

Compliance Assessment Report CAR_NRW0044181

Permit being assessed: BB3296CU.

For: Frongoch Lead Mine, **held by:** Mark Skitt

At: Frongoch, Trisant, Aberystwyth, Ceredigion, SY23 4RL.

Type of assessment: Site Inspection,

Reason: Routine.

On: 25/04/2024 between 14:50 and 16:15.

Parts of permit assessed: All.

NRW Lead Officer: Malcolm Dines, accompanied by Luke Taylor.

Report sent to: Mark Skitt, Owner, on 04/06/2024.

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

Part of permitted activity assessed (compliance criteria)	Assessment result	Permit condition
W1A - Waste - Management - General management	C2 Significant	1.1.1(a)
W1A - Waste - Management - General management	Action only (X)	
W1A - Waste - Management - General management	C3 Minor	1.1.4
W2A - Waste - Operations - Permitted activities	C3 Minor	2.1.1
W3A - Waste - Emissions and monitoring - Emissions to water, air or land	C3 Minor	3.1.3
W4B - Waste - Information - Reporting	C3 Minor	4.2.2

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

Total non-compliances recorded	Total non-compliance score
5	47

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
W1A	Ensure that you comply with your Environmental Management System and your permit	04/06/2024
W1A	Update your Environmental Management System to ensure it accurately reflects how you operate your permit	01/09/2024
W1A	Employ a suitably qualified person or people to act as the Technically Competent Manager at your site and provide copies of their Qualification certificate and, where applicable, their Continuing Competency certificate. They must attend site for a minimum of 4 hours a week and keep records of their arrival and departure from the site at the site.	19/07/2024
W2A	Stop the activity unless there is a permit in place to authorise the activity	04/06/2024
W3A	All potentially polluting liquids must be stored in containers provided with appropriate secondary containment and all oil must be stored in accordance with the Control of Pollution (Oil Storage) (Wales) Regulations 2016.	19/07/2024
W4B	Submit outstanding waste returns for Financial Years: 2019; 2020; 2021; 2022 and 2023	19/07/2024

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 was a pre-arranged site visit carried out by Malcolm Dines and Luke Taylor who met with Mark Skitt, the site owner and permit holder, who accompanied the officers for the duration of the visit. The purpose of the visit was to review progress with compliance with the actions specified on the Compliance Report (CAR_NRW0043173) dated 15/02/2024 relating to the compliance visit carried out on 08/12/2023 and also to assess compliance regarding the handling and storage of hazardous liquids. The weather was dry and bright and Mr. Skitt was the only person on site.

Permit Breaches

W1A - General Management - Cat 3; Permit Condition 1.1.4

You have been given this category 3 breach under the above condition as you have failed to demonstrate that you are complying with an approved competency scheme and, despite having been repeatedly requested to comply with this permit condition since your permit

was issued, you have failed to comply with the required actions. Therefore we will be issuing you with a Regulation 36 Notice requiring you to comply with this permit condition. The failure to comply with a notice is an offence.

Action: Submit details of your Technically Competent Manager(s) and copies of their qualification and any Continuing Competency certificates **by 19 July 2024**

Action: Ensure that your Technically Competent Manager attends site at the site for at least 4 hours a week and that attendance at site is recorded at the site **by 19 July 2024**

W2A - Permitted Activities - Cat 3; Permit Condition 2.1.1

You have been given this category 3 breach under the above condition as during the compliance visit when asked what you did with the fluids drained from the End-of-Life Vehicles, you stated that you treat them to make a "biodiesel".

Regulation 2 of the Environmental Permitting Regulations 2016 defines "Waste Oil" as, *"mineral-based lubricating or industrial oil which has become unfit for the use for which it was originally intended and, in particular, used combustion engine oil, gearbox oil, mineral lubricating oil, oil for turbines and hydraulic oil"* and a "waste operation" as being the *"recovery or disposal of waste"*.

Therefore, unless they are still fit for the use for which it was originally intended, oils from the depollution of End-of-Life Vehicles are waste. Treating the oil to produce "biodiesel" means the oil is no longer being used for what it was originally intended and so is waste and the treatment operation, even though a recovery activity and producing something that you are re-using, is a waste operation.

In order to undertake this activity you are required to hold an environmental permit authorising such an activity. At present your permit does not authorise such an activity.

Action: Stop treating waste oils - unless there is an Environmental Permit authorising such an activity at your site - **with immediate effect**

W3A - Emissions to Water, Air or Land - Cat 3; Permit Condition 3.1.3

You have been given this category 3 breach under the above condition as during this compliance visit it was identified that you are storing liquids, that have the potential to pollute water or land, without secondary containment.

Permit Condition 3.1.3 requires that, *"All liquids in containers, whose emission to water or land could cause pollution, shall be provided with secondary containment, unless the operator has used other appropriate measures to prevent or where that is not practicable, to minimise, leakage and spillage from the primary container."*

You are storing waste oils in 25 gallon containers on a pallet and in an Intermediate Bulk Container (IBC), both of which were located on the hardstanding area. In the event of a spill from these containers, such as due to damage to the containers, there is nothing to prevent this oil polluting the ground at your site.

