

APPEAL TO THE PLANNING INSPECTORATE

APPEAL REF:

PURSUANT TO REGULATION 31 OF THE ENVIRONMENTAL PERMITTING
(ENGLAND AND WALES) REGULATIONS 2016

BETWEEN

THE TREATMENT HUB LIMITED

Appellant

and

NATURAL RESOURCES WALES

Respondent

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From: Neil Mcleod | Envirotreat
Sent: 29 July 2020 11:41
To: Owen, Llinos <Llinos.Owen@cyfoethnaturiolcymru.gov.uk>
Cc: Williams, Paul C. <Paul.C.Williams@cyfoethnaturiolcymru.gov.uk>; Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>; Rebecca Bomers <rebecca@somertonenvironmental.com>; Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk; Simon Farr <simon@treatment-hub.co.uk>; David <David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>
Subject: RE: To: neil@treatment-hub.co.uk - FW: EPR/ZP3933NJ - PAN-009640 et al

Thanks for your response Llinos

We fully appreciate that NRW are working with limited resources particularly in light of the Covid 19 restrictions. But this equally applies to industry (and even more so as I'm sure you're aware).

The failure to address our permit variation in any time format which can be considered to be even slightly reasonable is particularly damaging to our business. This is particularly relevant to the Treatment Hub Permit variation which we were required to submit as a matter of urgency in February this year by Liane Bacon-Weekes (i.e. it was an instruction). We duly provided the variation in mid-February and were quite frankly, exasperated to find out that the variation is only going through the initial 'duly made' process assessment over 5 months later. As Rebecca has said in her e-mail below this is wholly unacceptable and is effectively compromising our business.

With respect the standard response of 'if you wish to make a complaint' is simply not acceptable under the circumstances.

Can you please confirm the likely timescale for the processing of both the variation and the new permit application (which are fundamentally the same documents from the technical perspective).

Regards

Neil

Mobile 07968 496927

From: Owen, Llinos <Llinos.Owen@cyfoethnaturiolcymru.gov.uk>
Sent: 28 July 2020 10:02
To: Rebecca Bomers <rebecca@somertonenvironmental.com>
Cc: Williams, Paul C. <Paul.C.Williams@cyfoethnaturiolcymru.gov.uk>; Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>; Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>
Subject: RE: To: neil@treatment-hub.co.uk - FW: EPR/ZP3933NJ - PAN-009640 et al

Good morning Rebecca,

I work in Holly's team and am standing in for her today. Unfortunately we do not have a mechanism for fast-tracking applications we receive. We are currently carrying out a duly making assessment on both of your applications and we will update you once that's completed.

If you wish to make a complaint you can find information on how to do so on the following page on our website:

<https://naturalresources.wales/about-us/contact-us/complaints-and-compliments/?lang=en>

Kind regards,

Llinos

Llinos Owen
Swyddog Uwch (Trwyddedu Gosodiadau ac RSR)/Senior Officer (Installations and RSR Permitting)
Gwasanaeth Trwyddedu CNC/NRW Permitting Service
Cyfoeth Naturiol Cymru/Natural Resources Wales
Ffôn/Tel 03000 653741 Ffôn Symudol/Mobile 07979 381104
Ebst/Email Llinos.Owen@cyfoethnaturiolcymru.gov.uk Llinos.Owen@naturalresourceswales.gov.uk
cyfoethnaturiol.cymru/naturalresources.wales

Siaradwraig Gymraeg/Welsh Speaker

Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi.
Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

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From: Rebecca Bomers <rebecca@somertonenvironmental.com>
Sent: 27 July 2020 09:40
To: Williams, Paul C. <Paul.C.Williams@cyfoethnaturiolcymru.gov.uk>
Cc: Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>
Subject: RE: To: neil@treatment-hub.co.uk - FW: EPR/ZP3933NJ - PAN-009640 et al

Good morning Paul

Thankyou for getting back to me.

I have to say I am really alarmed by this. The application was submitted in February at the request of the Environment Officer regulating the site.

The existing permit has been part suspended, awaiting the variation, and yet it's not urgent enough for the variation to even be assessed for being duly-made FIVE months after the submission! Something is not right here.

In effect, NRW have suspended my client because NRW have taken a ridiculous amount of time to assess the application. A permit should easily be assessed for duly making and technically assessed within a five month time frame, to only now be at the duly-making stage is utterly unacceptable.

Please advise of your complaints procedure and please advise of the mechanisms in place to get this application fast-tracked?

Regards

Rebecca Bomers Bsc (Hons) MCTM

Managing Director

Tel: 07709 320836



www.somertonenvironmental.com

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From: Williams, Paul C. <Paul.C.Williams@cyfoethnaturiolcymru.gov.uk>

Sent: 24 July 2020 14:02

To: Rebecca Bomers <rebecca@somertonenvironmental.com>

Cc: Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>

Subject: RE: To: neil@treatment-hub.co.uk - FW: EPR/ZP3933NJ - PAN-009640 et al

Good Afternoon Rebecca,

Thank you for your message. We are currently undertaking the duly making assessment on both applications. We anticipate reporting the outcome of that assessment in approximately one week. Are you representing them in regard to both applications?

Regards

Paul

Paul Williams

Swyddog Trwyddedu Uwch, Gosodiadau a Thrwyddedu RSR / Senior Officer, Installations and RSR Permitting

Adran Tystiolaeth, Polisi a Trwyddedu / Evidence, Policy and Permitting Directorate

Cyfoeth Naturiol Cymru / Natural Resources Wales

www.cyfoethnaturiol.cymru / www.naturalresources.wales

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Proud to be leading the way to a better future for Wales by managing the environment and natural resources sustainably.

In light of recent events, I am currently working from home and as such not contactable on the phone. If you need to get in touch, please email me and I will respond as quickly as possible.

Yn sgil y datblygiadau diweddaraf rwy'n gweithio gartref ar hyn o bryd ac felly nid mewn cyswllt ar y ffôn. Os oes angen i chi gysylltu, anfonwch e-bost ataf os gwelwch yn dda a byddaf yn ymateb cyn gynted â phosib.

From: Rebecca Bomers <rebecca@somertonenvironmental.com>

Sent: 24 July 2020 13:39

To: Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>; Williams, Paul C. <Paul.C.Williams@cyfoethnaturiolcymru.gov.uk>

Subject: FW: To: neil@treatment-hub.co.uk - FW: EPR/ZP3933NJ - PAN-009640 et al

Good afternoon Holly and Paul

I have been instructed by The Treatment Hub and part of the instruction is to manage the permit application.

Please could you advise where in the process this application is at? Has it been Duly Made and awaiting technical assessment or has it not been duly made yet?

Kind regards

Rebecca Bomers Bsc (Hons) MCITM

Managing Director

Tel: 07709 320836



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From: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>

Sent: 23 July 2020 17:05

To: Rebecca Bomers <rebecca@somertonenvironmental.com>

Cc: Simon Farr <simon.farr@envirotreat.com>; David Slater <david.slater@envirotreat.com>; Andy Norman

<Andy.Norman@envirotreat.com>

Subject: FW: To: neil@treatment-hub.co.uk - FW: EPR/ZP3933NJ - PAN-009640 et al

Rebecca

E-mail from Holly

This permit variation was submitted in mid-Feb following an instruction from LBW to do so – to address the non-compliance issues in the previous CAR Report!!!

From: Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>

Sent: 16 July 2020 08:16

To: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>

Cc: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>; phil@plrservices.co.uk; Simon Farr <simon@treatment-hub.co.uk>; David <David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>; Willington, Jonathan <Jonathan.Willington@cyfoethnaturiolcymru.gov.uk>; Williams, Paul C. <Paul.C.Williams@cyfoethnaturiolcymru.gov.uk>

Subject: RE: To: neil@treatment-hub.co.uk - FW: EPR/ZP3933NJ - PAN-009640 et al

Good morning Neil

Your application/s have been allocated to Paul Williams Senior Officer. He will be in touch with your application contact once he has completed his initial assessment of the information provided.

Kind Regards

Holly

From: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>

Sent: 13 July 2020 14:40

To: Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>

Cc: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>; phil@plrservices.co.uk; Simon Farr <simon@treatment-hub.co.uk>; David <David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>; Willington, Jonathan <Jonathan.Willington@cyfoethnaturiolcymru.gov.uk>; Williams, Paul C. <Paul.C.Williams@cyfoethnaturiolcymru.gov.uk>

Subject: RE: To: neil@treatment-hub.co.uk - FW: EPR/ZP3933NJ - PAN-009640 et al

Good afternoon Holly.

Could you please provide an update on the progress of our permit variation and new permit application.

Many thanks

Neil

From: Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>

Sent: 23 June 2020 16:51

To: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>

Cc: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>; phil@plrservices.co.uk; Simon Farr <simon@treatment-hub.co.uk>; David <David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>; Willington, Jonathan <Jonathan.Willington@cyfoethnaturiolcymru.gov.uk>; Williams, Paul C.

<Paul.C.Williams@cyfoethnaturiolcymru.gov.uk>

Subject: RE: To: neil@treatment-hub.co.uk - FW: EPR/ZP3933NJ - PAN-009640 et al

Dear Neil

Thank you for your email last week requesting NRW consider a fee abatement for applications ref PAN-009143 (variation to EPR/ZP3933NJ) and PAN-009640 (new bespoke).

The general provisions of our fees and charges scheme does allow for the abatement of charges where we consider the charges are significantly disproportionate. I'm not convinced that the charges are significantly disproportionate in this case, however I do recognise that there may be some savings by allocating both your applications to the same officer, so we will course consider your request and see if any savings can be made.

We do need to ensure cost recovery in carrying out the determination of your applications. As such, we will undertake accurate recording of NRW's costs and expenses are throughout the determination of both applications. If there are any surplus fees once we have completed our determination, these will be refunded to you following our decisions on both applications.

I appreciate your sentiment on the formal notices, however this is procedure. As is usual during a permit determination, we will very likely send you a Schedule 5 Notice requesting further information. We will of course use a less formal email where we can.

Kind Regards
Holly

From: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>

Sent: 18 June 2020 16:43

To: Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>

Cc: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>; Gibson, Paul

<Paul.Gibson@cyfoethnaturiolcymru.gov.uk>; phil@plrservices.co.uk; Simon Farr <simon@treatment-hub.co.uk>; David

<David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>

Subject: FW: To: neil@treatment-hub.co.uk - FW: EPR/ZP3933NJ - PAN-009640 et al

Good Afternoon Holly

I am a director of the Treatment Hub and have been copied in on recent e-mail correspondence in relation to the permit variation and new permit application.

My role in relation to the Treatment Hub is primarily focused on the business element which like most other businesses (currently and for the foreseeable future) is under significant commercial pressure. Whilst we fully understand the constraints that NRW are currently working under, we have been trying to address the variation and new permit application for some time now. In fact we commenced the new permit application process in September 2019 – this was *of our own volition* following which Liane visited site (as I understand it). We are also under pressure from our landlord to relocate the hub operation having agreed commercials on the new facility and his requirement to let the existing building (hence the requirement for the new permit).

Without wishing to labour the point we are (and have been) providing a very important service to the Welsh economy, not only for the contaminated soils market place but also for specialist waste streams. This is appreciated in the market place.

It is my understanding that the permit variation will address NRW's requirements in terms of the current operation as per Liane's correspondence with both Phil and Simon. The new permit will enable additional waste streams to be accepted for processing / processing as required and will enable additional EWCs to be added.

On the subject of costs we have paid the variation fees as requested (totalling circa £7,750) – we paid the initial £3,740 in February and then were subsequently advised by NRW that an additional £4,023 was requiring payment based on a reassessed OPRA score.

Given that the new permit application costs are quite considerable (circa £12,000 as I understand it) this equates to circa £20,000 to progress both the variation and the new permit which is a considerable quantum of money, particularly given the fact that the majority of work being undertaken by NRW for the permit variation is effectively being replicated for the new permit application, which is acknowledged in your e-mail. We would therefore request a suitable cost abatement in this respect in accordance with NRW's stated position (i.e. based on the actual resources required – it would obviously make sense in our view to progress both the variation and new permit application in parallel – this will place a reduced demand on NRW resources and should also expedite matters).

One other point that I need to comment on – it seems unnecessary to me to keep issuing Section 61 notices every time information is requested – I accept it may be a procedural matter but it is a bit unnecessary as we are more than willing to work with NRW and co-operate as necessary – surely an e-mail request would be sufficient.

I look forward to your response on the abatement request.

Regards

Neil

Mobile 07968 496927

From: Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>

Sent: 15 June 2020 12:08

To: phil@plrservices.co.uk

Cc: Simon Farr <simon@treatment-hub.co.uk>; Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Subject: RE: EPR/ZP3933NJ - PAN-009640 et al

Hi Phil

Thank you for your email.

We have two applications on our queue for The Treatment Hub: The variation for the existing site permit EPR/ZP3933NJ (PAN-009143) received 12 February, and the application for a new permit (PAN-009640) was received 5 March.

They are separate applications, require separate payment and will be dealt with separately, although I do aim to ensure they are allocated to the same officer for obvious efficiencies. If we are minded to issue the new permit following determination, it will be allocated a new EPR number, as such it would be helpful in your correspondence to refer to the specific PAN number to avoid confusion.

The application to vary EPR/ZP3933NJ (PAN-009143) will be allocated first and the duly making assessment will include checks as to whether we have everything we need to proceed. This will include checking the OPRA is correct and thus whether the correct payment has been made. If it is helpful, we can look to do the checks on the new bespoke application (PAN-009640) at the same time.

Apologies for the delay in allocating your application/s for duly making assessment. It will be allocated as soon as I have an officer available. Hopefully this won't be too long now.

Many thanks
Holly

From: phil@plrservices.co.uk <phil@plrservices.co.uk>
Sent: 12 June 2020 13:21
To: Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>
Cc: 'Simon Farr' <simon@treatment-hub.co.uk>
Subject: RE: EPR/ZP3933NJ - PAN-009640 et al

Hi Holly,

I hope we find you fit and well.

In response to a meeting with the Operator of the HUB, Simon Farr, can I just clarify where we are at with the variation of the EP.

The application included:

1. Submitted on the 5th March as confirmed,
2. The application documents sent in on the 11th February by Simon Farr to the Permit receipt centre with a BACS payment of £3740 based upon the OPRA on file for this facility from the 03/2013.
3. Supporting documents were sent to yourself on the 26th May after discussion regarding the Reg.61 notice and BAT requirements in lieu of comments from Lucinda Hall at that time.
4. An additional payment of £4023 was paid to the Permit receipt centre on the 5th May by Neil McLeod (MD) to make up the difference on the revised OPRA profile (a total of £7763 vs the OPRA of £7772 I believe and thus a shortfall of £9)
5. I also attach an updated Variation support document to replace that in your possession as two EWC codes were added and some small typos corrected (as also referred to Liane).

Could you thus confirm that all is now in place to proceed with the initial review and potential determination please.

Many thanks,
Phil.

From: Noble, Holly [<mailto:Holly.Noble@cyfoethnaturiolcymru.gov.uk>]
Sent: 27 May 2020 09:33
To: phil@plrservices.co.uk; Hall, Lucinda
Cc: 'Simon Farr'; Bacon-Weekes, Liane; Thomas, Kirsty
Subject: RE: EPR/ZP3933NJ - Regulation 61 Notice - Request for Further Information

Good morning Phil

Thank you for the email below and the additional email sent last night in response to our request for further information for the BAT assessment on the current permit ZP3933NJ.

I'd just like to confirm a point in our discussion that you may have misunderstood. For The Treatment Hub to be removed from NRW's Waste Treatment BAT assessment review, i.e. cancelling the Regulation 61 Notice we served in April 2019, NRW need to have received a Closure Plan. This should contain detailed information and a definitive date when NRW shall expect to receive the surrender application for the current permit. This date for the surrender application should be sufficiently in advance of the BAT compliance August 2022 deadline, in order for NRW to undertake all the necessary assessments of your application and carry out a site inspection.

I understand that closure of the current site is dependent on relocation to an alternative site. However, as we discussed on the phone, since we cannot pre-determine the outcome of any application, in the event that a new permit is not granted for the new location, a contingency plan should be included.

Also – just to confirm a point in your email below. The application for a new permit (ref PAN-009640) was received 5 March 2020. The earlier permit received last September (ref PAN-006978) was returned due to insufficient information, and has not been held in abeyance.

