

Compliance Assessment Report CAR_NRW0043546

Permit being assessed: WP3231NB.

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

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

Type of assessment: Report/Data Review,

Reason: Routine.

On: 31/12/2023.

Parts of permit assessed: Emissions and monitoring, Information.

NRW Lead Officer: Alex Bowder.

Report sent to: Daryl White, Ashton Daniels, Site Manager, Process Improvement Manager, on 29/02/2024.

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

Part of permitted activity assessed (compliance criteria)	Assessment result	Permit condition
IR4B - Information - Reporting	C4 No impact	4.2.2
IR4B - Information - Reporting	C4 No impact	4.2.3
IR3A - Emissions and monitoring - Emissions to water, air or land	C3 Minor	3.5.1
IR3A - Emissions and monitoring - Emissions to water, air or land	C2 Significant	3.5.1
IR3A - Emissions and monitoring - Emissions to water, air or land	Action only (X)	
IR4C - Information - Notification	C3 Minor	4.3.2

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

Total non-compliances recorded	Total non-compliance score
5	39.2

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
IR4B	Implement measures to ensure all future annual monitoring	08/03/2024

Criteria	Action needed	Complete by
	returns are submitted to NRW within the reporting period specified in the permit.	
IR4B	Implement measures to ensure all future quarterly monitoring returns are submitted to NRW within the reporting period specified in the permit.	08/03/2024
IR3A	Ensure all future monitoring and assessments are conducted within the periods specified in permit.	08/03/2024
IR3A	Undertake the monitoring requirements in accordance with permit condition 3.5.1.	28/04/2024
IR3A	The operator must: (i) submit a Schedule 5 notification detailing the temperature exceedance noted, investigations carried out into the cause and actions taken to address the exceedance, and the corrective measures implemented to prevent reoccurrence (ii) if held, continuous temperature data from 4 September 2023 until such time after the sample recorded on 11 September 2023 that the temperature returned to a consistent compliant temperature (iii) continuous flow data for the same timescale as part (ii) above.	15/03/2024
IR4C	Ensure all future breaches of specified permit limits are confirmed by sending a schedule 5 notification to NRW within the time period stipulated.	08/03/2024

Compliance 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

This Compliance Assessment Report (CAR) has been issued in response to the submission of the 2023 annual monitoring returns (1 January - 31 December) by Dairy Partners (Cymru Wales) Ltd (*the operator*) for activities at The Creamery, Aberarad, Newcastle Emlyn SA38 9DQ under Environmental Permit **EPR-WP3231NB**.

This compliance assessment was undertaken by NRW Officers on 29 February 2024. However, to ensure that the CCS score is attributed to the correct financial year (for billing) the date on CARS

has been altered to 31 December 2023.

Annual Monitoring Returns 2023

The following documents have been submitted by the operator to NRW on 9 February 2024 as part of 2023 annual and quarterly (October – December 2023; Q4) returns:

- Air1 / 09/03/2023
- Water1 / 09/03/2023
- WaterUseage1 / 09/03/2023
- Energy1 / 09/03/2023
- Performance1 / 09/03/2023

The operator's submissions for Q4 and 2023 were required on **28 January 2024** and **31 January 2024** respectively.

Compliance breach 1

Permit condition 4.2.2 requires the operator to:

"A report or reports on the performance of the activities over the previous year shall be submitted to Natural Resources Wales by 31 January (or other date agreed in writing by Natural Resources Wales) each year. The report(s) shall include as a minimum:

- a. *a review of the results of the monitoring and assessment carried out in accordance with the permit including an interpretive review of that data;*
- b. *the annual production / treatment data set out in schedule 4 table S4.2; and*
- c. *the performance parameters set out in schedule 4 table S4.3 using the forms specified in table S4.4 of that schedule."*

Condition 4.2.2 required the operator's annual monitoring returns for 2023 to be submitted to NRW by 31 January 2024 - these documents were submitted on 9 February 2024. This data was sent outside of the reporting period and has scored a non-compliance **Category 4** breach.