You also store waste oil in an IBC in your shed. The IBC is placed on top of wire mesh on

top of a metal tank that acts as secondary containment. At the time of this compliance visit the IBC was not situated directly over the secondary containment tank and so any spills from the IBC would not be fully contained and, due to the location of the tank, would have the potential for spilled oil to pollute the ground outside the shed.

On page 30 of the guidance document, "How to Comply with your Environmental Permit" it states what is expected of an operator for the storage of potentially polluting liquids in containers including:

- Do not use plastic IBCs to store flammable materials
- locate storage areas away from sensitive boundaries, (for example those with public access) and protect them against vandalism
- all containers and packages should be clearly labelled

Currently you are storing waste oil in unmarked plastic containers located at the perimeter of your site and which does not have any measures to protect it from vandalism.

Action: Carry out the following actions by **19 July 2024**

- 1) Ensure that liquids in containers, whose emission to water or land could cause pollution, are provided with secondary containment
- 2) Do not store flammable materials in plastic Intermediate Bulk Containers
- 3) Ensure that the storage of potentially polluting liquids is away from sensitive boundaries and are protected from vandalism
- 4) Ensure all containers are clearly labelled

W4B - Reporting - Cat 3; Permit Condition 4.2.2

You have been given this category 3 breach under the above condition as you have not submitted your outstanding waste returns as required by Compliance Report (CAR_NRW0043173). You indicated during this compliance visit that you did not have these records. Waste Returns are records of the wastes that you have accepted into the Permitted Activity, such as End-of-Life Vehicles and wastes that have been removed from the activity such as waste chassis and liquids such as oils and anti-freeze. It is a requirement of your permit that you keep records of wastes received and removed from the site and that you report these to Natural Resources Wales within a month of the end of each calendar year. This does not include parts that you have sold or intend to sell as car parts as, unless you are not able to sell them, these are not considered to be waste. At present you have yet to submit any Waste Returns since the permit was issued in 2019.

Action: submit the outstanding Waste Returns for Financial Years: 2019; 2020; 2021; 2022 and 2023 **by 19 July 2024**

W1A - General Management - Cat 2; Permit Condition 1.1.1(a)

You have been given this category 2 breach of the above condition because the permit breaches highlighted within this Compliance Report can be attributed to the failure to

operate the site in accordance with a suitable management system for example;

- Failure to comply with an approved competency scheme
- Failure to store potentially polluting liquids with secondary containment

The breaches identified during this compliance visit demonstrate a serious lack of awareness of the requirements of the sites environmental permit. This increases the potential risk of environmental harm being caused by the site.

Section 1.11.1 of your Environmental Management System states that you will have a suitably qualified Technically Competent Manager. Currently you have not provided contact details or qualifications for the person you say is providing this for you and therefore, have not demonstrated that you are compliant with the requirement of an approved competency scheme.

Section 3.8.1 of your Environmental Management System states that all hazardous liquids removed from vehicles will be stored within the depollution building. As noted above, oils were being stored outside on the hardstanding area of the yard.

Section 3.11.5 states that you will submit waste returns as required by the permit and which you have failed to do since the permit was issued.

Section 5.4 refers to drums and specifically, to drums arriving on-site in skips. As you do not operate a skip hire business this section of your Environmental Management System is not relevant to your site and demonstrates that your Environmental Management System does not accurately reflect the activities being carried out at your site and that you have not reviewed and updated it since it was provided to you by your consultant.

You must ensure that you comply with your Environmental Management System at all times and that it is updated to fully and correctly reflect the operations that you are carrying out under your permit.

Because you have not complied with section 1.11.1 of your Environmental Management System requiring you to have a Technically Competent Manager and because you have repeatedly failed to comply with actions to address this that were specified on previous Compliance Reports, we will be issuing you with a Regulation 36 Notice requiring you to comply with this permit condition and specifically the requirement to have a Technically Competent Manager. The failure to comply with a notice is an offence.

Action: Ensure that you comply with your Environmental Management System at all times **effective immediately**

Action: Update your Environmental Management System to fully and accurately reflect the operations that you are carrying out under your permit **by 1 September 2024**

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.

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 Waste compliance criteria (used in section 1 and 2):

1. Management

- W1A – General management
- W1B – Energy Efficiency (MCP/SG facilities only)
- W1C – Avoidance, recovery and disposal of wastes produced by the activities

2. Operations

- W2A – Permitted activities
- W2B – Waste recovery plan
- W2C – Operating techniques
- W2D – The site
- W2E – Waste acceptance
- W2F – Technical requirements
- W2G – Improvement programme
- W2H – Pre-operational conditions

3. Emission and Monitoring

- W3A – Emissions to water, air or land
- W3B – Emissions of substances not controlled by emission limits
- W3C – Odour
- W3D – Noise and vibration
- W3E – Monitoring
- W3F – Pests
- W3G – Fire

4. Information

- W4A – Records
- W4B – Reporting
- W4C – 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.