

Compliance Assessment Report CAR_NRW0041032

Licence being assessed: WA/056/0053/005.

For: , held by Stuart Price.

At: .

Type of assessment: Site Inspection, Reason: Routine.

On 02/12/2022, between 13:00 and 13:50.

Parts of licence assessed: See Criteria Below

NRW Lead Officer: Robert Harding.

Report sent to: Stuart Price , Permit Holder , on 01/02/2023.

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

Part of licenced activity assessed (criteria)	Assessment result	Licence condition
WR-C1 - Surface/groundwater level and protected flow - Minimum hands-off flow/level requirements	C2 Significant	Conditions 9.5 and 9.9 of your abstraction licenses states : to ensure a flow is maintained in the watercourse in order to i) maintain the riverine habitat for the conservation of the flora and fauna, and ii) to safeguard existing protected rights.
WR-E1 - Fish and Eel passage - Infrastructure specified by licence	C3 Minor	Condition 9.8 (i) Prior to abstraction taking place for the purpose of power production, under this licence, the Licence Holder shall construct a fish easement downstream of the weir at National Grid Reference SN 93942 21588 marked Point A on the map in accordance with the plans and specifications to be submitted and approved in writing by the NRW. (ii) The

Part of licenced activity assessed (criteria)	Assessment result	Licence condition
		Licence Holder shall maintain, repair or replace the fish easement to ensure that it remains effective at all times.

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

2. What action is required?

Criteria	Action needed	Complete by
WR-C1	Remove blockage on HoF notch	28/02/2023
WR-E1	Improve infrastructure to allow safe fish passage upstream	30/06/2023

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.

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 report also applies to Impoundment WA/056/0053/016

This was an unannounced site inspection carried out by Natural Resources Wales Officers, Robert Harding, and Chloe Hatton.

The site was attended on 02nd December 2022. On locating the hydropower scheme, upstream and downstream elements were inspected.

Hands off Flow

At the time of attendance, there was a large rectangular stone obstructing the Hands-Off Flow Notch (HoF). The stone was clearly stopping adequate levels of flow to pass downstream, resulting in more flow heading to the intake of the scheme. The HoF flow notch is designed to ensure that a safe minimum flow remains in the river downstream of the hydropower scheme, during low flow events. Having this notch blocked creates a significant risk for aquatic life downstream, especially given the extended dry weather observed during 2022.

This has been assessed as a breach of the following permit condition,

Conditions 9.5 and 9.9 of your abstraction licenses states

: to ensure a flow is maintained in the watercourse in order to

- i. ***maintain the riverine habitat for the conservation of the flora and fauna, and***

ii. *to safeguard existing protected rights.*

This is a category 2 breach of the permit. This is assessed as a breach which have a significant effect on the environment.

This blockage must be removed by 28/02/2023.

I also note that this blockage was observed during an inspection by NRW Officer Chris Gurney on 01/06/2022. A warning was issued in compliance assessment report (CAR_NRW0039989), on 08/06/2022 stating the following action

“Remove all obstructions and maintain the site to allow the scheme to operate as designed no later than 30/6/2022”

On this evidence it is my assessment that the actions as set out in CAR form (CAR_NRW0039989) have not been completed to a satisfactory level. As such a formal written warning will be issued for this offence and further enforcement action considered.





Fish Passage/ Easement

On inspection of the fish easement/passagage on the scheme, it does not appear appropriate for allowing fish to pass upstream of the scheme. Several boulders which appear to make up part of the fish passage easement have been washed out by the river. Repair of a nature-like stepped pool easement to improve upstream and downstream fish passage is therefore required. Currently the step below the hands-off flow notch (presumed to be functioning as the fish passage easement) maintains very little depth, experiences high velocities of water and has a drop of up to ~50cm with no plunge pool beneath them. This design is therefore not fit for purpose or conducive to fish passage.

As such the scheme was assessed to be Category 3 noncompliance of the following permitted conditions.

Condition 9.8 of your abstraction licence, which states:

- (i) Prior to abstraction taking place for the purpose of power production, under this licence, the Licence Holder shall construct a fish easement downstream of the weir at National Grid Reference SN 93942 21588 marked Point A on the map in accordance with the plans and specifications to be submitted and approved in writing by the NRW.***
- (ii) The Licence Holder shall maintain, repair or replace the fish easement to ensure that it remains effective at all times.***

Condition 4.7 of your impoundment licence, which states:

- (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 the NRW, under the Eels (England and Wales) Regulations 2009, to allow the passage of eel at National Grid Reference SN 93942 21588.***
- (ii) The Licence Holder shall maintain, repair or replace the eel passage structure to ensure that it remains effective at all times.***

In this instance these are classified as a non-compliance which could have a minor environmental effect.

NRW Fisheries officer Chloe Hatton, has been in contact via email, to advise on improvements which should be made, to bring the scheme back into compliance with permitted conditions.

These improvements are to be implemented by 30th July 2023, with any in river works taking place between 16th May 2023 and 30th July 2023.

Follow up inspections will be undertaken after this date to ensure improvements have been completed as required.

This Compliance will be issued with a Formal Written Warning as a response to the above offences on this occasion. Our decision could change if any further relevant information comes to light, including, but not restricted to, information that:

- you have committed earlier offences
- the environmental impacts of this offence are greater than we presently understand them
- the offences are continuing or have been repeated
- you have committed other offences of which we are presently unaware.

We will take this offence into account if we consider that you are involved in any future offending.

This warning does not:

- prevent any other prosecuting authority taking action against you/the Company or
- affect our right to issue enforcement, clear-up or remediation notices; or seek recovery of costs or damages according to law.

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 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.