

Compliance Assessment Report CAR_NRW0043185

Permit being assessed: CB3697FR

For: A465 Section 5 and 6 Dowlais Top to Hirwaun, held by FCC Construcccion S A, UK
BRANCH OFFICE

At: A465 Section 5 and 6 Dowlais Top to Hirwaun, Hirwaun Road, Hirwaun, Aberdare,
Rhondda Cynon Taff, CF44 9HR.

Type of assessment carried out: Site Inspection, Reason: Incident Response (Incident number: 2309916).

On 28/12/2023, between 11:00 and 13:00.

Parts of permit assessed: 2.1, 2.3, 3.1, 4.3

NRW Lead Officer: Natalie Wrangham.

Report sent to: Mike Cummine, Construction Director, on 20/03/2024.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
WQ-B1 - Operations - Permitted activities	C2 Significant	Condition 2.1.1 The operator is only authorised to carry out the activities specified in schedule 1 table S1.1
WQ-B3 - Operations - Operating techniques	C2 Significant	condition 2.3 (a) The activities shall, subject to the conditions of this permit, be operated using the techniques and in the manner described in the documentation specified in schedule 1, table S1.2, unless otherwise agreed in writing by Natural Resources Wales
WQ-B3 - Operations - Operating techniques	Action only (X)	
WQ-C1 - Emissions and monitoring - Emissions to water	C2 Significant	Condition 3.1.1 (a) There shall be no point source emissions to water except from the sources and emission points listed in schedule 3

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
WQ-C1 - Emissions and monitoring - Emissions to water	C1 Major	Condition 3.1.2 the limits given in schedule 3 shall not be exceeded
WQ-D3 - Information - Notifications	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
WQ-B1	Control mechanism for discharge from GCN pond / Swansea road pond. Discharge from this point must cease until it has been assessed and permitted.	22/03/2024
WQ-B3	Update water management plan PAN-017140 NRW Management Plan 28/09/2022 to include actions for water management for high rainfall events	01/05/2024
WQ-B3	Condition 2.1.1 (b) Operator to submit to NRW a revision of the water management plan for approval to include updates to procedures and site and water management during high rainfall and storm events	01/05/2024
WQ-C1	Update permit and water management plan	31/05/2024
WQ-C1	Any discharge from the alternative discharge point needs to be assessed and permitted for impact to receiving water courses. Any discharges must be compliant with the permit.	31/05/2024
WQ-D3	Condition 4.3.1 - Natural Resources Wales shall be notified without delay following the detection of: (a) any malfunction, breakdown or failure of equipment or techniques, accident or emission of a substance not controlled by an emission limit which has caused, is causing or may cause significant pollution; (b) the breach of a limit specified in the permit; or (c) any significant adverse environmental effects. Discharge to cease until it has been assessed and permitted. Any unpermitted discharges or situations meeting the criteria of this condition must be reported to NRW as soon as practicable, along with what actions are to be taken to resolve the issue.	22/03/2024

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.

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

Site Report

Officer Natalie Wrangham received a call from the EMDO at 10.27 on 28/12/2023 about an ongoing pollution in the Nant Ffrwd, requesting her to investigate. Incident report number 2309916. Weather conditions – constant heavy rain. The previous day had also seen heavy rain.

At 11.05 I arrived at Pontycapel road by the Cefn Viaduct. Upon investigation I could see that the Nant Ffrwd was heavily discoloured brown with sediment, see **photo 1**. The upstream Nant Ffrwd is fairly inaccessible, so I called Sam Taylor, Environmental and Sustainability Manager at FCC to arrange someone to meet me and escort me around the A465 road works. I took water samples from the Nant Ffrwd and upstream and downstream of the River Taff.



Photo 1 – confluence of the Nant Ffrwd and River Taff

At 12.20 I met with Ryan Poole who escorted me to the areas of site which feed into the Nant Ffrwd. Further investigation identified a discharge from a permanent pond on the FCC site in the area known as Swansea Road which receives site and surface water drainage. Mr Poole explained that this pond was discharging as a result of heavy rainfall which had led to the capacity of the pond being exceeded, and the silt busters currently treating the water from the pond could not cope with this additional input and were already running at maximum capacity. Mr Poole explained there was no control mechanism on this outfall. I could see heavily silted water discharging from the pond into a channel which was lined with flocculant matting. The channel crossed a muddy track before continuing down the channel adjacent to the road, and towards the Nant Ffrwd, see **photo 2** and **photo 3**. I asked Mr Poole whether the discharge could be stopped, but he commented that the water would just overtop elsewhere if they did this. Mr Poole also remarked that the discharge from this location had also occurred the previous day because of the heavy rain. I took a 2 litre sample of the discharge point at National Grid Reference (NGR) SO 01593 07336 which I split in the presence of Mr Poole and let him choose a sample to keep. I issued Mr Poole with a Notice of Powers and Rights form and a sample receipt.



Photo 2 – discharge from pond over flocculant matting



Photo 3 – discharge crossing muddy track before re-entering channel

Environmental Permit number **EPR/CB3697FR** permits the discharge from the pond which on the permit is stated as: '**A7 – Discharge of trade effluent consisting of excavated waters and site drainage via Swansea road discharge point**'.