Kind Regards
Holly

Holly Noble MSc. BSc. (Hons) FGS
Permitting Team Leader – Installations and RSR

Gwasanaeth Trwyddedu /Permitting Service
Cyfoeth Naturiol Cymru / Natural Resources Wales
Ffon /telephone 0300 065 4385 / 07909 701179

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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: phil@plrservices.co.uk <phil@plrservices.co.uk>
Sent: 26 May 2020 15:20
To: Hall, Lucinda <lucinda.hall@cyfoethnaturiolcymru.gov.uk>
Cc: Noble, Holly <Holly.Noble@cyfoethnaturiolcymru.gov.uk>; 'Simon Farr' <simon@treatment-hub.co.uk>
Subject: RE: EPR/ZP3933NJ - Regulation 61 Notice - Request for Further Information

Hi Lucinda,

I have now had the opportunity to discuss this with initially Holly Noble and then to seek approval of the response from Simon Farr of the HUB.

Clearly this response was required earlier which would have caused less of a problem in attempting to comply with:

1. The Reg. 61 notice (missed first time around)
2. The required variation for the existing HUB as noted by NRW
3. The new Permit application for a new premise , initially submitted in September 2019, but held in abeyance based upon the priority to Vary the existing Permit.

Taking this on board and after discussion with Holly the following was agreed:

- confirmed that the Reg.61 would no longer apply due to the existing HUB (EPR/ZP3933NJ) operations being closed by the deadline of the 17th August 2022.
- the landlord requires this building to be returned for other uses by this date or sooner if/when the new building/Permit application is approved.
- that the closure plan, as you suggest is loosely based upon section 8 to 10 of the Site condition report template as prescribed.
- the Closure plan will also include reference to the landlord Schedule of Condition as when the building was approved for use by the HUB in April 2013.
- this initial Closure Plan is expected to be issued by year end but still allowing sufficient time prior to formal closure of the existing site operation.
- that all information is to be sent to Holly in preparation for the assigned Permitting Officer for the HUB.

With regards the other items under consideration:

- BAT as referred to the information is still required for the Variation to the existing Permit and to support the new Permit application for the alternative/new building and thus to be of significant use.

- The OPRA profile support documentation for the site is also to be sent to Holly for onward review (the OPRA profile being initially prepared by Paul Gibson, amended by myself and referred by Liane Bacon-Weekes in a recent e-mail).

I trust this now meet the needs of your recent correspondence requesting a reply by the 28 May 2020 and to note that outstanding information is being currently being submitted to Holly Noble as agreed.

Regards,
Philip Rees.

From: Hall, Lucinda [<mailto:lucinda.hall@cyfoethnaturiolcymru.gov.uk>]
Sent: 30 April 2020 11:37
To: simon.farr@envirotreat.com
Cc: phil@plrservices.co.uk; Bacon-Weekes, Liane; Noble, Holly
Subject: EPR/ZP3933NJ - Regulation 61 Notice - Request for Further Information

Dear Simon,

RE: Request for Information – WT BRef Permit Review
Permit reference: EPR/ZP3933NJ
Operator: The Treatment Hub Limited
Facility: The Treatment Hub Swansea, Building 2, Westfield Industrial Park, Waunarlwydd, Swansea, SA5 4SF

Further to correspondence received on 11 February 2020 on behalf of The Treatment Hub Limited, please find attached a letter requesting further information. I also attach a copy of the original Regulation 61 Notice for ease of reference, along with an excel spreadsheet guide.

Please provide all outstanding information by 28 May 2020. If for any reason additional information cannot be provided within this timeframe, either contact me directly or speak to the site regulatory officer to discuss alternative arrangements.

Yours Sincerely,

Lucinda

Lucinda Hall MCIWM BSc (Hons)

Trwyddedu Uwch, Gosodiadau a Thrwyddedu RSR /
 Permitting Consultant Installations and RSR Permitting Team
 Cyfoeth Naturiol Cymru / Natural Resources Wales
 Ty Cambria Caerdydd / Ty Cambria House, Cardiff
 E-bost/E-mail:

lucinda.hall@cyfoethnaturiolcymru.gov.uk

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www.cyfoethnaturiolcymru.gov.uk / www.naturalresourceswales.gov.uk

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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

Simon Farr

From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Sent: 25 June 2020 12:52
To: Simon Farr
Cc: phil@plrservices.co.uk
Subject: To: simon@treatment-hub.co.uk - RE: To: simon@treatment-hub.co.uk - RE: To: simon@treatment-hub.co.uk - RE: To: simon@treatment-hub.co.uk - TTH update and site visit

Oh sorry for the misunderstanding but unable to do tomorrow either so we shall stick to next Thursday. My colleague is on leave this week so once he returns I shall confirm a time either Monday or Tuesday.

Kind regards

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
Cyfoeth Naturiol Cymru / Natural Resources Wales
0300 065 3571

Llys Afon Hwlfordd / Haverfordwest
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Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi

Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Simon Farr <simon@treatment-hub.co.uk>
Sent: 25 June 2020 11:20
To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Cc: phil@plrservices.co.uk
Subject: RE: To: simon@treatment-hub.co.uk - RE: To: simon@treatment-hub.co.uk - RE: To: simon@treatment-hub.co.uk - TTH update and site visit

When you said next Friday, the invite was for tomorrow, not sure if that helps at all. Otherwise 2nd as you state.

Best Regards

Simon Farr | BSc CChem MRSC

The HUB | *Advanced material treatment, remediation and recycling technology*

T: 01792 344720 M: 07803 174046 | www.treatment-hub.co.uk

From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Sent: 25 June 2020 11:16
To: Simon Farr <simon@treatment-hub.co.uk>
Cc: phil@plrservices.co.uk
Subject: To: simon@treatment-hub.co.uk - RE: To: simon@treatment-hub.co.uk - RE: To: simon@treatment-hub.co.uk - TTH update and site visit

Good morning,

Apologies for not replying sooner. Unfortunately my colleague and I are unable to visit next Friday, but hoping to attend next Thursday (2nd July). Is this suitable? As previously mentioned the purpose of the visit is to assess the current volume of waste on site, so as long as the building is open, there is no reason for Phil or yourself to attend.

Regards

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Simon Farr <simon@treatment-hub.co.uk>
Sent: 21 June 2020 14:41
To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Cc: phil@plrservices.co.uk
Subject: Re: To: simon@treatment-hub.co.uk - RE: To: simon@treatment-hub.co.uk - TTH update and site visit

Hi

Does next friday morning work for you?

We have no specific Covid-19 requirements over and above current government guidelines. In respect to the main security, you no longer go into security and sign-in, just stop and the barrier and communicate through your window.

Best Regards

Simon Farr | BSc CChem MRSC
The HUB | Advanced material treatment, remediation and recycling technology

T: 01792 344720 M: 07803 174046 | www.treatment-hub.co.uk

From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Sent: Friday, June 19, 2020 1:06:31 PM
To: Simon Farr <simon@treatment-hub.co.uk>
Cc: phil@plrservices.co.uk <phil@plrservices.co.uk>
Subject: To: simon@treatment-hub.co.uk - RE: To: simon@treatment-hub.co.uk - TTH update and site visit

Good afternoon Simon

The purpose of the visit will be limited to making a formal assessment of the volume of waste on site, so from our perspective, there is no reason for Phil to attend. We do however need confirmation that the site will be open for us to enter the building, and if there are any Covid and non-Covid site specific risks assessment and PPE requirements that we should be aware of.

With regards to the requested information, your submitted waste returns only provide the local authority where the producer and receiver sites are based. Please can you provide details on the producers you are receiving waste from and the sites you are exporting waste to.

Please email me if you have any further queries.

Kind regards

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Simon Farr <simon@treatment-hub.co.uk>
Sent: 18 June 2020 08:48
To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Cc: phil@plrservices.co.uk
Subject: RE: To: simon@treatment-hub.co.uk - TTH update and site visit

Hi

All well thanks

I have asked Phil for his availability for the period suggested and will return with some potential dates.

There should be no problem in getting the information requested together. I would suggest say from beginning of April (period prior covered by last return). Do you require this prior to meeting?

Best Regards

Simon Farr | BSc CChem MRSC

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T: 01792 344720 M: 07803 174046 | www.treatment-hub.co.uk

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From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Sent: 17 June 2020 15:31

To: Simon Farr <simon@treatment-hub.co.uk>

Cc: phil@plrservices.co.uk

Subject: To: simon@treatment-hub.co.uk - TTH update and site visit

Good afternoon Simon

Hope you are keeping well.

Further to your email on the 4th May 2020, please could you provide an additional up-date on operations at The Treatment Hub. In your email it was noted that some waste had been removed prior to lockdown and that removal to a restoration site had recommenced and I'm keen to be kept informed of any progress and changes made on site. As in your previous email, please could you provide an estimate of the quantity of the waste being accepted and removed from site each week and an indication of the quantity waste currently stored in the building.

With Covid 19 restrictions gradually easing, I would like to arrange a site visit either next week or the following week. Can you confirm if a member of staff is present on site during the week? Could you also confirm if there are any site specific risk assessments (Covid and non-Covid) that apply, and if there are any specific PPE requirements?

Kind regards

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Neil Mcleod | Envirotreat

Sent: 17 July 2020 20:03

To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Cc: Simon Farr <simon@treatment-hub.co.uk>; Bown, Gavin <Gavin.Bown@cyfoethnaturiolcymru.gov.uk>; Evans, Gary Lewis <Gary.L.Evans@cyfoethnaturiolcymru.gov.uk>; David <David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>; Phil Rees <phil@plrservices.co.uk>

Subject: Re: To: simon@treatment-hub.co.uk - OFFICIAL SENSITIVE EPR_ZN3933NJ EPR Reg 37 withdrawal and re-issue

We formally request a copy of the letter sent to our landlord citing 'offences'.

This will be forwarded to our barrister

Neil

Sent from my iPhone

On 17 Jul 2020, at 15:09, Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk> wrote:

Dear Mr Mcleod

NRW fully appreciates the difficulties and pressure this Notice may impose on your business, but the decision to issue the Notice has been carefully considered by NRW and deemed appropriate, proportionate and necessary.

We acknowledge your concern that the Notice has not provided you with our justification for deeming the operation at the Treatment Hub a risk to the environment. Please find attached a Regulation 37(12) Environmental Permitting (England and Wales) Regulations (EPR) 2016 Notice which withdraws the Notice issued on the 15th July 2020.

Attached also to this email is an amended EPR Regulation 37(1) and (5) Notice which further suspends the acceptance of waste, with immediate effect but provides further clarification on our assertion of risk of pollution to the environment. Please note that operating any of the activities which this notice has suspended is an offence and legal action may be taken against you.

NRW has serious concerns with the current operation at The Treatment Hub and we refer you to the Compliance Assessment Reports (CAR_NRW0036053 and CAR_NRW0036771). Whilst we appreciate that a permit variation has been submitted, as previously stated you are required to comply with the conditions in the current permit. It was clear during our inspection on the 2nd July 2020 that permit conditions continue to be breached and a protective response is required to prevent pollution.

Please be aware that NRW has a duty to notify the landowner of waste offences occurring on their land. A letter has been sent to the landowner notifying them of our concerns.

We shall be seeking to undertake an audit of site operations in the coming weeks and also writing to you to provide feedback on our review of the duty of care and testing and validation paperwork.

Yours sincerely

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
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<image001.png>

<image002.png>

<image003.png>

<image004.png>

Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi

Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

<200717 OFFICIAL SENSITIVE EPR_3933NJ EPR reg 37 (Withdrawl).pdf>
<200717 OFFICIAL SENSITIVE EPR ZP3933NJ Regulation 37 Notice.pdf>

From: Neil Mcleod | Envirotreat

Sent: 18 July 2020 13:50

To: 'martyn.p.evans@cyfoethnaturiolcymru.gov.uk' <martyn.p.evans@cyfoethnaturiolcymru.gov.uk>;
'niki.mutyambizi@cyfoethnaturiolcymru.gov.uk' <niki.mutyambizi@cyfoethnaturiolcymru.gov.uk>

Cc: Simon Farr <simon@treatment-hub.co.uk>; David <David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>; Gibson, Paul <Paul.Gibson@cyfoethnaturiolcymru.gov.uk>

Subject: OFFICIAL SENSITIVE EPR_ZN3933NJ EPR Reg 37 withdrawal and re-issue

Both

I am forwarding on recent correspondence with Liane and Gavin.

The actions of your officer has caused immense damage to our business and reputation (The Treatment Hub Limited). This has been compounded by a crass decision to notify our landlords which will have serious consequences to our business.

It is our firm view that your officer has not taken the time to understand our business and has acted without due consideration. She has a duty of care.

For your information we need to confirm that the hub is managed by an experienced professional with the requisite chemical knowledge. He is also an employee of Envirotreat Technologies Limited (a specialist land remediation company) and has project managed numerous remediation projects over the years, including soil management projects. Other senior staff members of Envirotreat have similar and extensive experience.

We can provide numerous case studies to demonstrate our professionalism and experience , including projects regulated by NRW. To infer, as she has, that we are causing serious / significant pollution as a result of our activities at the Treatment Hub Limited shows a complete lack of understanding of how our business operates and a lack of acknowledgment that we have spent 30 years carrying out remediation projects designed to address pollution risks.

Your officer has taken this course of action notwithstanding the fact that we are in the process of varying our permit to suit (in accordance with her specific instruction) which has been delayed due inter alia to COVID restrictions. This is not our fault.

A full summary will be provided shortly.

Neil McLeod
Director

From: Neil McLeod | Envirotreat

Sent: 17 July 2020 17:20

To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Cc: Bown, Gavin <Gavin.Bown@cyfoethnaturiolcymru.gov.uk>; Evans, Gary Lewis

<Gary.L.Evans@cyfoethnaturiolcymru.gov.uk>; Simon Farr <simon@treatment-hub.co.uk>; David <David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>; phil@plrservices.co.uk

Subject: RE: To: simon@treatment-hub.co.uk - OFFICIAL SENSITIVE EPR_ZN3933NJ EPR Reg 37 withdrawal and re-issue

With the greatest respect Liane NRW do not fully appreciate the damage that has been caused to our business both in terms of lost revenue and reputation.

You clearly haven't followed your own procedures in terms of issuing the first notice and you still haven't provided any justification in your second notice whatsoever apart from assertions. In fact all you have done is enhance, for want of a better word, the comments made in the first notice.

I would respectfully suggest you read the relevant notes in RGN 11. You are also making assertions and judgements without even discussing the matter with the Site Manager. I believe you weren't prepared to discuss the matter with him when you last visited site which in itself is completely unacceptable.

The first notice states:

'The Treatment Hub Limited has not operated the facility or undertaken the treatment activities listed in the document referenced SOL0113ESP01. Failing to store, treat and manage hazardous waste in the manner described poses an unacceptable risk of pollution from harmful wastes entering the environment without the appropriate controls.'

The second notice states:

'The Treatment Hub Limited has not operated the facility or undertaken the treatment activities listed in the document referenced SOL0113ESP01. Storing wastes in volumes that exceed the permitted limit restricts the capacity to treat waste in segregated batches and has resulting in the mixing of hazardous wastes. Failing to store, treat and manage hazardous wastes in breach of the permit leads to a risk of pollution from these wastes leaving the facility and entering the environment at the receiving sites. These sites are not permitted to receive hazardous wastes and do not have the appropriate controls in place.'

With the greatest respect if you considered the first notice to be issued incorrectly what logic presupposes that the second notice provides any further relevant information. We therefore consider that the second notice is equally invalid. The fundamental points that you make are exactly the same.

And as for the variation I would remind you that it was at your instigation that the variation was submitted – I quote your words in the CAR Report i.e. '**ACTION: You are required to submit a permit variation to up-date and reflect current site operations. NRW must receive this application by 12:00 noon 28th February 2020.**'. We duly submitted this variation in mid

Feb 2020 and have only just been advised in mid-July that it has been allocated to a permitting officer (along with our new permit application). **It is not our fault that NRW have delayed this permit variation process.**

We will be responding early next week in detail.

Neil

From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Sent: 17 July 2020 15:09

To: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>; Simon Farr <simon@treatment-hub.co.uk>

Cc: Bown, Gavin <Gavin.Bown@cyfoethnaturiolcymru.gov.uk>; Evans, Gary Lewis

<Gary.L.Evans@cyfoethnaturiolcymru.gov.uk>

Subject: To: simon@treatment-hub.co.uk - OFFICIAL SENSITIVE EPR_ZN3933NJ EPR Reg 37 withdrawal and re-issue

Dear Mr Mcleod

NRW fully appreciates the difficulties and pressure this Notice may impose on your business, but the decision to issue the Notice has been carefully considered by NRW and deemed appropriate, proportionate and necessary.