In accordance with NRW's compliance scoring guidance, a non-compliance score of C4 has been recorded against sub-criteria IR4B.

C4 PERMIT BREACH

IR4B - Reporting

Reporting, condition 4.2.2:

"A report or reports on the performance of the activities over the previous year shall be submitted to Natural Resources Wales by 31 January (or other date agreed in writing by Natural Resources Wales) each year."

Action 1: Implement measures to ensure all future annual monitoring returns are submitted to NRW within the reporting period specified in the permit.

Deadline: **Immediately**

Compliance breach 2

Permit condition 4.2.3 requires the operator to:

“Within 28 days of the end of the reporting period the operator shall, unless otherwise agreed in writing by Natural Resources Wales, submit reports of the monitoring and assessment carried out in accordance with the conditions of this permit, as follows:

- a. in respect of the parameters and emission points specified in schedule 4 table S4.1;*
- b. for the reporting periods specified in schedule 4 table S4.1 and using the forms specified in schedule 4 table S4.4; and*
- c. giving the information from such results and assessments as may be required by the forms specified in those tables.”*

Condition 4.2.3 required the operator’s quarterly monitoring returns to be received within 28 days of the reporting period. Quarter 4 (October – December 2023) was required to be submitted to NRW by 28 January 2024; these documents were submitted on 9 February 2024. This data was sent outside of the reporting period and has scored a non-compliance **Category 4** breach.

In accordance with NRW’s compliance scoring guidance, a non-compliance score of C4 has been recorded against sub-criteria IR4B.

C4 PERMIT BREACH	IR4B - Reporting
<p>Reporting, condition 4.2.3:</p> <p><i>“Within 28 days of the end of the reporting period the operator shall, unless otherwise agreed in writing by Natural Resources Wales, submit reports of the monitoring and assessment carried out in accordance with the conditions of this permit, as follows... []”</i></p>	

Action 2: Implement measures to ensure all future quarterly monitoring returns are submitted to NRW within the reporting period specified in the permit.

Assessment of data submitted in annual report

Air1 / 09/03/2023

The operator has declared that it has sampled its air emissions on 10 January 2024. Table S4.1 states that A1 emissions to air need to be reported every 12 months with the reporting period beginning on 1 January. The operator has not monitored this emission parameter within the specified 2023 period, which is non-complaint with permit conditions.

Compliance breach 3

Permit condition 3.5.1 requires the operator to:

The operator shall, unless otherwise agreed in writing by Natural Resources Wales, undertake the monitoring specified in the following tables in schedule 3 to this permit:

- a. point source emissions specified in tables S3.1 and S3.2*

Table S3.1 states the annual monitoring frequency for NO_x required. As per table S4.1, the reporting period is every 12 months beginning on 1 January. The operator has failed to take an annual sample for A1 emissions to air in the required timeframe for 2023. This non-compliance has scored a **Category 3** breach.

In accordance with NRW's compliance scoring guidance, a non-compliance score of C3 has been recorded against sub-criteria IR3A.

C3 PERMIT BREACH	IR3A - Emissions and monitoring
<p>Emissions and monitoring, condition 3.5.1: <i>"The operator shall, unless otherwise agreed in writing by Natural Resources Wales, undertake the monitoring specified in the following tables in schedule 3 to this permit:</i></p> <p style="margin-left: 40px;">a. <i>point source emissions specified in tables S3.1 and S3.2"</i></p>	

Action 3: Ensure all future monitoring and assessments are conducted within the periods specified in permit.

Deadline: **Immediately**

WaterUseage1 / 09/03/2023

The operator has declared the water used for 2023 to be 229,570m³. This is compliant with the volume of water taken in accordance with the operator's abstraction licence WA/062/0001/0016.

Energy1 / 09/03/2023

The data submitted represents compliance with the permit.

Performance1 / 09/03/2023

The data submitted represents compliance with the permit.