NRW are aware that the permitted discharge point for this discharge has recently moved and is not at NGR SO 01451 07307 but at approximate NGR SO 01473 07359 where it was moved upon the installation and commissioning of the permanent pond. The discharge from the additional outfall did not go through the treatment system detailed by the Management Plan which was submitted in support of the permit, and is conditioned in 2.3 (a) of the permit, due to the limited capacity of the silt busters (Tier 5 active treatment as detailed in management plan). At most the discharge received Tier 4 treatment – active settlement and polishing of waters from excavations with use of flocculant-based materials. However due to the amount of rainfall and the rate of discharge it was clear that the water in the pond was not being retained for long enough to allow settlement and the flocculant-based materials were likely having little effect as a result of the

combined sediment load due to lack of settlement and discharge rate.

Breaches of permit condition:

- **Condition 2.1.1 The operator is only authorised to carry out the activities specified in schedule 1 table S1.1 – ‘A7’ – Discharge of trade effluent consisting of excavated waters and site drainage via Swansea Road Discharge Point.** As stated above NRW are aware that the permitted discharge point for this discharge has recently moved and is not at NGR SO 01451 07307 but at approximate NGR SO 01473 07359 where it was moved upon the installation and commissioning of the permanent pond. This was deemed acceptable by NRW. The other discharge from the pond was not known to NRW or agreed as acceptable and has not been assessed for impact to the receiving environment. As the discharge from this point is not subject to additional settlement by the silt busters, it has the potential to be of higher impact to the environment.
- **Condition 2.3 (a) The activities shall, subject to the conditions of this permit, be operated using the techniques and in the manner described in the documentation specified in schedule 1, table S1.2, unless otherwise agreed in writing by Natural Resources Wales.** The water management plan submitted to accompany the permit does not specify a need for storm overflows or discharges, and so has not been assessed or detailed in the management plan. If this is considered necessary by the Operator, the management plan must be updated to include mitigation for these scenarios and a change to the permit must be sought. Whilst it is accepted that the Operator had put in place silt fencing and flocculant matting at the outfall for this discharge, the treatment / silt capture would have been inefficient due to the rate of flow and sediment load of the discharge.
- **Condition 3.1.1 (a) There shall be no point source emissions to water except from the sources and emission points listed in schedule 3 – as per explanation for condition 2.1.1**
- **Condition 3.1.2 the limits given in schedule 3 shall not be exceeded.** The limit for suspended solids on the permit is **25mg/l** for the permitted discharge point. In addition to this being an unpermitted discharge, the suspended solid concentration in the water sample taken on the 28/12/2023 from the unpermitted discharge from the pond was shown to be **576mg/l**, which is 23 times the concentration permitted from the permitted discharge points.
- **Condition 4.3.1 - Natural Resources Wales shall be notified without delay following the detection of: (a) any malfunction, breakdown or failure of equipment or techniques, accident or emission of a substance not controlled by an emission limit which has caused, is causing or may cause significant pollution; (b) the breach of a limit specified in the permit; or (c) any significant adverse environmental effects** – No notification of the discharge was received by NRW, even though conversations with on site staff have lead me to believe this discharge had been ongoing for the previous 24 hours (minimum), and possibly on other occasions.

The monitoring report for December submitted by Sam Taylor on 11/01/2024 does not show any inspection of the Swansea road / GCN pond or siltbuster and monitoring of the Taf Fawr on that day does not show any impact was seen, however it is uncertain where on the Taf Fawr this inspection was made. I would recommend that the confluence of the Nant Ffrwd and Taf Fawr is included in future monitoring and all monitoring is robustly recorded.

Action required by dates specified:

- Discharge from this unpermitted point must immediately cease. A control mechanism must be installed to allow this – **by 22/03/2024**
- Update water management plan – PAN-017140 NRW Management Plan 28/09/2022 to include site mitigation measures for high rainfall. This should be submitted to the local Environment Team and also be included in the application to vary the permit - **by 01/05/2024**
- Submit a permit variation for EPR/CB3697FR and any other relevant permits to include any additional discharge points including points for potential storm overflow so that the impact from these

discharges can be assessed and appropriately conditioned if considered acceptable- **by 31/05/2024**

- Ensure that NRW is notified as per condition 4.3.1 as soon as practicable - **ASAP**

An Anti Pollution Works Notice is to be issued alongside this CAR form, as discussed.

Contact details:

If you have any queries regarding this CAR form or to provide an update on any actions above, please contact me using the following details: Natalie Wrangham, Senior Environment Officer,
Natalie.Wrangham@naturalresourceswales.gov.uk.

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 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
- 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
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 quality action criteria (used in section 1 and 2):**WQ A: Management**

- WQ-A1 General management

WQ B: Operations

- WQ-B1 Permitted activities
- WQ-B2 The site
- WQ-B3 Operating techniques
- WQ-B4 Improvement programme
- WQ-B5 Pre-operational conditions

WQ C: Emissions and monitoring

- WQ-C1 Emissions to water
- WQ-C2 Emissions to land
- WQ-C3 Emissions of substances not controlled by emission limits
- WQ-C4 Installation of monitoring boreholes

WQ D: Information

- WQ-D1 Records
- WQ-D2 Reporting
- WQ-D3 Notifications

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.