We acknowledge your concern that the Notice has not provided you with our justification for deeming the operation at the Treatment Hub a risk to the environment. Please find attached a Regulation 37(12) Environmental Permitting (England and Wales) Regulations (EPR) 2016 Notice which withdraws the Notice issued on the 15th July 2020.

Attached also to this email is an amended EPR Regulation 37(1) and (5) Notice which further suspends the acceptance of waste, with immediate effect but provides further clarification on our assertion of risk of pollution to the environment. Please note that operating any of the activities which this notice has suspended is an offence and legal action may be taken against you.

NRW has serious concerns with the current operation at The Treatment Hub and we refer you to the Compliance Assessment Reports (CAR_NRW0036053 and CAR_NRW0036771). Whilst we appreciate that a permit variation has been submitted, as previously stated you are required to comply with the conditions in the current permit. It was clear during our inspection on the 2nd July 2020 that permit conditions continue to be breached and a protective response is required to prevent pollution.

Please be aware that NRW has a duty to notify the landowner of waste offences occurring on their land. A letter has been sent to the landowner notifying them of our concerns.

We shall be seeking to undertake an audit of site operations in the coming weeks and also writing to you to provide feedback on our review of the duty of care and testing and validation paperwork.

Yours sincerely

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Neil Mcleod | Envirotreat
Sent: 30 July 2020 16:50
To: Rebecca Bomers <rebecca@somertonenvironmental.com>
Cc: Simon Farr <simon@treatment-hub.co.uk>; David <David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>; phil@plrservices.co.uk; Accounts | Envirotreat <accounts@envirotreat.com>
Subject: FW: The Treatment Hub

Afternoon Rebecca

Our responses to Liane's e-mail are in red font below.

Please also see the attached e-mail from our WAMITAB person Phil Rees which is self-explanatory (this appertains to our new permit application which is even now only at the 'duly made' assessment stage 10 months after this e-mail was sent – note that Liane states she is not a permitting officer and has limited knowledge of permitting matters).

My colleague Simon Farr has reminded me that the SOL document which Liane constantly refers to was never actually formally submitted or agreed with NRW in 2013 / 2014. We were working with Earth Science Partnership on this at the time (a Welsh consultancy firm located near Cardiff) and they effectively secured the permit. Given this anomaly Phil has asked whether this support document is actually admissible as a permitted document and this subject to being a legal entity.

Could you please issue the e-mail response to Liane / Gavin and copy everyone in apart from Phil – I will forward separately to Phil.

I will also be forwarding your e-mail response to the two senior people I sent my previous e-mail to (copy attached)

Given the summary given in the ENDS Report regarding the failed Pembroke prosecution and the comments made there does seem to be a common theme here....

Regards

Neil

From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Sent: 27 July 2020 15:02

To: Rebecca Bomers <rebecca@somertonenvironmental.com>

Cc: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>

Subject: RE: The Treatment Hub

Good afternoon Rebecca,

In response to your email dated 23rd July 2020.

Natural Resources Wales has served an Environmental Permitting (England and Wales) Regulations (EPR) 2016 Regulation 37(1) and (5) Notice on The Treatment Hub as it considers that the permit breaches at the facility are serious enough to pose a risk of pollution to the environment.

The Treatment Hub considers that the second 'reissued' notice is equally invalid as NRW have not demonstrated that there is a serious risk of pollution. In this respect we would point out that NRW make a clear and valid distinction in their Regulatory Guidance Notes [RGN11] in relation to permit breaches and the risk of serious pollution. Clause 3.36 of RGN 11 states 'There can be a risk of serious pollution even if the permit conditions are being complied with. *Compliance with the permit conditions is not a factor to be considered in deciding whether or not to issue a suspension notice*'. This is an eminently sensible statement for obvious reasons. Our position therefore remains as previously stated.

Site inspections at The Treatment Hub have identified several significant permit condition breaches.

The quantity of waste stored on site exceeds the permitted limit of 5,250 tonnes. Much of the building has been filled with wastes which restricts the space and capacity for waste to be treated in accordance to the permit conditions. An action was placed on the operator to reduce the quantity of waste on site. On the 2nd July it was estimated there was approximately 9,000 to 9,500 tonnes on site.

The treatment process authorised by the permit is stipulated in the operating technique SOL0113ESP01. It involves a batch style process where waste streams are individually segregated and treated using E-clays. This batch style process allows the operator to maintain a clear audit trail of the waste from acceptance, through treatment, to removal. In the Operators response and application supporting document (Reference – TTH/SSF/01-20/001) it stated that due to the nature of their current operation it is not possible or practical to store and treat individual waste streams. It is clear and evident that individual waste streams are not being segregated on site. Failing to treat the waste in the manner authorised by the permit results in the Operator being unable to demonstrate that the wastes have been adequately treated.

A summary report has been compiled on this matter covering the history of the hub from its inception in 2013 / 2014 (to be issued when appropriate). The original rationale for the hub was to treat filter cake from Tata Trostre for two prime purposes – ideally to reuse the treated filter cake in building blocks etc (in full accordance with the ethos of the waste hierarchy and the stated zero waste aspirations of the Welsh Government) and if this was not achieved, the fall back option was to treat the filter cake material to 'declassify' the material from non-hazardous to inert'. In practice the Trostre waste stream did not materialise.

Our prime focus from conception until the present day has been contaminated soils, a subject we have vast experience in having been involved with on-site remediation for 25 years with over 150 projects now completed, including projects regulated by NRW. Contaminated soils are fundamentally heterogeneous whereas the majority of designated waste streams are fundamentally homogeneous. In practice most contaminated sites have identified (or unidentified) contamination hot-spots within the soils which can either be addressed on-site or through offsite disposal. The hub was set up inter alia to provide a soil management capability for soils requiring offsite disposal utilising the expertise and experience of Envirotreat staff.

It is our firm contention that NRW has not engaged with Envirotreat / The Treatment Hub to fully understand the realities of managing contaminated soils. This should have been an explicit requirement before making assertions, judgements and issuing suspension notices. Contaminated soils which have been derived from contamination hot-spots and subsequently designated for offsite disposal implicitly contain a mix of hazardous, non-hazardous and inert soils as it is IMPOSSIBLE to segregate on-site. These soils are typically classified as hazardous or non-hazardous by the waste producer (or their representative). Soils sent to the hub as hazardous are tested by ourselves on arrival and are, in most cases, found to be non-hazardous under WM3 classification. This is as a natural consequence of mixing during excavation, stockpiling if required and transporting. It is a judgement call therefore from ourselves whether there is a requirement for treatment and it is a COMPLETELY FALSE PREMISE for NRW to assume that all (or even the majority) of wastes will require treatment as seems to be the case judging by the comments made. NRW has made no effort to understand the nuances of our business and even declined to give our Site Manager the opportunity to discuss matters during and after the recent site visit.

The Operator has also confirmed that some wastes are not treated using E-clays but undergo bioremediation. Bioremediation is not an authorised treatment process and has therefore not been suitably assessed or deemed appropriate.

It is acknowledged that bioremediation as a designated remediation process is not on our permit however this is not what has been referred to. Natural biodegradation of non-recalcitrant hydrocarbon pollutants within contaminated soils occurs during excavation on-site, stockpiling if required, transportation and during storage at the hub. This is a NATURAL PROCESS as acknowledged by Paul Gibson of NRW during the site visit in December 2019.

The permit does not authorise the Operator to mix and blend hazardous wastes with other hazardous or non-hazardous wastes. An action was placed on the Operator to cease this activity. Mixing hazardous with non-hazardous wastes, regardless of the contamination profiles, renders the entire stockpile hazardous. Hazardous wastes can only be mixed if authorised by the permit and by demonstrating that it is Best Available Technique (BAT). The Operator continues to do this and has indicated that wastes are stockpiled in accordance to their contamination profile and treatment requirements. Wastes are mixed both pre and post treatment.

We refute the statement 'the operator continues to do this' as it is incorrect. For clarification wastes are stockpiled in accordance with their contamination profile and envisaged soil management / other waste management requirements (including treatment if required) – the statement made by NRW is incorrect. No soils have been treated.

Prior to the removal of wastes, the Operator is required to accurately classify and validate the waste through a visual, physical and chemical analysis. Wastes leaving site must be accurately classified to ensure the receiving sites are permitted to accept them. A recent review of submitted duty of care, waste returns and validation paperwork has highlighted several discrepancies and indicate that the Operator is failing to accurately classify wastes being removed from site. An overview of our findings of this review will be communicated separately.

We cannot comment on this as no information has been provided.

I have referred the Operator to the following guidance on the classification of hazardous wastes from physio-chemical facilities. This guidance would indicate that the waste on site should be classified as either 19 02 04* or 19 03 04* both of which are absolute hazardous waste entries. It is important to note that the concentration of dangerous substances within these wastes is not considered in the assessment of these materials as hazardous wastes. The incorrect classification of wastes has resulted in hazardous materials being exported to non-hazardous facilities that are neither authorised to accept them or have the appropriate controls to prevent pollution.

We fundamentally disagree with the assertion made in this statement as it is based on yet another false premise and a clear lack of understanding on how the treatment hub operates. Notwithstanding this point there has to be a demonstrable risk of pollution which by its very inference is not related to waste coding per se. This is very similar and analogous to the RGN11 3.36 statement which makes a clear distinction. We previously requested NRW to provide a source-pathway-receptor justification for this assertion which has not been provided.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/298046/geho0311btpu-e-e.pdf

Whilst NRW has received an application to vary the permit, the Operator is required to comply with the existing permit conditions until the permit variation has been issued. Permit variations cannot be pre-determined, and it is the Operator's responsibility to understand the limitations of their permit and make changes to the permit prior to them being required and implemented on site.

We have already brought this matter to the attention of the permitting team and were exasperated to be advised that the permit variation was only at the 'duly made' assessment stage over 5 months after we submitted a variation. This said variation was instructed by NRW following the site visit made in December 2019 – the instruction in the subsequent CAR Report was quite clear – it stated 'you are required to submit a permit variation to *up-date and reflect current site operations*' – this was duly provided in the required timescale and should have been processed within a reasonable time period, particularly as it was an action point on a CAR Report. The whole point of this variation is to bring the current operations in the hub in line with the permit. We would have expected the officer requiring the variation to ensure that the variation was processed expeditiously for obvious reasons.

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With respect a glib comment 'we do not take the issuing of a suspension notice lightly' shows a clear lack of understanding as to the damage and potential damage that can be caused to a business as a result.

Kind regards

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
Cyfoeth Naturiol Cymru / Natural Resources Wales
0300 065 3571

Llys Afon Hwlfordd / Haverfordwest
Mon – Fri 10:00hrs 18:00hrs
www.cyfoethnaturiol.cymru / www.naturalresources.wales

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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Rebecca Bomers <rebecca@somertonenvironmental.com>
Sent: 24 July 2020 13:41
To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Subject: RE: The Treatment Hub

Hello Liane

Thank you very much for your prompt reply, it's very much appreciated and I look forward to hearing from you on Monday.

Have a great weekend!

Kind regards

Rebecca Bomers Bsc (Hons) MSc

Managing Director
Tel: 07709 320836



www.somertonenvironmental.com

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From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Sent: 24 July 2020 12:08

To: Rebecca Bomers <rebecca@somertonenvironmental.com>

Cc: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>

Subject: RE: The Treatment Hub

Good afternoon Rebecca

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Kind regards

Liane Bacon-Weekes

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Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
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From: Rebecca Bomers <rebecca@somertonenvironmental.com>

Sent: 23 July 2020 16:57

To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Cc: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>

Subject: The Treatment Hub

Good afternoon Liane

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In order to fully understand the situation and enact the preparation to bring the site back into compliance, it would be beneficial to get your insight into the source of serious pollution risk, the pathway that this risk could follow, and the receptor that it may affect. I have other questions to but if you could provide this information in the first instance please, I think that would be most beneficial to enable me to get plans in place to mitigate any risks.

I am of the hope that if we work together on this, we can reduce any environmental risk sooner rather than later.

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Rebecca Bomers Bsc (Hons) MCTM

Managing Director

Tel: 07709 320836



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From: Neil Mcleod | Envirotreat
Sent: 04 August 2020 12:20
To: martyn.p.evans@cyfoethnaturiolcymru.gov.uk; niki.mutyambizi@cyfoethnaturiolcymru.gov.uk
Cc: Simon Farr <simon@treatment-hub.co.uk>; David <David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>
Subject: RE: The Treatment Hub

Both

I have attached internal e-mail correspondence from Biffa which ably illustrates the points I have made in my e-mail below.

This suspension is now compromising both Biffa and a very high profile Welsh Institution, namely the Royal Mint. You will see what exactly what I mean by NRW seemingly supporting the 'upside down' waste hierarchy by their actions – see attachment.

We are working jointly with Biffa to get this resolved.

Neil

From: Neil Mcleod | Envirotreat
Sent: 01 August 2020 13:54
To: martyn.p.evans@cyfoethnaturiolcymru.gov.uk; niki.mutyambizi@cyfoethnaturiolcymru.gov.uk
Cc: Simon Farr <simon@treatment-hub.co.uk>; David <David@treatment-hub.co.uk>; Andy <andy@treatment-hub.co.uk>
Subject: FW: The Treatment Hub

Both

Further to my initial e-mail on this matter (copy attached) I am forwarding on recent correspondence between your officer Liane Bacon-Weekes, Rebecca Bomers of Somerton Environmental and the Treatment Hub Limited (see below).

It is fairly apparent from the correspondence that the Treatment Hub consider that the suspension notice is invalid and that the notice was issued without the officer providing the necessary justification for her actions.

These actions, compounded with the abject failure of NRW to progress both the permit variation and new permit application within an acceptable timescale, have severely compromised our business. We would remind NRW that the permit variation was instructed by the officer as an action point on a CAR Report and we would have expected NRW to have progressed the variation in what any reasonable person would consider to be an acceptable timescale. I have attached recent correspondence between Rebecca and NRW in this respect which is self-explanatory.

We are now at the point where we have to consider our options as a business. The business has been impacted by the effects of Covid 19 and we now have the additional imposition of this disputed suspension notice which as a responsible company, we have complied with notwithstanding our firm contention that both the initial and reissued notices are invalid.

This has already resulted in waste streams being diverted to landfill as a consequence which is clearly at odds with the ethos of the waste hierarchy which NRW has a duty to promote and support. It appears to us that NRW are in fact supporting the 'upside down' waste hierarchy pyramid by their actions.

We would strongly request that the reissued suspension notice is withdrawn to enable the Hub to function. We cannot continue without an income stream indefinitely, as would be the case for any company. In this respect it should be noted that the Treatment Hub Limited has no other form of income. If the notice is not withdrawn with immediate effect then we will have no option but to engage our legal advisers. We cannot see that this is in the public interest as the actions of the officer are clearly as a result of over-zealous regulation and have been enacted without due and appropriate consideration.

Neil McLeod
Director

From: Rebecca Bomers
Sent: 31 July 2020 14:14
To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Subject: RE: The Treatment Hub

Good afternoon Liane

Thank you for responding so quickly.

From my part, it is still not clear what the specific source-pathway-receptor is, that could lead to a specific serious pollution. I understand that you are of the opinion that hazardous materials may have gone to a site that is not permitted to accept hazardous materials but that in itself doesn't present evidence of a serious pollution risk, unless there is specific contaminants that may affect specific sensitive receptors that you know of that I am unaware of? This is what I am trying to establish when asking about the source-pathway-receptor model? E.g. Heavy levels of lead have been found to be taken to a site underlain with a potable water supply, the soil is highly permeable, with little natural filtration layers and so there is a significant risk of a serious pollution to the groundwater. Could you provide me with some specifics in relation to the source-pathway-receptor model please?

I have had additional discussions with The Treatment Hub and they would like to me to send you their comments, also. Please see their comments below in red, beneath each of your statements.

Kind regards

Rebecca Bomers Bsc (Hons) MCTM

Managing Director

Tel: 07709 320836



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From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Sent: 27 July 2020 15:02

To: Rebecca Bomers <rebecca@somertonenvironmental.com>

Cc: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>

Subject: RE: The Treatment Hub

Good afternoon Rebecca,

In response to your email dated 23rd July 2020.

Natural Resources Wales has served an Environmental Permitting (England and Wales) Regulations (EPR) 2016 Regulation 37(1) and (5) Notice on The Treatment Hub as it considers that the permit breaches at the facility are serious enough to pose a risk of pollution to the environment.

