage also. This is to the side of the residual flow area.

**Fisheries recommends that the substrate would need to be embedded in the concrete to be flush with the screen, and you would also need a barrier to stop any migrating eels moving over onto the screen. All gaps would need to be filled with best practise filler to minimise any eels getting stuck.**

**Also refer to our website for fish passes:**

**[Natural Resources Wales / Fish passes for hydropower weirs](#)**

In order to fulfil the condition for an eel passage as per diagram in the impoundment licence. It's your responsibility to install one correctly, and/or choose a design that achieves the condition requirement. It then needs to be approved by writing by NRW.

Please come up with a design/ method statement that you can present to the fisheries officer at NRW before work commences. No in work river between 17<sup>th</sup> October and the 15<sup>th</sup> May.

I provide a deadline of **20<sup>th</sup> August** to get the work completed. Therefore please contact us with a design /method statement as soon as you can.

### **Advice and Guidance:**

**V notch & Sediment build up (which means not enough flow as per licence allowed downstream). Condition 4.5 - Advice and Guidance:**

Please ensure the base of the V notch is left clear to ensure free flow.

As in the impoundment licence condition 4.5: *'The licence holder shall construct, operate, and maintain the intake works in accordance with the specification and drawings referred to in Condition 3.1 of the licence and always keep them free from leakage and obstruction.'*

This is to ensure compliance with the flow regime detailed in condition 9.5 of the abstraction licence. This is to ensure the rate of flow is equal or greater than 3 litres per

second.

**Summary:**

**Actions by 20.8.2023:**

1. **You will need to amend the size of the V -notch to its correct size**
2. **Install a suitable eel pass structure as per licence to fulfil the condition for an eel passage (see diagram in the Impoundment Licence)**

**Advice and Guidance:** Please ensure the base of the V notch is left clear to ensure free flow. Also to your benefit to clean the conada screen more regularly.

**Summary:**

There are two non-compliances relating to the impoundment licence:

**CAR sub criteria:**

**WR-G2 Impoundment Specified by licence, Manner and extent of Impoundment, Permit Condition 3.1 for Action, compliance classification score C3. Remedial: Improve Infrastructure.** (issue with V notch dimensions)

**WR-E1 Fish and Eel passage, Infrastructure Specified by Licence, Permit Condition 4.8 for Action, Compliance Classification C3. Remedial: Improve Infrastructure** (issue with eel substrate).

**WR-G4 Construction and removal requirements, Permit Condition 4.5. Action only.** (ensure correct maintenance for free flow of water into the V notch)

Please contact me if you require further information:

[swyn.spencer@cyfoethnaturiolcymru.gov.uk](mailto:swyn.spencer@cyfoethnaturiolcymru.gov.uk)

[swyn.spencer@naturalresourceswales.gov.uk](mailto:swyn.spencer@naturalresourceswales.gov.uk)

07854 377 319

*Please note any reference within the CAR/ permit to the Environment Agency means Natural Resources Wales.*

*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](mailto: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](mailto: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.