Review of data submitted in quarterly report

Water1 / 09/03/2023

The submission for emissions to water is missing information for several parameters for source point W1, namely:

- Biological oxygen demand (BOD), Chemical oxygen demand (COD), Total suspended solids (TSS), Ammoniacal nitrogen, Nitrite, Total nitrogen, Total phosphorus, Total aluminium, Mercury and its compounds, Cadmium and its compounds, and Chloride.

Table S3.2 of the permit dictates the emission limits and monitoring requirements; this has been partially reproduced below. The data for parameters which has not been submitted by the operator and their respective monitoring frequencies are highlighted in yellow:

Table S3.2 Point Source emissions to water (other than sewer) and land – emission limits and monitoring requirements

Emission point ref. & location	Source	Parameter	Limit (including unit)	Reference Period	Monitoring frequency	Monitoring standard or method
W1 [Point W1 as shown on site plan in Schedule 7 to Afon Teifi] W1 NGR: SN 31510 40243 Receiving water Afon Teifi at NGR: SN 31356 40462 Monitoring location: Flow monitoring meter at NGR: SN 31538 40242	Effluent Treatment plant	Maximum daily discharge volume	900 m ³ /day	24-hour total	Continuous	MCERTS flow meter
W1 [Point W1 as shown on site plan in Schedule 7 to Afon Teifi] W1 NGR: SN 31510 40243 Receiving water Afon Teifi at NGR: SN 31356 40462	Effluent Treatment Plant	Biological oxygen demand (BOD)	20 mg/L	24-hour flow proportional composite	Monthly	BS EN 1899-1
		Chemical oxygen demand (COD)	110 mg/L	24-hour flow proportional composite	Daily	BS 6068-2.34
		Total suspended solids	30 mg/L	24-hour flow proportional composite	Daily	BS EN 872
		Ammoniacal nitrogen (expressed as N)	10 mg/L	Instantaneous (spot sample)	Monthly	BS EN ISO 11732
		Nitrite (expressed as N)	1.0 mg/L	Instantaneous (spot sample)	Monthly	BS EN ISO 13395
Monitoring location: [Point M1 as shown on site plan in Schedule 7] M1 NGR: SN 31611 40208		Total nitrogen	20 mg/L	24-hour flow proportional composite	Daily	EN 12260 or EN ISO 11905-1
		Total phosphorus	1.0 mg/L	24-hour flow proportional composite	Daily	EN ISO 6878 or EN ISO 15681-1 or EN ISO 15681-2 or EN ISO 11885
		Total aluminium as Al	1.0 mg/L	Instantaneous (spot sample)	Weekly	BS EN ISO 11885
		Temperature	21 °C	Instantaneous	Continuous	Standard Thermocouple Sensor
		pH	Minimum 6, Maximum 9	Instantaneous	Continuous	BS EN 10523
		Mercury and its compounds, expressed as mercury (Total Hg)	0.5 µg/L	Compliance based on mass balance calculation ^{Note 1}	Annually	BS EN 12846
		Cadmium and its compounds, expressed as cadmium (Total Cd)	0.525 µg/L	Compliance based on mass balance calculation ^{Note 1}	Annually	BS EN ISO 5961
Chloride (Cl ⁻)	No limit set	24-hour flow proportional composite	Monthly	EN ISO 10304-1 or EN ISO 15682		

The operator has commented in the results column for each of the unsubmitted parameters: *'Discussions ongoing regarding in-house testing solution.'*

In April 2023, the operator sent a Schedule 5 notification to NRW declaring its inability to conduct testing and monitoring of its emissions to water in-line with permit condition 3.5.1. This was due to the operator changing its testing laboratory and claiming that no closer facility was capable of compliantly conducting the monitoring requirements. The operator also stated that the act of sending the required samples for testing further afield was financially unviable to the business. Subsequently, the operator has *not* been testing its emissions to water data since March 2023 to present.

The operator has requested NRW's agreement to in-house testing and points around MCERTS accreditation, and deviations from the permitted monitoring frequency; these points have been addressed by NRW independently of this CAR.