The Treatment Hub considers that the second 'reissued' notice is equally invalid as NRW have not demonstrated that there is a serious risk of pollution. In this respect we would point out that NRW make a clear and valid distinction in their Regulatory Guidance Notes [RGN11] in relation to permit breaches and the risk of serious pollution. Clause 3.36 of RGN 11 states 'There can be a risk of serious pollution even if the permit conditions are being complied with. *Compliance with the permit conditions is not a factor to be considered in deciding whether or not to issue a suspension notice*'. This is an eminently sensible statement for obvious reasons. Our position therefore remains as previously stated.

Site inspections at The Treatment Hub have identified several significant permit condition breaches.

The quantity of waste stored on site exceeds the permitted limit of 5,250 tonnes. Much of the building has been filled with wastes which restricts the space and capacity for waste to be treated in accordance to the permit conditions. An action was placed on the operator to reduce the quantity of waste on site. On the 2nd July it was estimated there was approximately 9,000 to 9,500 tonnes on site.

The treatment process authorised by the permit is stipulated in the operating technique SOL0113ESP01. It involves a batch style process where waste streams are individually segregated and treated using E-clays. This batch style process allows the operator to maintain a clear audit trail of the waste from acceptance, through treatment, to removal. In the Operators response and application supporting document (Reference – TTH/SSF/01-20/001) it stated that due to the nature of their current operation it is not possible or practical to store and treat individual waste streams. It is clear and evident that individual waste streams are not being segregated on site. Failing to treat the waste in the manner authorised by the permit results in the Operator being unable to demonstrate that the wastes have been adequately treated.

A summary report has been compiled on this matter covering the history of the hub from its inception in 2013 / 2014 (to be issued when appropriate). The original rationale for the hub was to treat filter cake from Tata Trostre for two prime purposes – ideally to

reuse the treated filter cake in building blocks etc (in full accordance with the ethos of the waste hierarchy and the stated zero waste aspirations of the Welsh Government) and if this was not achieved, the fall back option was to treat the filter cake material to 'declassify' the material from non-hazardous to inert'. In practice the Trostre waste stream did not materialise.

Our prime focus from conception until the present day has been contaminated soils, a subject we have vast experience in having been involved with on-site remediation for 25 years with over 150 projects now completed, including projects regulated by NRW. Contaminated soils are fundamentally heterogeneous whereas the majority of designated waste streams are fundamentally homogeneous. In practice most contaminated sites have identified (or unidentified) contamination hot-spots within the soils which can either be addressed on-site or through offsite disposal. The hub was set up inter alia to provide a soil management capability for soils requiring offsite disposal utilising the expertise and experience of Envirotreat staff.

It is our firm contention that NRW has not engaged with Envirotreat / The Treatment Hub to fully understand the realities of managing contaminated soils. This should have been an explicit requirement before making assertions, judgements and issuing suspension notices. Contaminated soils which have been derived from contamination hot-spots and subsequently designated for offsite disposal implicitly contain a mix of hazardous, non-hazardous and inert soils as it is IMPOSSIBLE to segregate on-site. These soils are typically classified as hazardous or non-hazardous by the waste producer (or their representative). Soils sent to the hub as hazardous are tested by ourselves on arrival and are, in most cases, found to be non-hazardous under WM3 classification. This is as a natural consequence of mixing during excavation, stockpiling if required and transporting. It is a judgement call therefore from ourselves whether there is a requirement for treatment and it is a COMPLETELY FALSE PREMISE for NRW to assume that all (or even the majority) of wastes will require treatment as seems to be the case judging by the comments made. NRW has made no effort to understand the nuances of our business and even declined to give our Site Manager the opportunity to discuss matters during and after the recent site visit.

The Operator has also confirmed that some wastes are not treated using E-clays but undergo bioremediation. Bioremediation is not an authorised treatment process and has therefore not been suitably assessed or deemed appropriate.

It is acknowledged that bioremediation as a designated remediation process is not on our permit however this is not what has been referred to. Natural biodegradation of non-recalcitrant hydrocarbon pollutants within contaminated soils occurs during excavation on-site, stockpiling if required, transportation and during storage at the hub. This is a NATURAL PROCESS as acknowledged by Paul Gibson of NRW during the site visit in December 2019.

The permit does not authorise the Operator to mix and blend hazardous wastes with other hazardous or non-hazardous wastes. An action was placed on the Operator to cease this activity. Mixing hazardous with non-hazardous wastes, regardless of the contamination profiles, renders the entire stockpile hazardous. Hazardous wastes can only be mixed if authorised by the permit and by demonstrating that it is Best Available Technique (BAT). The Operator continues to do this and has indicated that wastes are stockpiled in accordance to their contamination profile and treatment requirements. Wastes are mixed both pre and post treatment.

We refute the statement 'the operator continues to do this' as it is incorrect. For clarification wastes are stockpiled in accordance with their contamination profile and envisaged soil management / other waste management requirements (including treatment if required) – the statement made by NRW is incorrect. No soils have been treated.

Prior to the removal of wastes, the Operator is required to accurately classify and validate the waste through a visual, physical and chemical analysis. Wastes leaving site must be accurately classified to ensure the receiving sites are permitted to accept them. A recent review of submitted duty of care, waste returns and validation paperwork has highlighted several discrepancies and indicate that the Operator is failing to accurately classify wastes being removed from site. An overview of our findings of this review will be communicated separately.

We cannot comment on this as no information has been provided.

I have referred the Operator to the following guidance on the classification of hazardous wastes from physio-chemical facilities. This guidance would indicate that the waste on site should be classified as either 19 02 04* or 19 03 04* both of which are absolute hazardous waste entries. It is important to note that the concentration of dangerous substances within these wastes is not considered in the assessment of these materials as hazardous wastes. The incorrect classification of wastes has resulted in hazardous materials being exported to non-hazardous facilities that are neither authorised to accept them or have the appropriate controls to prevent pollution.

We fundamentally disagree with the assertion made in this statement as it is based on yet another false premise and a clear lack of understanding on how the treatment hub operates. Notwithstanding this point there has to be a demonstrable risk of pollution which by its very inference is not related to waste coding per se. This is very similar and analogous to the RGN11 3.36 statement which makes a clear distinction. We previously requested NRW to provide a source-pathway-receptor justification for this assertion which has not been provided.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/298046/geho0311btpu-e-e.pdf

Whilst NRW has received an application to vary the permit, the Operator is required to comply with the existing permit conditions until the permit variation has been issued. Permit variations cannot be pre-determined, and it is the Operator's responsibility to understand the limitations of their permit and make changes to the permit prior to them being required and implemented on site.

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Managing Director

Tel: 07709 320836



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Cc: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>
Subject: The Treatment Hub

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Managing Director
Tel: 07709 320836



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From: Harry Kemp <harry.kemp@biffa.co.uk>
Sent: 29 July 2020 18:41
To: John Steggles; Amanda Brooks
Cc: Joanne Rowley
Subject: FW: Treatment Hub Permit No EPR/ZP3933NJ & The Royal Mint NRW:06681619

Good afternoon John, Amanda

Nothing to report from the NRW, but at least an acknowledgement as per below. I'll keep you updated as and when there are any further developments

Harry



Harry Kemp / Operations Director Specialist Services
Mobile 07736 599 204 **E-Mail** harry.kemp@biffa.co.uk
Treatment Centre, Potters Lane, Wednesbury, WS10 7NR
www.biffa.co.uk

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Wash your hands frequently



Practice social distancing



Follow hygiene protocols



Stay at home if you have symptoms

From: Enquiries <enquiries@cyfoethnaturiolcymru.gov.uk>
Sent: 29 July 2020 16:46
To: Harry Kemp <harry.kemp@biffa.co.uk>
Subject: RE: Treatment Hub Permit No EPR/ZP3933NJ & The Royal Mint NRW:06681619

Good afternoon Mr Kemp,
Thank you for contacting Natural Resources Wales (NRW).
Regarding your email below - I have forwarded this on to our Waste Permitting Team to see if this is something they would be able to assist with, and we will be in touch in due course to further advise on this for you.
Many thanks again - take care.
Kind regards,

Alys Williams

Cymorth Cyswllt Cyfoeth / Customer Hub Support

Cwsmeriaid, Cyfathrebu a Gwybodaeth/Customer, Communications and Information Directorate

Cyfoeth Naturiol Cymru/Natural Resources Wales

Ffôn/Tel: 0300 065 3000

E-bost/E-mail:

alys.williams@cyfoethnaturiolcymru.gov.uk/alys.williams@naturalresourceswales.gov.uk
Gwefan / Website: <http://www.cyfoethnaturiolcymru.gov.uk/>/www.naturalresourceswales.gov.uk
Twitter: twitter.com/NatResWales
Facebook: facebook.com/nNatResWales
Flickr: Flickr.com/NatResWales
Youtube: youtube.com/NatResWales

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Siaradwr Cymraeg

----- Original Message -----

From: Harry Kemp;
Received: Mon Jul 20 2020 16:12:31 GMT+0100 (GMT Summer Time)
To: Enquiries Queue;
Subject: Treatment Hub Permit No EPR/ZP3933NJ & The Royal Mint

Good afternoon,

I am emailing on behalf of a client of Biffa Waste Services, namely The Royal Mint:

The process of coin production at the Royal Mint results in a hazardous waste filter cake being produced under EWC 11 01 09* Last week we were notified that our disposal outlet for this filter cake (The Treatment Hub EPR/ZP3933NJ) has been closed by NRW and we are struggling to get any detail regarding timelines for any possible resolution

As an emergency process we have currently arranged for this filter cake to be bulked and sent to a hazardous waste landfill site in Peterborough. Due to the distance this isn't sustainable in the medium term for The Royal Mint and I have been requested to ask for any possible timelines that NRW has to respond to any challenges it faces, following its decisions (I have been informed by The Treatment Hub that it is challenging the decision made to close the site).

I do not need to know any detail of the reasons for the closure (which I am picking up separately with the Treatment Hub through our own Duty of Care processes) as this is between NRW and the Treatment Hub, The Royal Mint are only interested in the possible timelines for a decision on any challenges, in order to plan further disposals and keep The Royal Mint operational in making currency for the UK economy

Regards

Harry Kemp

Harry Kemp / Operations Director Specialist Services

Mobile 07736 599 204 **E-Mail** harry.kemp@biffa.co.uk



Treatment Centre, Potters Lane, Wednesbury, WS10 7NR

www.biffa.co.uk

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**Safer
together**



Wash your hands
frequently



Practice social
distancing



Follow hygiene
protocols



Stay at home if you
have symptoms

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Biffa Waste Services Limited is registered in England and Wales No. 0946107; Biffa Environmental Municipal Services Limited is registered in England and Wales No. 00905800; Biffa Leicester Limited is registered in England and Wales No. 04602279; Biffa West Sussex Limited is registered in England and Wales No. 06744107; Biffa Municipal Limited is registered in England and Wales No. 04321212; Biffa Polymers Limited is registered in England and Wales No. 02729607; O'Brien Waste Recycling Solutions Limited is registered in England and Wales No. 09362987; Amber Engineering Limited is registered in England and Wales No. 01067283; and Weir Waste Services Limited is registered in England and Wales No. 03777183 each having their registered office at Coronation Road, Cressex, High Wycombe, Buckinghamshire HP12 3TZ.

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On 12 Aug 2020, at 14:56, Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk> wrote:

Good afternoon Rebecca

My colleague who is leading on the duty of care (DoC) review is currently on leave and not due to return until the 24th August. We will forward the findings of our review on his return.

With regards to this creating an unfair playing field, the DoC review has no bearing on the issuing of the Reg 37 Notice. It has highlighted some discrepancies including the miscoding of waste and incorrect completion of transfer notes, but these are mostly DoC offences and separate to the suspension notice.

As explained in previous emails, the Notice has been issued due to the quantity of waste stored on site. This has restricted the physical capacity to treat the waste in the manner authorised by the permit. The conclusion of 'hazardous wastes leaving the site' and the 'risk of pollution' is drawn from this not a review of the DoC. To remove the risk and lift the suspension, the operator is required to reduce the quantity of waste on site to 5,250 tonnes and so allowing the operator to treat the waste correctly. Prior to removal the operator must agree with NRW the classification of the waste and its destination. This provides The Treatment Hub the opportunity to demonstrate and evidence their rationale for the classification of waste leaving site.

Kind regards

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
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Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi

Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Rebecca Bomers <rebecca@somertonenvironmental.com>
Sent: 11 August 2020 11:34
To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Cc: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>
Subject: RE: The Treatment Hub

Good afternoon Liane

You mentioned previously that you are compiling a review of duty of care paperwork and waste classification. Is this ready to be issued yet please? We are in the process of issuing a formal appeal but without this information, it has created an unfair playing field. I am assuming the conclusion of 'hazardous wastes going to the receiver site' has come from this review also? Or, has this also been chalked down to 'a potential risk'?

Kind regards

Rebecca Bomers Bsc (Hons) MCTUM

Managing Director

Tel: 07709 320836

<image006.png>

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From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Sent: 04 August 2020 16:34
To: Rebecca Bomers <rebecca@somertonenvironmental.com>
Cc: Smyth-Evans, Erin <erin.smyth-evans@cyfoethnaturiolcymru.gov.uk>
Subject: RE: The Treatment Hub

Good afternoon Rebecca,

Thank you for your email. Firstly, I must clarify that the Notice served on The Treatment Hub Ltd is an **EPR 2016 Reg 37(1)(5)** and not an EPR Reg 37(1)(2) Notice. The wording in the two notices are different in that the Reg 37(1)(2) refers to "serious pollution" whilst the EPR 37(1)(5) refers to "risk of pollution". This later more recent notice was introduced in the revised EPR regulations in 2016. RGN11 only refers to EPR 2010 and therefore only the Reg 37(1)(2) notice.

With regards to demonstrating the **risk of pollution** through the source – pathway - receptor model; **(Source)** Storing waste in volumes that exceed the permitted limit restricts the capacity to treat waste in segregated batches and has resulted in mixing of

hazardous wastes. Failing to store, treat and manage hazardous waste in breach of the permit, leads to a risk of pollution from these wastes (**Pathway**) leaving the facility and (**Receptor**) entering the environment at the receiving sites. These sites are not permitted to receive hazardous wastes and do not have the appropriate controls in place.

NRW acknowledges the comments made by The Treatment Hub.

Kind regards

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
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Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi

Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Rebecca Bomers <rebecca@somertonenvironmental.com>
Sent: 31 July 2020 14:14
To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Subject: RE: The Treatment Hub

Good afternoon Liane

Thank you for responding so quickly.

From my part, it is still not clear what the specific source-pathway-receptor is, that could lead to a specific serious pollution. I understand that you are of the opinion that hazardous materials may have gone to a site that is not permitted to accept hazardous materials but that in itself doesn't present evidence of a serious pollution risk, unless there is specific contaminants that may affect specific sensitive receptors that you know of that I am unaware of? This is what I am trying to establish when asking about the source-pathway-receptor model? E.g. Heavy levels of lead have been found to be taken to a site underlain with a potable water supply, the soil is highly permeable, with little natural filtration layers and so there is a significant risk of a serious pollution to the groundwater. Could you provide me with some specifics in relation to the source-pathway-receptor model please?

I have had additional discussions with The Treatment Hub and they would like to me to send you their comments, also. Please see their comments below in red, beneath each of your statements.

Kind regards

Rebecca Bomers Bsc (Hons) MCITM

Managing Director

Tel: 07709 320836

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From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Sent: 27 July 2020 15:02

To: Rebecca Bomers <rebecca@somertonenvironmental.com>

Cc: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>

Subject: RE: The Treatment Hub

Good afternoon Rebecca,

In response to your email dated 23rd July 2020.

Natural Resources Wales has served an Environmental Permitting (England and Wales) Regulations (EPR) 2016 Regulation 37(1) and (5) Notice on The Treatment Hub as it considers that the permit breaches at the facility are serious enough to pose a risk of pollution to the environment.

The Treatment Hub considers that the second 'reissued' notice is equally invalid as NRW have not demonstrated that there is a serious risk of pollution. In this respect we would point out that NRW make a clear and valid distinction in their Regulatory Guidance Notes [RGN11] in relation to permit breaches and the risk of serious pollution. Clause 3.36 of RGN 11 states ' There can be a risk of serious pollution even if the permit conditions are being complied with. *Compliance with the permit conditions is not a*

factor to be considered in deciding whether or not to issue a suspension notice'. This is an eminently sensible statement for obvious reasons. Our position therefore remains as previously stated.

Site inspections at The Treatment Hub have identified several significant permit condition breaches.

