

Compliance Assessment Report CAR_NRW0042930

Permit being assessed: AB3090CC.

For: Argoed Farm AD Facility, held by Derwent Renewable Power Ltd

At: Argoed, Trefeglwys, Caersws, Powys, SY17 5QT.

Type of assessment carried out: Site Inspection, Reason: Routine.

On 15/11/2023 between 10:30 and 12:30.

Parts of permit assessed: Containment of stored materials/Silage Clamp

NRW Lead Officer: Malcolm Dines, accompanied by Liz Park.

Report sent to: Roger Hughes, TCM/Director on 17/01/2024.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
B1 - Infrastructure - Engineering for prevention and control of emissions	Assessed (A)	
C1 - General Management - Staff competency/training	C3 Minor	1.1.1(b)
C2 - General Management - Management system and operating procedures	C3 Minor	1.1.1(a)
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	4.2.2

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

Total number of non-compliances recorded	Total non-compliance score
3	8.1

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	Update your EMS to ensure that site staff have clearly defined roles and responsibilities and that you employ sufficient staff to full-fill those roles	19/03/2024
C2	Ensure that EMS is updated to reflect how the site currently operates and ensure that you employ sufficient staff to ensure that you comply with the actions specified on CAR_NRW0042068 regarding the hours the Technically Competent Manager is required to attend site.	19/03/2024
G4	Submit all outstanding waste returns	04/02/2024

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 was a routine announced compliance visit carried out by Malcolm Dines and Liz Park, who met with Roger Hughes, the site owner and Technically Competent Manager. The weather was dry, but there had been rain over recent days.

The main purpose of the visit was to assess your compliance with the Regulation 7 Notice which Natural Resources Wales (NRW) served on Derwent Renewable Power Ltd to require improvements so that the silage clamp is compliant with The Water Resources (Control of Agricultural Pollution)(Wales) Regulations 2021.

At the time of this compliance visit the clamp was being used to store silage and the work to ensure that the clamp is compliant with the Control of Agricultural Regulations had been completed. The perimeter channel was constructed as designed, covered on the eastern and southern sides while the channel on the northern side remained uncovered. It could be seen from the uncovered drain why this work was required as there was already a significant amount of silage effluent being retained by the channel, Before the improvement work this effluent would have run-off to ground potentially causing pollution of the groundwater.

Along with the improvement to the perimeter drains, there had been cracks in the base of the clamp that needed to be repaired. As specified by your specialist contractor, the cracks had been sealed using resin injection, which is designed to achieve a stronger bond than the concrete itself.

At the time of this compliance visit, there was no evidence that silage effluent was not being contained by the infrastructure.

Permit Breaches

C1 - Staff competency/training - Cat 3; Permit Condition 1.1.1(b)

You were given this category 3 breach under the above condition because staffing at your site is still insufficient and does not adequately address the actions required by Compliance Report CAR_NRW0042068 dated 21st July 2023, including submitting an updated and improved Environmental Management System (EMS) by 7th September 2023. During this

compliance visit we discussed the improvements you were planning to make to site staffing and management however, despite it being over two months since the deadline of the compliance action, you had still not submitted an updated and improved EMS. Although you have made significant improvement to the infrastructure of the site over the previous 15 months, it has all been carried out after multiple compliance actions requiring you to improve the site and through a Regulatory Notice and not pro-actively and along with the repeated failure to address the inadequacy of staffing at the site shows that you still do not have adequate management control of the site. The failure to show evidence of the required improvements may result in NRW issued you a Compliance Notice to require improvement

Action: Ensure that you clearly set-out roles and responsibilities of staff at the site in your EMS and employ sufficient staff to full-fill those roles. **By 19th March 2024**

C2 - Management system and operating procedures - Cat 3; Permit Condition 1.1.1(a)

You were given this category 3 breach under the above condition because Compliance Report CAR_NRW0042068 required you to review and update your Environmental Management System for the site and to then submit it to NRW for review before 7 September 2023 and you have failed to comply with this action. You have been given repeated non-compliance for failing to have an adequate and up-to-date EMS. If you continue to fail to comply with this requirement NRW may consider issuing you a Compliance Notice to require you to comply with this permit condition.

During this compliance visit we discussed this non-compliance and set out clearly what NRW expects with regards your EMS.

Action: Submit a fully updated Environmental Management System **by 19 March 2024**

G4 - Reporting and notification to Natural Resources Wales - Cat 4; Permit Condition 4.4.2

You were given this category 3 breach under the above condition because you have failed to submit waste returns as required by your permit. Having checked our records, no waste returns have been submitted since 2019, despite the fact that you accept poultry manure into the site and despite repeated reminders on site and in previous Compliance Reports

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.