NRW have at no point agreed - in writing or otherwise - for the operator to stop its point source emission to water monitoring and to cease submitting results as required by permit conditions until a decision was given with regard to testing in-house.

The site has a permitted discharge point to a sensitive receptor known as the Afon Arad leading to the Afon Teifi, which is classified as a protected Special Area of Conservation (SAC). It is

imperative to comply with permit conditions and carry out the monitoring and sampling requirements in accordance with imposed permit conditions to safeguard against the risk of pollution to the environment.

The operator has *not* been monitoring various point source emissions to water parameters since March 2023 to present. Due to lack of emission sampling conducted, the risk of actual or potential impact to the environment via the operator's permitted discharge during this period is unknown and, therefore, has been deemed potentially significant.

Compliance breach 4

Permit condition 3.5.1 requires the operator to:

The operator shall, unless otherwise agreed in writing by Natural Resources Wales, undertake the monitoring specified in the following tables in schedule 3 to this permit:

- b. *point source emissions specified in tables S3.1 and S3.2*

The operator has failed to undertake monitoring specified in Schedule 3, Table S3.2 required by condition 3.5.1 of the permit. This non-compliance has scored a **Category 2** breach.

In accordance with NRW's compliance scoring guidance, a non-compliance score of C2 has been recorded against sub-criteria IR3A.

C2 PERMIT BREACH

IR3A - Emissions and monitoring

Emissions and monitoring, condition 3.5.1:

"The operator shall, unless otherwise agreed in writing by Natural Resources Wales, undertake the monitoring specified in the following tables in schedule 3 to this permit:

- b. *point source emissions specified in tables S3.1 and S3.2"*

In accordance with NRW's non-compliance scoring guidance, the non-compliance scores for the breaches during 2023 reporting period have been consolidated into one non-compliance score.

Action 4: Conduct the monitoring requirements required by condition 3.5.1

Deadline: At the frequencies required by Table S3.2 for the different parameters.

The operator *has* provided monitoring data for the maximum daily discharge volume, pH, and temperature parameters to W1. The maximum daily discharge volume and pH values are in-line with ELVs set in the permit, however, the temperature value declared has exceeded the permitted emission limit.

Permit condition 3.1.2 requires the operator to comply with the following:

"The limits given in schedule 3 shall not be exceeded."

Table S3.2 point source emissions to water (W1) dictates that:

Temperature shall not exceed:
• 21°C

On 11 September 2023, a continuous sample recorded the temperature at a value of 33°C, a reading which has exceeded the ELV specified in S3.2.

NRW note this exceedance, however, require further information regarding this event to better assess the potential impact to the environment and score the non-compliance.

Action 5

The operator must:

- i. **submit a Schedule 5 notification detailing the temperature exceedance noted, investigations carried out into the cause and actions taken to address the exceedance, and the corrective measures implemented to prevent reoccurrence**
- ii. **if held, continuous temperature data from 4 September 2023 until such time after the sample recorded on 11 September 2023 that the temperature returned to a consistent compliant temperature**
- iii. **continuous flow data for the same time scale as part (ii) above.**

Deadline: 15 March 2024

NRW were not notified of the temperature emission limit exceedance by the operator. It is essential to notify NRW of any known limit breaches specified in the permit (such a ELV exceedances) within the specified timeframes to safeguard the environment from risk of pollution.

Compliance breach 5

Permit condition 4.3.2 requires the operator to conduct the following:

"Any information provided under condition 4.3.1(a)(i) or 4.3.1 (b)(i) where the information relates to the breach of a limit specified in the permit, shall be confirmed by sending the information listed in schedule 5 to this permit within the time period specified in that schedule."

The operator has failed to submit a schedule 5 notification for the emission limit exceedance for temperature as required by condition 4.3.2.

In accordance with NRW's compliance scoring guidance, a non-compliance score of C3 has been recorded against sub-criteria IR4C.