The quantity of waste stored on site exceeds the permitted limit of 5,250 tonnes. Much of the building has been filled with wastes which restricts the space and capacity for waste to be treated in accordance to the permit conditions. An action was placed on the operator to reduce the quantity of waste on site. On the 2nd July it was estimated there was approximately 9,000 to 9,500 tonnes on site.

The treatment process authorised by the permit is stipulated in the operating technique SOL0113ESP01. It involves a batch style process where waste streams are individually segregated and treated using E-clays. This batch style process allows the operator to maintain a clear audit trail of the waste from acceptance, through treatment, to removal. In the Operators response and application supporting document (Reference – TTH/SSF/01-20/001) it stated that due to the nature of their current operation it is not possible or practical to store and treat individual waste streams. It is clear and evident that individual waste streams are not being segregated on site. Failing to treat the waste in the manner authorised by the permit results in the Operator being unable to demonstrate that the wastes have been adequately treated.

A summary report has been compiled on this matter covering the history of the hub from its inception in 2013 / 2014 (to be issued when appropriate). The original rationale for the hub was to treat filter cake from Tata Trostre for two prime purposes – ideally to reuse the treated filter cake in building blocks etc (in full accordance with the ethos of the waste hierarchy and the stated zero waste aspirations of the Welsh Government) and if this was not achieved, the fall back option was to treat the filter cake material to 'declassify' the material from non-hazardous to inert'. In practice the Trostre waste stream did not materialise.

Our prime focus from conception until the present day has been contaminated soils, a subject we have vast experience in having been involved with on-site remediation for 25 years with over 150 projects now completed, including projects regulated by NRW. Contaminated soils are fundamentally heterogeneous whereas the majority of designated waste streams are fundamentally homogeneous. In practice most contaminated sites have identified (or unidentified) contamination hot-spots within the soils which can either be addressed on-site or through offsite disposal. The hub was set up inter alia to provide a soil management capability for soils requiring offsite disposal utilising the expertise and experience of Envirotreat staff.

It is our firm contention that NRW has not engaged with Envirotreat / The Treatment Hub to fully understand the realities of managing contaminated soils. This should have been an explicit requirement before making assertions, judgements and issuing suspension notices. Contaminated soils which have been derived from contamination hot-spots and subsequently designated for offsite disposal implicitly contain a mix of hazardous, non-hazardous and inert soils as it is IMPOSSIBLE to segregate on-site. These soils are typically classified as hazardous or non-hazardous by the waste producer (or their representative). Soils sent to the hub as hazardous are tested by ourselves on arrival and are, in most cases, found to be non-hazardous under WM3 classification. This is as a natural consequence of mixing during excavation, stockpiling if required and transporting. It is a judgement call therefore from ourselves whether there is a requirement for treatment and it is a COMPLETELY FALSE PREMISE for NRW to assume that all (or even the majority) of wastes will require treatment as seems to be the case judging by the comments made. NRW has made no effort to understand the nuances of our business and even declined to give our Site Manager the opportunity to discuss matters during and after the recent site visit.

The Operator has also confirmed that some wastes are not treated using E-clays but undergo bioremediation. Bioremediation is not an authorised treatment process and has therefore not been suitably assessed or deemed appropriate.

It is acknowledged that bioremediation as a designated remediation process is not on our permit however this is not what has been referred to. Natural biodegradation of non-recalcitrant hydrocarbon pollutants within contaminated soils occurs during excavation on-site, stockpiling if required, transportation and during storage at the hub. This is a NATURAL PROCESS as acknowledged by Paul Gibson of NRW during the site visit in December 2019.

The permit does not authorise the Operator to mix and blend hazardous wastes with other hazardous or non-hazardous wastes. An action was placed on the Operator to cease this activity. Mixing hazardous with non-hazardous wastes, regardless of the contamination profiles, renders the entire stockpile hazardous. Hazardous wastes can only be mixed if authorised by the permit and by demonstrating that it is Best Available Technique (BAT). The Operator continues to do this and has indicated that wastes are stockpiled in accordance to their contamination profile and treatment requirements. Wastes are mixed both pre and post treatment.

We refute the statement 'the operator continues to do this' as it is incorrect. For clarification wastes are stockpiled in accordance with their contamination profile and envisaged soil management / other waste management requirements (including treatment if required) – the statement made by NRW is incorrect. No soils have been treated.

Prior to the removal of wastes, the Operator is required to accurately classify and validate the waste through a visual, physical and chemical analysis. Wastes leaving site must be accurately classified to ensure the receiving sites are permitted to accept them. A recent review of submitted duty of care, waste returns and validation paperwork has highlighted several discrepancies and indicate that the Operator is failing to accurately classify wastes being removed from site. An overview of our findings of this review will be communicated separately.

We cannot comment on this as no information has been provided.

I have referred the Operator to the following guidance on the classification of hazardous wastes from physio-chemical facilities. This guidance would indicate that the waste on site should be classified as either 19 02 04* or 19 03 04* both of which are absolute hazardous waste entries. It is important to note that the concentration of dangerous substances within these wastes is not considered in the assessment of these materials as hazardous wastes. The incorrect classification of wastes has resulted in hazardous materials being exported to non-hazardous facilities that are neither authorised to accept them or have the appropriate controls to prevent pollution.

We fundamentally disagree with the assertion made in this statement as it is based on yet another false premise and a clear lack of understanding on how the treatment hub operates. Notwithstanding this point there has to be a demonstrable risk of pollution which by its very inference is not related to waste coding per se. This is very similar and analagous to the RGN11 3.36 statement which makes a clear distinction. We previously requested NRW to provide a source-pathway-receptor justification for this assertion which has not been provided.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/298046/geho0311btpu-e-e.pdf

Whilst NRW has received an application to vary the permit, the Operator is required to comply with the existing permit conditions until the permit variation has been issued. Permit variations cannot be pre-determined, and it is the Operator's responsibility to understand the limitations of their permit and make changes to the permit prior to them being required and implemented on site.

We have already brought this matter to the attention of the permitting team and were exasperated to be advised that the permit variation was only at the 'duly made' assessment stage over 5 months after we submitted a variation. This said variation was instructed by NRW following the site visit made in December 2019 – the instruction in the subsequent CAR Report was quite clear – it stated 'you are required to submit a permit variation to *up-date and reflect current site operations*' – this was duly provided in the required timescale and should have been processed within a reasonable time period, particularly as it was an action point on a CAR Report. The whole point of this variation is to bring the current operations in the hub in line with the permit. We would have expected the officer requiring the variation to ensure that the variation was processed expeditiously for obvious reasons.

I hope this provides further clarification. NRW does not take the issuing of a suspension Notice lightly but considered it necessary to restrict further waste being accepted and removed from site without the appropriate assessments and controls.

With respect a glib comment 'we do not take the issuing of a suspension notice lightly' shows a clear lack of understanding as to the damage and potential damage that can be caused to a business as a result.

Kind regards

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Rebecca Bomers <rebecca@somertonenvironmental.com>
Sent: 24 July 2020 13:41
To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Subject: RE: The Treatment Hub

Hello Liane

Thank you very much for your prompt reply, it's very much appreciated and I look forward to hearing from you on Monday.

Have a great weekend!

Kind regards

Rebecca Bomers Bsc (Hons) MCM

Managing Director

Tel: 07709 320836

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From: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Sent: 24 July 2020 12:08
To: Rebecca Bomers <rebecca@somertonenvironmental.com>
Cc: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>
Subject: RE: The Treatment Hub

Good afternoon Rebecca

I am happy to provide further clarification with regards to The Treatment Hub. I am in meetings all day today, so will get a response to you sometime on Monday.

Kind regards

Liane Bacon-Weekes

Uwch Swyddog – Rheoleiddio Diwydiant a Gwastraff / Senior Officer – Industry and Waste Regulation
Tîm Rheoleiddio Diwydiant De-Orllewin Cymru / South West Wales Industry Regulation Team
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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Rebecca Bomers <rebecca@somertonenvironmental.com>
Sent: 23 July 2020 16:57
To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Cc: Neil Mcleod | Envirotreat <neil.mcleod@envirotreat.com>
Subject: The Treatment Hub

Good afternoon Liane

I have been instructed by The Treatment Hub / Neil Mcleod to assist them with responding to the recent Reg 37 Notice served on them.

In order to fully understand the situation and enact the preparation to bring the site back into compliance, it would be beneficial to get your insight into the source of serious pollution risk, the pathway that this risk could follow, and the receptor that it may affect. I have other questions to but if you could provide this information in the first instance please, I think that would be most beneficial to enable me to get plans in place to mitigate any risks.

I am of the hope that if we work together on this, we can reduce any environmental risk sooner rather than later.

Neil, could you please respond to this email to provide Liane with the authorisation to deal with me direct, on your behalf please?

Kind regards

Rebecca Bomers Bsc (Hons) MCFRM

Managing Director

Tel: 07709 320836

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FAO Liane Bacon-Weekes
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Direct Line: +44 (0)117 307 6314
stephen.lavington@burgess-salmon.com

By First Class Post and Email to Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk

Our ref: SL07/ST04/58586.1/LAVIN

Your ref: EPR-ZP3933NJ

14 August 2020

When telephoning please ask for: Stephen Lavington

Dear Natural Resources Wales

Our client: The Treatment Hub Limited
Suspension Notice in respect of environmental permit number EPR/ZP3933NJ
Installation: The Treatment Hub, Swansea

We act for The Treatment Hub Limited. This letter concerns the service by Natural Resources Wales (“**NRW**”) of a suspension notice dated 17 July 2020 (the “**Notice**”) on our client.

We have concerns about the legal basis of the service of the Notice. At this stage, we are making enquiries, so that we can advise our client on its legal options. NRW has a legal duty to provide the reasons for the service of the Notice. To date, we do not consider that the information provided fulfils that duty, for the reasons given below. Once we are in receipt of the reasons for the service of the Notice, we can advise our client on the merits of NRW’s action. Until then, our client reserves all its rights.

From the information available to us, we have concerns that the service of the Notice is disproportionate, not justified and based on errors of fact, but we reserve our position pending further investigation. However, rather than spend time and resources on both sides examining the validity of the Notice, our client would much prefer to spend that time and resource working with NRW. We therefore submit that the most efficient and proportionate regulatory action is to withdraw the Notice and re-engage in dialogue to address any underlying concerns that NRW may have.

Request for further information

In the Notice your stated reason for suspension of our client’s permit is that you “*consider the operation of the regulated facility involves a risk of pollution*”. You add that:

“Storing waste in volumes that exceed the permitted limit restricts the capacity to treat waste in segregated batches and has resulted in mixing of hazardous wastes. Failing to store, treat and manage hazardous waste in breach of the permit, leads to a risk of pollution from these wastes leaving the facility and entering the environment at the receiving sites. These sites are not permitted to receive hazardous wastes and do not have the appropriate controls in place.”

For the reasons already set out in correspondence from our client, the allegation that there has been a mixing of hazardous wastes, and that our client’s processes result in an increased risk of hazardous wastes leaving site, is strongly denied. However, and more importantly for our purposes, NRW has offered no evidence whatsoever to substantiate this allegation. There must be an evidential basis for this allegation (otherwise it is pure speculation, WORK\37657495\4

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and the Notice is *prima facie* invalid). Our client has a right to see that evidence so that it can assess the merits of NRW's actions.

As such, we ask NRW to provide all of the evidence upon which you have relied in reaching these conclusions.

In particular (and without limitation), please:

- (a) describe in detail the "risk of pollution" which you claim is sufficient to justify the suspension of our client's environmental permit and provide evidence, including all documentation (risk assessments, technical reports etc.), by which you have analysed and quantified this risk;
- (b) give specific details of the nature of the pollution that you claim to be involved and provide relevant evidence of such pollution or the risk of such pollution;
- (c) confirm that the source-pathway-receptor model formed part of your analysis and provide details of how it was applied (the explanation in the email dated 4 August 2020 from Liane Bacon-Weekes is wholly inadequate but if this is the only analysis upon which the decision was based then please say so in clear terms);
- (d) particularise the specific "hazardous wastes" that led to the decision to serve the Notice (and provide related evidence) and give detail as to how these "hazardous wastes" were factored into your risk assessment and analysis (including using the source-pathway-receptor model);
- (e) confirm that the officers involved in the decision-making process had relevant and specific technical expertise in relation to the specialist waste management operations carried out at our client's installation and provide details of this expertise;
- (f) advise if third-party consultants were instructed on this matter, or if not, whether this was considered and why it was rejected; and
- (g) confirm that legal advice was taken prior to service of the Notice, and in accordance with paragraph 3.53 of Natural Resource Wales' Regulatory Guidance Note 11 ("**RGN 11**"), or, if not, why not.

In responding to these requests NRW should have particular regard to paragraph 3.45 of RGN 11 which provides that:

"Whether there is a 'risk' of 'serious' pollution is a matter of judgement. You will have to justify the judgement in relation to the seriousness and risk by showing the effects on the environment or health and demonstrate that there is some reasonable likelihood that these could have a long term negative impact or a significant immediate detrimental impact. You will have to have clear evidence from which you make this assessment and be able to justify forming that view. If forming this judgement is not clearly within your area of expertise, you should seek the view of a person who is an expert."

We note that, in the email dated 4 August 2020 from Liane Bacon-Weekes to Rebecca Bomers, our client's consultant, it was stated that "*RGN 11 only refers to EPR 2010 and therefore only the Reg 37(1)(2) [sic] notice*".

We assume NRW will readily accept that paragraph 3.45 of RGN 11 provides equally to a judgement about the 'risk of pollution' as it does to a judgement about 'risk of serious pollution'. The paragraph is about justification of the judgement, demonstration of a reasonably likelihood of impact, based on clear evidence, within the area of expertise of the person making the judgement.

It is precisely this justification of the judgement that we are asking for in this letter.

A constructive way forward

As stated at the beginning of this letter, our preliminary view, pending receipt of the information requested in this letter, is that the Notice is wholly disproportionate.

Service of the Notice in the circumstances is not only disproportionate in relation to the alleged breaches of the permit (which can be readily addressed through other, more proportionate, means) but also unnecessary in the context of the generally cooperative and constructive approach that our client has taken to your investigations to date.

In particular you will be aware of our client's application for a variation of its permit in February 2020, an application which was made as a direct result of discussions between your officers and our client in December 2019 and specifically intended to address your officers' concerns. As of 24 July 2020 (almost six months later) this application had not even been assessed as duly made. Despite the severe ongoing delays to this variation, our client's position is that it has continued to work hard to constructively engage with the issues raised by your officers.

Suspension of our client's operations has caused considerable commercial disruption. Moreover, in preventing our client from taking in waste for remediation, NRW's actions will have caused waste to be diverted to landfill, rather than dealt with in proper accordance with the waste hierarchy.

We appreciate that a suspension notice is one of the many regulatory tools at NRW's disposal. It is, however, at the more serious end of sanctions available to it, and we submit that it is a disproportionate sanction in these circumstances. The choice of enforcement should be appropriate to the facts and circumstances of each case (proportionality being one of the key principles in your enforcement and prosecution policy). Where enforcement action takes a severe form (such as a suspension notice) there is a correspondingly high threshold for action which you are required to justify.

In the circumstances, we submit that the most efficient and proportionate regulatory action is to withdraw the Notice and re-engage in dialogue to address any underlying concerns that NRW may have.

Given the statutory timescales, your urgent attention to this matter is appreciated. Given that we are only asking for disclosure of evidence that was in your possession at the time of issuing the Notice we do not consider this to be an onerous request. As such, we ask that you either withdraw the Notice, or provide a substantive answer to this request, no later than **4pm on 21 August 2020**.

Yours faithfully

Burges Salmon LLP

BURGES SALMON LLP

CC. Erin Smyth-Evans, erin.smyth-evans@cyfoethnaturiolcymru.gov.uk
Gavin Brown, Gavin.Bown@cyfoethnaturiolcymru.gov.uk

From: Stephen Lavington
Sent: 26 August 2020 15:10
To: Smyth-Evans, Erin
Cc: Bown, Gavin; Simon Tilling; Chapman, Jane; Bacon-Weekes, Liane; Tom Gillett
Subject: RE: The Treatment Hub Limited, EPR/ZP3933NJ [BURGES-WORK.FID9906753]

Dear Ms Smyth-Evans,

Thank you for your email. Notwithstanding the internal policies set out in this email, we are surprised that you have yet to provide a substantive response to our letter dated 14 August (and that you have failed to do this in the extended timetable provided) given that, as previously noted, all of our requests relate to material that should be readily available.

When you do provide a response, it would be helpful to know the reasons for the time taken.

Please will you ensure that any subsequent correspondence in respect of this matter is copied to my colleague Tom Gillett (email address as above).

Yours sincerely,

Stephen Lavington
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Borges Salmon LLP

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From: Smyth-Evans, Erin <erin.smyth-evans@cyfoethnaturiolcymru.gov.uk>
Sent: 25 August 2020 16:42
To: Stephen Lavington <Stephen.Lavington@borges-salmon.com>
Cc: Bown, Gavin <Gavin.Bown@cyfoethnaturiolcymru.gov.uk>; Simon Tilling <Simon.Tilling@borges-salmon.com>; Chapman, Jane <Jane.Chapman@cyfoethnaturiolcymru.gov.uk>; Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Subject: RE: The Treatment Hub Limited, EPR/ZP3933NJ [BURGES-WORK.FID9906753]

EXTERNAL EMAIL

Dear Mr Lavington,

In response to your query about response timescales. Our statutory response time is 20 working days (not 10 as previously cited) as per the Information Commissioner's Office.

However, our customer target response times are 10 working days to emails and letters and we are working to reply in full ahead of this timescale.

Yours sincerely,

Erin Smyth-Evans

Arweinydd Tîm Rheoli Diwydiant / Industry Regulation Team Leader

De-Orllewin Cymru / South West Wales

Cyfoeth Naturiol Cymru / Natural Resources Wales

03000 653304 Ext: 3304

Maes Newydd, Llandarsi / Maes Newydd, Llandarcy

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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Stephen Lavington <Stephen.Lavington@burges-salmon.com>

Sent: 21 August 2020 14:58

To: Smyth-Evans, Erin <erin.smyth-evans@cyfoethnaturiolcymru.gov.uk>

Cc: Bown, Gavin <Gavin.Bown@cyfoethnaturiolcymru.gov.uk>; Simon Tilling <Simon.Tilling@burges-salmon.com>; Chapman, Jane <Jane.Chapman@cyfoethnaturiolcymru.gov.uk>; Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>

Subject: RE: The Treatment Hub Limited, EPR/ZP3933NJ [BURGES-WORK.FID9906753]

Dear Ms Smyth-Evans,

Thank you for your response and for giving prompt consideration to our letter. As we are sure that you appreciate, this is a matter of the highest priority for our client and, given the significant impact that this suspension notice continues to have upon our client and its business, we expect these requests to be expedited.

If it helps to clarify, we are not asking for any new information – all of our requests relate to material that NRW and its officers should have prepared and/or have readily to hand.

With the above in mind we should be grateful if you would provide a substantive reply as soon as possible and in any event by 12.00pm on Wednesday 26 August.

In your email you refer to a "statutory response" of 10 working days for requests such as these. Please can you provide us a statutory authority and reference for this?

Yours sincerely,

Stephen Lavington
Senior Associate
Burgess Salmon LLP

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M: +44 (0)7812 228119
www.burgess-salmon.com

From: Smyth-Evans, Erin <erin.smyth-evans@cyfoethnaturiolcymru.gov.uk>
Sent: 21 August 2020 10:00
To: Stephen Lavington <Stephen.Lavington@burgess-salmon.com>; Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Cc: Bown, Gavin <Gavin.Bown@cyfoethnaturiolcymru.gov.uk>; Simon Tilling <Simon.Tilling@burgess-salmon.com>; Chapman, Jane <Jane.Chapman@cyfoethnaturiolcymru.gov.uk>
Subject: RE: The Treatment Hub Limited, EPR/ZP3933NJ [BURGES-WORK.FID9906753]

EXTERNAL EMAIL

Dear Mr Lavington,

Thank you for your correspondence dated 14 August regarding your client, The Treatment Hub Limited.

NRW intends to reply fully to your letter and the questions raised within. Due to the volume of information required to fulfil this we will be unable to respond by your requested date of today.

Our statutory response for such correspondences is 10 working days but we will endeavour to return a full response to you by the middle of next week.

Yours sincerely,

Erin Smyth-Evans
Arweinydd Tîm Rheoli Diwydiant / Industry Regulation Team Leader
De-Orllewin Cymru / South West Wales
Cyfoeth Naturiol Cymru / Natural Resources Wales
03000 653304 Ext: 3304
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Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay

From: Stephen Lavington <Stephen.Lavington@burges-salmon.com>
Sent: 14 August 2020 14:45
To: Bacon-Weekes, Liane <Liane.Bacon-Weekes@cyfoethnaturiolcymru.gov.uk>
Cc: Bown, Gavin <Gavin.Bown@cyfoethnaturiolcymru.gov.uk>; Smyth-Evans, Erin <erin.smyth-evans@cyfoethnaturiolcymru.gov.uk>; Simon Tilling <Simon.Tilling@burges-salmon.com>
Subject: The Treatment Hub Limited, EPR/ZP3933NJ [BURGES-WORK.FID9906753]

Dear Natural Resources Wales,

Please see attached correspondence.

Yours faithfully,

Burges Salmon LLP

Stephen Lavington
Senior Associate
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From: Chapman, Jane <Jane.Chapman@cyfoethnaturiolcymru.gov.uk>
Sent: 27 August 2020 19:36
To: Stephen Lavington
Cc: Bown, Gavin; Simon Tilling; Bacon-Weekes, Liane; Tom Gillett; Perry, Nicki; Smyth-Evans, Erin
Subject: RE: The Treatment Hub Limited, EPR/ZP3933NJ [BURGES-WORK.FID9906753]
Attachments: Letter to Burges Salmon TTH 27.08.20.doc; TTH annex to Burges Salmon response.pdf; ANNEX G to Burges Salmon response TTH - Haz Returns.xlsx

EXTERNAL EMAIL

Dear Mr Lavington,

Please find attached correspondence in response to your letter of the 14th August 2020 together with a bundle of Annexes.

It may be that the Annexes are too voluminous. If this is the case I will request that my colleague send you them via Sharefile tomorrow.

Regards

Jane Chapman
Cyfreithwraig Pennaf / Principal Solicitor
Cyfoeth Naturiol Cymru / Natural Resources Wales
0300 065 4236
Ty Cambria, 29 Heol Casnewydd, Caerdydd / Cambria House, 29 Newport Road, Cardiff, CF24 0TP

Rhif SRA / SRA Number: 597415

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Mae'r e-bost hwn a'i atodiadau wedi'u gwirio am firsau. Ond dylech chithau hefyd wirio unrhyw atodiad cyn ei agor.

Efallai y bydd yn rhaid inni wneud y neges hon ac unrhyw ateb iddi yn gyhoeddus pe bai gofyn inni wneud hynny dan y Rheoliadau Gwybodaeth Amgylcheddol, y Ddeddf Rhyddid Gwybodaeth, y Ddeddf Diogelu Data neu at ddibenion ymglyfreitha. Hefyd, efallai y gall rhywun ac eithrio'r anfonwr neu'r derbynnydd gael mynediad at negeseuon ac atodiadau e-bost a anfonir i, neu gan, gyfeiriad Cyfoeth Naturiol Cymru, at ddibenion busnes.

FAO Stephen Lavington
Burgess Salmon
One Glass Wharf
Bristol
BS2 0ZX

Ein cyf / Our ref: EPR-ZP3933NJ –
JCSL07/ST04/5856

Eich cyf / Your ref:
SL07/ST04/58586.1/LAVIN

Dyddiad/Date: 27th August 2020

By email only

Dear Sirs,

Your client: The Treatment Hub Limited
Suspension Notice in respect of environmental permit number
EPR/ZP3933NJ Installation: The Treatment Hub, Swansea

NRW would like to take the opportunity to provide a detailed response to your letter dated 14th August 2020. In your letter you raise concerns with regards to the legal basis of the Notice served on your clients The Treatment Hub (“**TTH**”) and if NRW can fulfil the duty of reasons as referred to in RGN 11. In addition, you question if NRW’s response to the activities undertaken at TTH are proportionate, justified and based on fact.

In our response to your request for evidence, we will provide an overview and background of the permit breaches on site which will highlight the risk of pollution and demonstrate that NRW’s response to the issues identified on site is justified and proportionate.

Background

TTH hold a permit (ZP3933NJ) to operate a waste recovery installation for the treatment and processing of granular hazardous and non-hazardous wastes, primarily filter cakes and contaminated soils. It is based on a CL:AIRE Code of Practice hub and cluster model which is focused around a batch style process treating consignments of contaminated soils in individual separated stockpiles. The permit contains a range of conditions that TTH are required to comply with to protect the environment, minimise and reduce the risk of pollution and achieve the objectives of UK and European Legislation. It was issued following an assessment of the submitted application, accompanying procedures and risk assessments, and only authorises the company to undertake the activity applied for in the

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Cambria House, 29 Newport Road, Cardiff, CF24 0TP

PLEASE NOTE THAT AS OF 01.08.16 NRW WILL NO LONGER BE USING A DX ADDRESS

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Correspondence welcomed in Welsh and English

manner set out in their procedures. If TTH wish to change or amend any activities or processes they must first apply to vary the permit to enable the relevant and appropriate assessments to be undertaken. Only once the variation has been approved is the Company authorised to undertake the activity. To undertake activities not within the permit (even when a variation application has been submitted) is an offence.

Condition 2.3.1 (a) of the permit stipulates that the activities on site must, unless otherwise agreed, be operated using the techniques and in the manner described in the documentation specified in schedule 1, table S1. This includes the document 'Application supporting document SOL0113ESP01' which was received and assessed as part of the permit application. The procedures and mitigation measures stipulated within the document are fundamental in the assessment of risk and the decision to issue the permit.

In addition to the Operating Techniques, TTH is also required to manage and operate the activities in accordance with a written Environmental Management System ("**EMS**") (Permit condition 1.1.1.). The EMS stipulates and highlights the procedures the company will implement to minimise the risk of the activity and it makes a commitment to review these measures if there are changes to activities. To comply with condition 1.1.2, records must be kept that demonstrate compliance with the EMS and the procedures within it.

When an operator fails to comply with the conditions of their Environmental Permit or fails to operate their facility in manner as authorised by those conditions, it presents a risk of that operation negatively impacting the environment through the absence of appropriate controls. Failure to comply with permit conditions and the supporting operating techniques and management systems is an offence under the Environmental

TTH recognise and acknowledge this in Section 3.3.7 of document SOL0113ESP01 where it states:

All aspects of the operation will be managed in accordance within a formal Environmental Management and Quality Plan. The plan will define all activities throughout the lifecycle of the treatment process (i.e. pre-acceptance, acceptance, treatment, validation and final off-site transfer). The Environmental and Quality Management system will be designed to meet the requirements of the Environmental Permitting Regulations and associated pollution prevention guidance.

The EMS has been designed to ensure:

- *The identification of all foreseeable environmental impacts and risks that The Treatment Hub activities pose to the environment.*
- *Prevention or minimisation of any identified risks to practical minimum.*
- *Legal Compliance assurance.*
- *Activities at the site will be managed in accordance with the management system, which will be subject to continuous review, audit and improvement. Specific detailed management system reviews will take place if there is a significant change to the activities, following an accident or if a non-compliance is found.*

- *Furthermore, the whole management system will be subject to annual external audit by competent third parties.*
- *The key aspects of the EMS for the site will include: Preventative maintenance; Operator requirements; Training and competence; Emergency response and incident management; and Monitoring, measurement and reporting.*

The environmental and quality management system and procedures will be written to ensure that the environmental risks and impact of the normal running of the site activities are documented and minimised.

Responses to your letter of the 14th August 2020.

(a) describe in detail the “risk of pollution” which you claim is sufficient to justify the suspension of our client’s environmental permit and provide evidence, including all documentation (risk assessments, technical reports etc.), by which you have analysed and quantified this risk;

During an inspection on the 29th October 2019 several significant permit breaches were identified and listed procedures were not being adhered to. The operation and treatment process were far different to the activity authorised by the permit. A copy of the Compliance Assessment Report (CAR) is attached (Report ID: CAR_NRW0036053). (Annex A)

Volume of wastes on site

Section 4.8.3 of the document SOL0113ESPOL states that no more than 5,250 tonnes of material will be stored internally at any one time. During the inspection it was evident that volumes of waste were stored in excess of the permitted limit. Much of building had been filled with treated and non-treated wastes which ran down the length of the building. The bottom section of the building and the lower doors could not be accessed. It was noted by the Company Director Mr. Simon Farr that in recent months there had been an increase in business that resulted in the site accepting more waste than it could treat and remove. It was estimated there was in excess of 12,000 tonnes of waste on site, but Mr. Farr could not provide an accurate total quantity of waste stored. (See Photos in Annex B)

The issue of storing waste in quantities greater than 5,250 tonnes has been raised and the site breached in two previous Compliance Assessment Reports (CAR) (Report ID: CAR_NRW0023790 and CAR_NRW00325158). (Annex C)

During our inspection on the 2nd July 2020 it was evident and acknowledged by TTH the volume of waste on site remained in excess of permitted limits. In an email on the 23rd June 2020, Mr. Farr estimated there to be approximately 9,000 to 9,500 tonnes of waste stored and NRW calculations concurred with this estimation. Compliance Assessment Report (Report ID: CAR_NRW0036771). (Annex D)

Despite the quantity of waste being estimated as less than the October visit, the area used to accept and treat waste had been reduced further with stockpiled waste. (See photos in Annex E.)

As a result of the large volume of waste stored on site, the area within the building available to treat waste has been considerably restricted. It was confirmed by Mr. Farr and evident that it was no longer possible to treat wastes in the manner authorised by the permit

Treatment of waste

As stipulated in the procedures, incoming wastes are required to be stored in clearly separated stockpiles within the ‘untreated area’ of the building until it is scheduled for treatment. Each stockpile is to be fully characterised and evaluated by means of client analysis, TTH analysis and treatability trials. Each waste stream, or contaminated soil waste stream, should be individually assessed, and the prescribed treatment recorded on either a ‘Waste Stream Evaluation Form (Form TH-002) or ‘Contaminated soils Evaluation Form (Form TH-001) whichever is appropriate. Details should include instruction on how to prepare the batch of E-Clay slurry, the volume of Contaminated Soil / Waste and the quantity of E-Clay slurry to be used and how to mix the Contaminated Soil / Waste with the E-Clay slurry and cement. A unique identity reference is assigned to each stockpile, that is to be retained throughout the treatment lifecycle and provide a clear audit trail of the waste assessment, acceptance, treatment, testing, validation and shipping.

Following treatment, the quantities of reagent used together with respective batch numbers should be recorded on the relevant forms. It is noted that “*actual usage will be cross checked against expected usage (based on E-Clay formulation and batch size)... Failure requires the material to be placed in Quarantine pending further investigation. The Waste Tracking System will require updating to reflect the status of the batch*”.

Under the TH1.2 Waste and Material Storage procedure it states that the status of each batch will be maintained on the waste tracking system (TH-DB002) and will be routinely tested as indicated on the waste stream evaluation form or contaminated soil evaluation forms. Once treated, batches will be stockpiled within the “Treated Materials” area and clearly labelled showing the Client, Date, Batch Number, Validation Status (Traffic Light label where GREEN = passed validation, RED =awaiting analysis). Material will remain within this area until scheduled for shipment or quarantined. The status of the batch will be maintained on the Waste Tracking System.

Mr. Farr confirmed during site visits that as a result of the large volume of waste stored on site, TTH is unable to treat waste within prescribed individual separated batches or maintain the identity of waste streams within the main stockpile. He also confirmed that wastes are mixed pre and post treatment. Without this batch system TTH is unable to follow the protective control measures listed in their procedures. They are unable to

monitor and test the effectiveness of the treatment or determine if it requires quarantining and further investigation.

The main stockpile of waste within the building is a combination and mixture of treated and untreated wastes incorporating contaminated soils and other wastes both hazardous and non-hazardous. During the visit on the 2nd July 2020 Officers witnessed a delivery of sludge waste that was deposited on a stockpile marked as “treated”. (See photos at Annex F)

Mr. Farr confirmed that the authorised E-Clay treatment process was no longer used to treat all waste streams. TPH contaminated soils, for example, merely undergo bio-remediation (via weathering). This treatment process is not authorised by the permit and therefore the risk assessments and control measures around this process have not been assessed or approved.

It is generally understood that low weight hydrocarbons can be removed from material by evaporation or natural degradation processes, but these do not work for higher molecular weight hydrocarbons. TTH has made no distinction with regards to this and due to the lack available space within the building, it is evident that this separation is not occurring.

Hazardous Wastes

TTH accepts both hazardous and non-hazardous soils and other hazardous and non-hazardous wastes. The type and quantities of waste received can be evidenced through, submitted hazardous waste returns, quarterly waste returns and copies of the duty of care paperwork (March 2018 – March 2020) that were received as the result of EPR Reg 61 Notice served on 13th March 2020.