C3 PERMIT BREACH	IR4C - Notifications
Notifications, condition 4.3.2:	

“Any information provided under condition 4.3.1(a)(i) or 4.3.1 (b)(i) where the information relates to the breach of a limit specified in the permit, shall be confirmed by sending the information listed in schedule 5 to this permit within the time period specified in that schedule.”

Action 6: Ensure all future breaches of specified permit limits are confirmed by sending a schedule 5 notification to NRW within the time period stipulated.

Deadline: Immediately

COMPLIANCE SUMMARY

1. The operator has submitted its annual monitoring returns to NRW outside of the reporting period specified in condition 4.2.2 of the permit. This non-compliance has scored a non-compliance **Category 4** breach.
2. The operator has submitted its quarterly monitoring returns for Q4 2023 outside of the reporting period specified in condition 4.2.3 of the permit. This non-compliance has scored a non-compliance **Category 4** breach.
3. The operator has failed to take an annual sample for emissions to air in the required reporting period for 2023 specified in condition 3.5.1 of the permit. This non-compliance has scored a **Category 3** breach.
4. The operator has failed to undertake the monitoring specified in schedule 3 required by condition 3.5.1 of the permit. This non-compliance has scored a **Category 2** breach.
5. The operator has failed to submit a schedule 5 notification for the emission limit exceedance required by condition 4.3.2. This non-compliance has scored a **Category 3** breach.

ACTION SUMMARY

Action	Details	Deadline date
1	Implement measures to ensure all future annual monitoring returns are submitted to NRW within the reporting period specified in the permit.	Immediately
2	Implement measures to ensure all future quarterly monitoring returns are submitted to NRW within the reporting period specified in the permit.	Immediately

3	Ensure all future monitoring and assessments are conducted within the periods specified in permit.	Immediately
4	Conduct the monitoring requirements in-line with condition 3.5.1.	At the frequencies required by Table S3.2 for the different parameters
5	<p>The operator must:</p> <ul style="list-style-type: none"> i. submit a Schedule 5 notification detailing the temperature exceedance noted, investigations carried out into the cause and actions taken to address the exceedance, and the corrective measures implemented to prevent reoccurrence ii. if held, continuous temperature data from 4 September 2023 until such time after the sample recorded on 11 September 2023 that the temperature returned to a consistent compliant temperature iii. continuous flow data for the same timescale as part (ii) above. 	15 March 2024
6	Ensure all future breaches of specified permit limits are confirmed by sending a schedule 5 notification to NRW within the time period stipulated.	Immediately

If you have any issues with regard to the content of this report, please contact Senior Regulation Officer Alex Bowder at alex.bowder@cyfoethnaturiolcymru.gov.uk

END OF REPORT

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.

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

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 compliance criteria (used in section 1 and 2):

1. Management

- IR1A – General management
- IR1B – Finance (only applicable to Landfill)
- IR1C – Energy efficiency
- IR1D - Efficient use of raw materials
- IR1E - Avoidance, recovery and disposal of wastes produced by the activities
- IR1F - Multiple operator installations

2. Operations

- IR2A – Permitted activities
- IR2B – The site
- IR2C – Operating techniques
- IR2D – Technical requirements
- IR2E – Improvement programme
- IR2F – Pre-operational conditions
- IR2G – Landfill engineering (only applicable to Landfill)
- IR2H – Waste acceptance (only applicable to Landfill)
- IR2I – Leachate levels (only applicable to Landfill)
- IR2J – Closure and aftercare (only applicable to Landfill)
- IR2K – Landfill gas management (only applicable to Landfill)

3. Emission and Monitoring

- IR3A – Emissions to water, air or land
- IR3B – Emissions of substances not controlled by emission limits
- IR3C – Odour
- IR3D – Noise and vibration
- IR3E – Monitoring
- IR3F – Pests
- IR3G – Air quality management plans
- IR3H – Monitoring for the purposes of the Industrial Emissions Directive (this heading includes Large Combustion Plants)
- IR3I – Fire

4. Information

- IR4A – Records
- IR4B – Reporting
- IR4C – Notification

Enforcement response

Any non-compliance with a permit condition 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 twenty 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 to 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.