It is clear from the hazardous waste returns submitted to NRW that hazardous wastes, both permitted and **non-permitted** have been accepted on site. Wastes include: (see attached report at Annex G)

- 11 01 09* sludges and filter cakes containing hazardous substances (MH)
- 19 01 13* fly ash containing hazardous substances (MH)
- 19 01 11* bottom ash and slag containing hazardous substances (MH)
- 17 05 03* Soil and stones containing hazardous substances (MH)
- 19 02 05* Sludges from physio/chemical treatment containing hazardous substances (MH)
- 19 02 07* Oil and concentrates from separation – **non permitted (MH)**
- 12 01 16* waste blasting material containing hazardous substances – **Non permitted (AH)**

In addition to this, a review of the duty of care paperwork also identified the acceptance of:

- 17 03 01* bituminous mixtures containing coal tar – **non permitted (MH)**
- 17 06 03* other insulation materials consisting of or containing hazardous substances – **non permitted (MH)**
- 19 02 07* oil and concentrates from separation – **non permitted (AH)**

The inability to maintain segregated stockpiles has resulted in contaminated soil wastes (hazardous and non-hazardous) and other wastes (hazardous and non-

hazardous) being mixed. Mixing hazardous wastes is not authorised by the permit. TTH received a CCS2 score for breach of permit condition 2.3.6. and this was not refuted or appealed.

During a site visit on the 16th December 2019, Mr. Farr informed NRW of the acceptance of a consignment of waste from Valero oil refinery in Pembrokeshire. Mr. Farr indicated that this waste was “somewhere” in the main stockpile. This is confirmed and highlighted in Figure 7 – Schematic of Stockpile location/ status within the Treatment Hub. HUB EP 001 - EPRZP3933NJ Variation support document SSF PLR January 2020 (20-01-20) - 1 (002). In figure 7 the consignment is shown as stockpile SP2A (Valero - Sanderson Environmental) and noted as “material wet (bunded to enable drying prior to processing). From the diagram it is evident that it is located within the main stockpile. The volume of waste on site has restricted the site’s ability to quarantine waste. On the 2nd July 2020, NRW officers gained access to the lower part of the building. It appeared that waste had been removed from this area and no bunded was present. We are yet to question the company on this but will do so formally as part of our investigation. (Photograph at Annex H)

As described in the guidance document HWR06 Classifying and coding wastes from physico-chemical treatment facilities:

Pre-mixing and bulking are forms of mixing. A chemical reaction should not usually take place during pre-mixing or bulking.

Pre-mixing If a hazardous waste is mixed with:

- *a hazardous waste with a different EWC code;*
- *a hazardous waste with the same EWC but different hazardous properties or chemical composition;*
- *a non-hazardous waste; or*
- *a non-waste*

and a reaction does not take place, then this is considered pre-mixing.

This waste is coded 19 02 04 premixed wastes composed of at least one hazardous waste.*

This is an absolute hazardous waste; threshold criteria do not apply to absolute hazardous wastes.

The dilution of hazardous substances to below thresholds is strictly prohibited under the Waste Framework Directive and this is further supported by the Landfill Directive which prohibits dilution alone as a means of reclassify waste from hazardous to non-hazardous/inert or non-hazardous to inert.#

As TTH have not maintained segregated treatment stockpiles, nor are able to evidence appropriate treatment, it is the view of NRW that the main stockpile of waste must be considered and exported as hazardous waste. Hazardous wastes cannot be deposited without the appropriate controls and authorising permit. The waste must be assessed for pollution potential alongside the environment in which it is intended to be deposited. If not properly assessed a risk of pollution from leaching

of hazardous substances must be assumed under the precautionary principle.

The acceptance of hazardous waste without the correct permit and control measures has significant environmental and legal implications at the receiving sites.

In correspondence from Mr. Mcleod on the 27th July 2020 it was noted:

“Soils sent to the hub as hazardous are tested by ourselves on arrival and are, in most cases, found to be non-hazardous under WM3 classification. This is as a natural consequence of mixing during excavation, stockpiling if required and transporting. It is a judgement call therefore from ourselves whether there is a requirement for treatment and it is a COMPLETELY FALSE PREMISE for NRW to assume that all (or even the majority) of wastes will require treatment as seems to be the case judging by the comments made”.

The Waste Duty of Care Code of Practice outlines practical guidelines for the safe management of waste to protect human health and the environment. It is issued under section 34(7) of the Environmental Protection Act 1990.

Section 3.5 of the Waste Duty of Care outlines the requirements for each waste holder to give an accurate description of the waste and contains all information that required for the lawful and safe handling of the material. The receiver (TTH) can only accept waste if it conforms to the description in the documentation supplied by the producer and holder.

If the producer of waste has assessed and exported the waste as hazardous, it is not a “judgement call”, the waste is hazardous and must be treated as such. If the operator believes the waste does not meet the description supplied by the producer, the waste should be rejected and reclassified by the producer. This is further supported by condition 2.3.3 of the permit.

In his email Mr. Mcleod refers to contaminated soils with no reference to the other hazardous wastes accepted at the facility. Once a soil is mixed with other wastes, it can no longer be regraded or classified as soil.

Waste Validation

Prior to waste being removed from site TTH is required to appropriately test and validate the waste in accordance to Procedure TH 1.6 Validation Process. It states:

Following treatment, the treated material will be stored within the “Treated Materials” area. Where upon a number of representative samples will be taken for Validation purposes. The number of samples and type of Validation testing required will differ depending on the waste stream and intended end use. These requirements will be specified on the Contaminated Soils Evaluation Form or Waste Stream Evaluation Form (whichever is applicable).

All samples for chemical testing shall be submitted to an independent UKAS accredited laboratory. Test results will be compared to the Validation Criteria for compliance, in the event that the treated material does not meet the specified Validation Criteria for compliance then the treated material will be quarantined.

All test certificates will be stored together with other controlled documentation relating to that batch. Stockpiled materials held within the "Treated Materials" area will indicate their Validation status RED = Validation pending, GREEN = Validation approved. The Waste Tracking System will require updating to reflect the status of the batch.

On shipment a Certificate of Conformity may be required by the end user, the nature of this certificate will depend of end user requirements. In the event that a Certificate of Conformity is raised, then a copy will be stored together with other controlled documentation relating to that batch. Shipment dockets relating to the transfer offsite will be stored together with other controlled documentation relating to that batch.

As TTH do not maintain segregated stockpiles because of the quantity of waste on site they are unable to determine the number of respective samples required for appropriate validation as this is determined by waste stream and intended use. They are also unable to determine if a waste stream has failed a treatment process and needs to be quarantined for additional treatability trials or disposal. Test certificates can no longer be assigned to waste streams and the waste tracking system cannot be up-dated. This is caused by the excessive amounts of waste on site and the lack of segregation.

Section 3.3.5 of document SOL0113ESPOL states:

... environmental/chemical criteria will also be determined. Each batch treated will be evaluated on a project by project basis against these environmental criteria for suitability: Total Petroleum Hydrocarbon content; Leachable Petroleum Hydrocarbon content; Leachable Polyaromatic Hydrocarbon content; BTEX; Total Petroleum Hydrocarbons (TPH); Inorganics (Cyanides, Ammonia etc) Arsenic; Cadmium; Chromium; Copper; Nickel; Zinc; Lead; Mercury; and Selenium.

The specification / validation criteria will be based on specific customer requirements and the desired end use of the material...

The testing and sampling paperwork submitted by the TTH in response to an EPR Reg 61 Notice served on 10th June 2020 does not demonstrate or evidence that adequate testing is being completed on waste exported from site. It is evident from the paperwork that some of the hazardous substances listed have not been tested for. Whilst NRW did not request the specific forms required for validation, in the spirit of complying with the Notice and demonstrating compliance with validation procedures, NRW would have expected this information to have been supplied. The paperwork supplied provides little

confidence that the exported waste will not have detrimental effect at the receiver site.

A review of Duty of Care paperwork, the findings of which will be communicated separately, has shown that approximately 35,000 tonnes of waste has been exported from TTH between April 2018 – March 2020. Waste has been exported as:

- 'NON WASTE' code.
- 17 01 01 – concrete (MN)
- 17 05 04 – Soil and stones (MN)
- 19 12 09 – Minerals (AN)
- 19 13 02 – solid wastes from remediation (MN)
- 20 02 01 – biodegradable waste (AN)
- Approx. 45% had no waste code listed.

The extent and severity of the permit breaches at TTH is a serious issue. The quantity of waste on site has reduced the capacity to store and treat waste appropriately. The mixed and blended waste is an absolute hazardous waste (regardless of thresholds) and a result of the unauthorised treatment process being undertaken. TTH are unable to demonstrate that hazardous substances within accepted wastes streams, no longer pose a risk of leaching into the receiving environment. Hazardous wastes can only be deposited at receiver sites that have the correct permit and control measures in place to prevent pollution. Waste leaving TTH has routinely been miscoded which has environmental and legal implications for the receiving sites.

NRW served Notice on The Treatment Hub as it considers that the operational failures at the facility are significant enough to pose a risk of pollution at receiver sites. Suspension notices are used to stop offending or to bring an activity or operation under regulatory control and used where necessary to prevent the risk of pollution.

(b) give specific details of the nature of the pollution that you claim to be involved and provide relevant evidence of such pollution or the risk of such pollution;

“Pollution” is defined in the Regulations as any emission as a result of human activity which may

- be harmful to human health or the quality of the environment,
- cause offence to a human sense
- result in damage to material property, or
- impair or interfere with amenities and other legitimate uses of the environment.

It is evident from the hazardous waste returns and the duty of care paperwork that TTH have accepted hazardous wastes containing various hazardous substances.

Within the duty of care paper work the reasons given for hazardous waste contamination ranged from

- Soils with elevated petrol, diesel, oil and polycyclic aromatic hydrocarbons.
- Soils with high pH values, soils with elevated alkaline compounds including calcium hydroxide/calcium oxide/sodium hydroxide.
- Soils with elevated metal contamination including zinc/nickel/copper/magnesium/manganese/chromium/lead/zinc chromate.

As such, the most commonly used hazard codes in the consignment notes for waste entering TTH are: HP5 (Harmful), HP7 (Carcinogenic), HP8 (corrosive), HP10 (Toxic for reproduction), HP11 (Mutagenic) and HP14 (Ecotoxic).

For a hazardous waste to be considered non-hazardous (low risk) the hazardous substances must either be removed (not diluted) to below threshold levels or transformed into non-hazardous substances.

The quantity of waste on site has reduced TTH's capacity to appropriately treat the waste. The current process being undertaken on site does not remove or transform hazardous substances within the waste and therefore there is a risk of these entering the environment at the receiver sites.

From the duty of care paper work it is evident that waste has been removed and accepted at receiver sites that are not permitted or have the appropriate controls in place to accept it. This is due to the inability of the site to manage the waste on site appropriately due to the excess waste.

(c) confirm that the source-pathway-receptor model formed part of your analysis and provide details of how it was applied (the explanation in the email dated 4 August 2020 from Liane Bacon-Weekes is wholly inadequate but if this is the only analysis upon which the decision was based then please say so in clear terms);

The overview provided in a) details how the TTH failure to comply with permit conditions and management procedure poses a risk of hazardous wastes leaving the facility and introducing hazardous substances into the environment at receiver sites.

As a summary and to emphasise the source pathway receptor model:

Source – TTH accept hazardous wastes and due to the large volume of waste stockpiled, they are unable to store and treat waste in accordance to approved procedures. This creates a risk of hazardous substances leaving site without the appropriate controls.

Pathway – TTH have failed to accurately classify and validate waste removed from site. This is evident through a review of the duty of care paperwork and quarterly waste returns.

Receptor – risk of Waste from the TTH has been deposited in two known locations that are not permitted to accept hazardous waste.

The purpose of Notice is to provide a protective response and prevent the risk of pollution occurring.

(d) particularise the specific “hazardous wastes” that led to the decision to serve the Notice (and provide related evidence) and give detail as to how these “hazardous wastes” were factored into your risk assessment and analysis (including using the source-pathway-receptor model);

No particular hazardous wastes led to the decision to serve the Notice. The Notice was served as a result of the quantity of waste on site which restricts TTH ability to treat waste in accordance with permit conditions. To comply with the Notice TTH is required to reduce the quantity of waste to 5,250 tonnes which will provide the space for individual waste streams to be treated separately.

(e) confirm that the officers involved in the decision-making process had relevant and specific technical expertise in relation to the specialist waste management operations carried out at our client’s installation and provide details of this expertise;

The officers involved in regulating TTH are experienced officers with expertise in regulating a range of complex waste management facilities. Whilst it is helpful for an officer to have specialist knowledge on a specific treatment process, it is not essential when assessing permit compliance.

The decision to serve a Notice is not down to one officer but a process of reviews and checks through several tiers of management and the NRW legal team.

(f) advise if third-party consultants were instructed on this matter, or if not, whether this was considered and why it was rejected; and

NRW did not consider it necessary to seek the advice of third-party consultants. The Notice was served as a result of permit non-compliance and therefore, as the Regulator, we do not require advice from a third party.

With regards to an assessment of the quantity of waste, in an email on 23rd June 2020 Mr. Farr estimated there to be 9,000 to 9,500 tonnes of waste stockpiled within the building. Officers attended and completed a basic volumetric assessment and were content with the estimation provided by Mr. Farr. Had the officer’s calculations indicated a large discrepancy with the tonnage, NRW may have considered instructing a quantity surveyor at that time.

(g) confirm that legal advice was taken prior to service of the Notice, and in accordance with paragraph 3.53 of Natural Resource Wales’ Regulatory Guidance Note 11 (“RGN 11”), or, if not, why not.

Yes, legal advice was taken prior to serving the Notice in accordance to RGN 11.

Due to the extent and severity of the permit breaches at TTH, NRW deemed that a protective response was necessary, proportionate and justified. Whilst there are

other regulatory tools to return an operation into compliance, it was considered counterproductive to allow the operator to continue to accept waste when the quantity of waste is a fundamental factor in creating the issue. TTH is required to reduce the quantity of waste on site to permitted limits and must ensure that the waste is accurately classified and exported to suitably authorised facilities. #

The Notice is a partial suspension and therefore restricts the acceptance of waste only; it does not restrict other aspects of the permit allowing TTH to treat waste in the manner authorised by the permit.

NRW appreciates that TTH has applied to vary the permit to increase tonnage limits and change treatment processes and the delay in assessing the application has been far from ideal. However, permit variations cannot be pre-determined and TTH is required, and has been reminded, that they must comply with the existing permit conditions until the permit variation has been issued. It is the Operator's responsibility to understand the limitations of their permit and to make changes to the permit prior to them being implemented on site.

TTH has been aware for many years that a permit variation is required. As previously indicated the issue around storing excess volumes has been raised with TTH on previous occasions and the company themselves have acknowledged the need to update the permit and operating procedures to reflect activities on site.

- On the 19th July 2016 (Report ID: CAR_NRW0023790) TTH breach of permit for storing 8,800 tonnes of waste on site.
- On the 4th December 2017 (Report ID: CAR_NRW0032158) TTH breached for storing 5,600 tonnes of waste on site. It was agreed that the Section 4.8.3 of SOL0113ESP01 would be updated to reflect a tonnage of waste that better reflects the operations and capacity on site. This was to ensure that TTH remained compliant with condition 2.3.1 of the permit. TTH was to confirm a date for when Section 4.8.3 of SOL0113ESP01 will be updated by 6 October 2017.

In relation to your query regarding RGN 11. RGN 11 is an out of date Guidance Note and is currently being reviewed by NRW. As previously indicated, RGN 11 is based on the Environmental Permitting (England and Wales) Regulations 2010 (EPR 2010). EPR 2010 did not have the ability to serve a Regulation 37(1) and (5) Suspension Notice based on breach of permit conditions and risk of pollution.

EPR 2016 states;

(5) If the regulator considers that the manner of operating a regulated facility contravenes an environmental permit condition, and that such contravention involves a risk of pollution or, in the case of a flood risk activity, a risk specified in paragraph (6), it may serve a suspension notice on the operator.

(6) The following are risks specified for the purposes of paragraph (5)--

- (a) risk of flooding;
- (b) risk of detrimental impact on drainage;

(c) risk of harm to the environment.

As the “judgement” at Paragraph 3.45 of RGN 11 is based on EPR 2010 we cannot agree that it applies in full to Regulation 37(5) of EPR 2016. Paragraph 3.3.5 of RGN 11 states “suspension notice can be used where something has already happened to cause a risk of serious pollution or where we consider something is likely to happen that will cause a risk of serious pollution”. Therefore, when RGN 11 applied, it would not always have been possible to apply the judgement in paragraph 3.45; when dealing with something that is “likely to happen”, it would not be possible to show the “effects on the environment or health”. For Reg 37(5), NRW has to show that there is a breach of permit condition that involves a “risk of pollution”. The “risk” of pollution does not require NRW to demonstrate an actual pollution.

The “judgement” confers that NRW should “demonstrate that there is some reasonable likelihood that these risks could have a long-term negative impact or a significant immediate detrimental effect”. NRW would submit that “long term negative impact or a significant immediate detrimental effect” is in relation to “serious pollution” and does not apply in this instance. For Reg 37(5) NRW is only required to demonstrate that there is a “risk” of pollution caused by the condition breach.

The “risk” of pollution, as described in detail above, is a consequence of the volumes of waste stored on site. TTH are unable to segregate or treat wastes in accordance to approved and authorised procedures. As a result, they are unable to demonstrate that hazardous substances, within accepted wastes streams, no longer pose a risk to the environment. Hazardous wastes can only be deposited at receiver sites that have the correct permit, control measures and infrastructure to prevent pollution. Without such controls, there will always be a “risk” of these wastes impacting the environment and causing a pollution.

NRW does not take the issuing of suspension Notices lightly but considered it necessary to restrict further waste being accepted and removed from site without the appropriate assessments and controls. It does not consider it appropriate to withdraw the Notice and urges TTH to focus on complying with the steps listed in the Notice schedules. It is positive to hear that the operator wishes to engage in dialogue to address our concerns. NRW is still in the process of investigating parts of the operation and appreciate the Company’s co-operation. To further this we will be inviting the Director Mr. Simon Farr in for formal interview under PACE and this will be communicated separately.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'J Chapman', written in dark ink.

JANE CHAPMAN
PRINCIPAL SOLICITOR

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ANNEX A

(Report ID: CAR_NRW0036053)

Compliance Assessment Report

Report ID:
CAR_NRW0036053

This form will report compliance with your permit as determined by an NRW officer

Site	Building 2	Permit Ref	ZP3933NJ		
Operator/Permit holder	The Treatment Hub Limited				
Regime	Installations				
Date of assessment	29/10/2019	Time in	11:00	Out	13:00
Assessment type	Audit				
Parts of the permit assessed	Operational area				
Lead officer's name	Bacon-Weekes, Liane				
Accompanied by					
Recipient's name/position	Simon Farr/ Director	Date issued	18/12/2019		

Section 1 – Compliance Assessment Summary

This is based on the requirements of the permit under the Environmental Permitting Regulations or the licence under the Water Resources Act 1991 as amended by the Water Act 2003. A detailed explanation is captured in "Compliance Assessment Report Detail" (Section 2) and any actions you may need to take are given in the "Action(s)" (section 4). This summary details where we believe any non-compliance with the permit has occurred, the relevant condition and how the non-compliance has been categorised using our Compliance Classification Scheme (CCS). CCS Scores can be consolidated or suspended where appropriate, to reflect the impact of some non-compliances more accurately. For more details of our CCS scheme, contact your local office.

Permit conditions and compliance summary	CCS Category	Condition(s) breached
A1 - Specified by permit	C2	2.3.1 (a)
	C2	2.3.6
C2 - General Management - Management system and operating procedures	C2	2.3.4
	C2	1.1.1 (a)

KEY: See Section 5 for breach categories, suspended scores will be indicated as such.

A = Assessed or assessed in part (no evidence of non-compliance), **X** = Action only,

O = Ongoing non-compliance, not scored.

Number of breaches recorded	4	Total compliance score (see section 5 for scoring scheme)	124
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If the Number of breaches recorded is greater than zero, please see Section 3 for our proposed enforcement response

Section 2 – Compliance Assessment Report Detail

This section contains a report of our findings and will usually include information on:

- The part(s) of the permit that were assessed (eg. Maintenance, training, combustion plant, etc)
- Where the type of assessment was 'Data Review' details of the report/results triggering the assessment
- Any non-compliances identified
- Any non-compliances with directly applicable legislation
- Details of any multiple non-compliances
- Information on the compliance score accrued inc.
- Details of advice given
- Any other areas of concern
- Any actions requested
- Any examples of good practice
- A reference to photos taken

Site Description

The Treatment Hub operates a waste recovery installation for the treatment and processing of granular hazardous and non-hazardous wastes, primarily filter cakes and contaminated soils. It uses a propriety treatment and recovery technology that utilises modified clay formulations referred to as Environmental-Clays. The modified clays incorporate reactive agents that chemically immobilise materials within the clays. Chemical and Cementitious additives can also be added to the process to improve the physical and chemical properties of the treated wastes.

Each batch of waste accepted should be tested prior to treatment so that the additives and process can be tailored depending on the chemical and physical properties of each batch.

All activities are to take place within a building with an impermeable surface and sealed drainage system.

Purpose of visit /inspection

The Treatment Hub has recently moved regulation from the South West Waste Team to the South West Industry Regulation Team. A site compliance visit was undertaken on the 29th October 2019, the purpose of which was to assess general compliance with the environmental permit EPR/ZP3933NJ and to gain a general overview of the operations. The operational areas inspected included the main building used for the acceptance, treatment and storage of wastes and the new proposed building for which a new permit has been applied for. A partial review of Duty of Care paperwork was also undertaken.

Person(s) Present

Simon Farr (SF) (Director)

Phillip Rees (PR) (Consultant and TCM to The Treatment Hub Ltd)

Liane Bacon-Weekes (LBW) (Natural Resources Wales).

Permit Compliance Assessment

During the site inspection several non-compliances were identified, the details of which are recorded below.

1.0: Condition 2.3.1 of your permit states:

"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"

Table S1.2 Operating techniques

Description	Parts	Date Received
EPR 1 - How to Comply With Your Environmental Permit.	All	N/A
Application supporting document SOL0113ESP01 received as part of application EPR/ZP3933NJ/A001	All	14/03/13

During the inspection non-compliance relating to the application supporting document SOL0113ESP01 include:

1.1: Waste Quantity

At the time of the inspection, it was evident that a large quantity of waste was being stored on site (see photographs below). Much of building had been filled with treated and non-treated wastes which ran down the length of the building. The bottom section of the building and the lower doors could not be accessed. It was noted by SF that in recent months there had been an increase in business that had resulted in the site accepting more waste than it could treat and remove. It was estimated that there was in excess of 12,000 tonnes of waste on site, but an accurate total quantity could not be provided.



Section 4.8.3 of the application supporting document SOL0113ESPOL states that no more than 5,250 tonnes of material will be stored internally at any one time.

The issue of storing waste in quantities greater than 5,250 tonnes has been raised and breached in two previous Compliance Assessment Reports (CAR) (Report ID: CAR_NRW0023790 and CAR_NRW00325158). On the 18th August 2017 it was agreed on that SOL0113ESP01 would be reviewed and updated to reflect a tonnage of waste that better reflected the operations and capacity of the site and a date by which this would be completed was to be submitted to NRW by 6th October 2017. NRW has not received an updated document and therefore the 5,250 limit remains.

ACTION: You are required to reduce the quantity of waste on site. You must ensure that an appropriate outlet is identified, and that accurate and detailed records are kept for the waste being removed. This should include, but not limited to, an accurate classification of the waste that is supported with appropriate laboratory testing. Confirmation that the receiving site has the relevant authorisations to accept the waste and a copy of the accompanying Duty of Care Paperwork. All records are to be made available for inspection by NRW. You are required to submit a plan on how this will be achieved by 12:00 noon Friday 31st January 2020.

A permit variation is required to up-date the document SOL0113ESP01. Please be mindful that although the waste storage quantity limit can be increased, it will still need to be stored in a manner that complies with other permit conditions.

1.2: Storage

In section 3.3.3 of the application supporting document SOL0113ESPOL it states that upon arrival, materials will be stockpiled within a dedicated bunded containment pad and that each stockpile will represent a single batch of material and subsequently be allocated a unique batch reference which will be retained throughout the treatment lifecycle. The unique batch reference allows the following information to be collated:

- Period of time when the waste feedstock was produced;
- Quantities of “as received” waste feedstock;
- Analytical data relating to the “as received” waste feedstock;
- Details of treatment operation;
- Analytical data relating to the treated material;
- Date shipped offsite, associated quantities and customer.

During the inspection it was evident that the quantity of waste on site had caused the pre-treated waste to merge to form one stockpile. Markers can be seen on the waste but during this inspection we did not cross reference them with batch reference numbers or the review the information retained through the treatment process.



ACTION: You are required to ensure that incoming wastes are stored in clearly separated stockpiles within the ‘untreated area’ of the building until it is scheduled for treatment. Each stockpile must have a unique identity reference that is retained throughout the treatment lifecycle. There should be a clear audit trail for waste being received, treated and removed from site. It is apparent that this level of detail is not being collated and therefore you are required to submit details on how you propose to address this. Please submit this information by 12:00 noon Friday 31st January 2020.

1.3: Waste Treatment

Section 3.3.4 states that upon acceptance waste will be stockpiled into batches in readiness for treatment. It notes

that the treatment operation will be carried out within an engineered containment cell comprising of a concrete bund and involve both chemical and physical treatment. The treatment process is explained within this section of the document and notes that once the modified clays have been added that the mixed and treated materials will be stockpiled into individual batches and covered with a membrane to prevent the release of any volatile contaminants. Figure 3.4 below shows the treatment operation schematically.

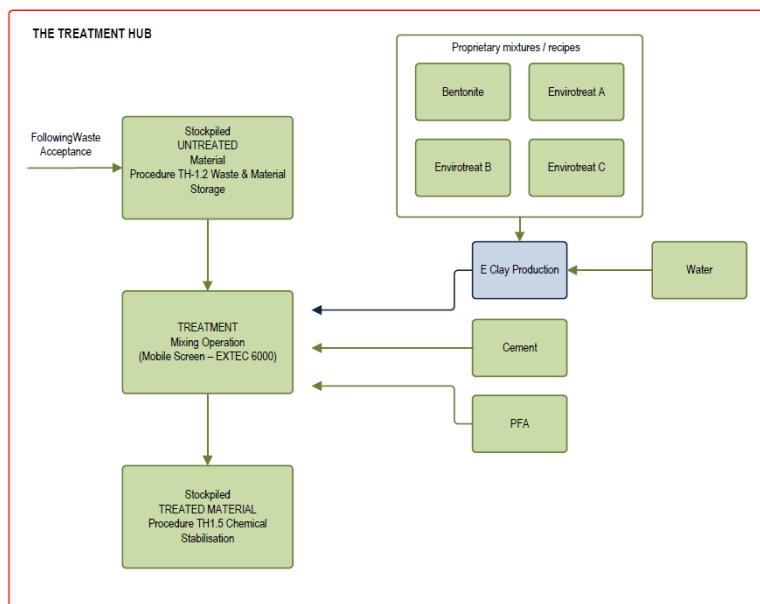


Figure 3.4 Treatment

During the inspection it was evident that treatment was not occurring as described in the operating techniques, and SF confirmed that the above treatment process was not being carried out on all waste streams. TPH contaminated soils, for example, were merely undergoing bio-remediation (via weathering) as a previous test had shown that adding further additives did not assist the treatment process and that natural bio-remediation often worked faster.

If you wish to change any of the treatment processes authorised in your permit, you are required to submit a permit variation. This application should include a revised and updated operating technique and Environmental Management System. It is advisable that you also submit any evidence-based studies on the proposed treatment activity, to support the application.

ACTION: You are required to submit a permit variation to up-date and reflect current site operations. NRW must receive this application by 12:00 noon 28th February 2020.

Failure to operate the facility using the techniques and, in a manner, described in the document SOL0113ESP01 as listed in table S1.2 is considered a significant permit is a breach of permit condition 2.3.1. This has been scored a CCS2 under A1 Sub-criteria (Specified by permit).

2.0: Condition 2.3.6 of your permit states:

“Hazardous wastes shall not be mixed, either with a different category of hazardous waste or with other wastes, substances or materials, unless it is authorised by schedule 1 table S1.1 and appropriate measures are taken”.

During the inspection it was confirmed that wastes from different sources are mixed prior to treatment contrary to the original operating techniques. If you do wish to mix hazardous waste, you must be able to demonstrate that the mixing of these wastes is the best available technique. Non-hazardous waste should not be mixed with hazardous waste. I refer you to the following guidance:

<https://www.gov.uk/guidance/hazardous-waste-segregation-and-mixing#mixing-of-hazardous-waste-is-prohibited>

Please ensure any new operating techniques adhere to the guidance.

This activity is not permitted in schedule 1 table S1.1 and is therefore a breach of this permit condition.

Table S1.1 activities			
Activity reference	Activity listed in Schedule 1 of the EP Regulations	Description of specified activity and WFD Annex I and II operations	Limits of specified activity and waste types
A1	S5.3A(1)(a)	Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving: (ii) Physico-chemical treatment (vi) Recycling or reclamation of inorganic materials other than metals or metal compounds. R5 & R3.	From receipt of raw materials and waste to despatch of finished product or disposal / recovery of treated waste. Only waste types as specified in Table S2.1 shall be accepted. All treatment of waste shall take place on an impermeable surface with a sealed drainage system.

Activity S5.3A(1)(a)(iii) - blending or mixing prior to submission to any of the other activities listed in 5.3 or in Section 5.1 is not listed as a treatment activity within the permit.

ACTION: You are required to cease this activity. A permit variation is required to blend and mix waste prior to other activities listed in Section 5.3 or 5.1 of EPR 2016 and you must demonstrate that the mixing of these wastes is the best available technique. NRW must receive this application by 12:00 noon 28th February 2020.

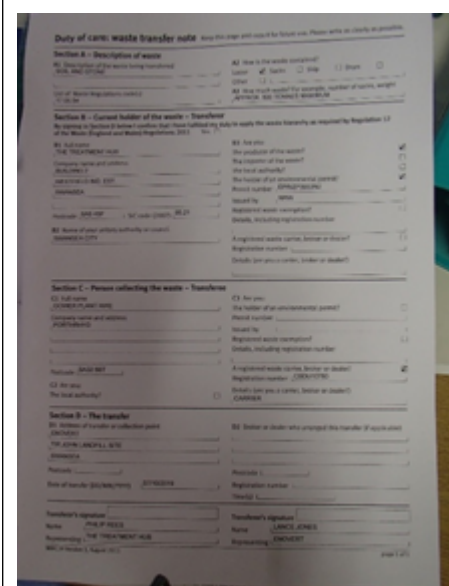
Mixing/blending hazardous wastes with other hazardous waste and non-hazardous wastes is considered a significant breach of permit condition 2.3.6. This has been scored a CCS2 under A1 Sub-criteria (Specified by permit).

3.0: Permit Condition 2.3.4 states:

“The operator shall ensure that where waste produced by the activities is sent to a relevant waste operation, that operation is provided with the following information, prior to the receipt of the waste.

- a. the nature of the process producing the waste;
- b. the composition of the waste;
- c. the handling requirements of the waste;
- d. the hazardous property associated with the waste, if applicable; and
- e. the waste code of the waste”.

A full review on whether the above information is provided for waste leaving the site was not undertaken. However, after a brief review of the duty of care paperwork, it was evident that there were errors with its completion and some miscoding of waste. As can be seen in the photographs below European Waste Classification (EWC) chapter 17 code has been used to code waste leaving site. On some paperwork no EWC code has been provided. Any waste that has undergone treatment should be coded as a chapter 19 code.



ACTION: Please ensure that the required information is provided to the authorised facilities receiving your waste and ensure that it is supported the required duty of care paperwork. This is to be implemented with immediate effect.

Failure to correctly code the waste leaving site is considered a significant breach of permit condition 2.3.4. This has been scored a CCS2 under C3 Sub-criteria (Management Systems).

4.0 Permit Condition 1.1.1 states:

The operator shall manage and operate the activities:

- in accordance with a written management system that identifies and minimises risks of pollution, including those arising from operations, maintenance, accidents, incidents, non-conformances, closure and those drawn to the attention of the operator as a result of complaints; and
- using sufficient competent persons and resources.

Within the Environmental Management System (EMS) (Section 1.2 rev 0 (Sept 2013)) it states that remediation reagents will be stored on an integral concrete slab and suitably bunded and that any spillages will be cleaned up immediately. During the inspection it was evident that this was not occurring. IBCs were stored in a manner that

showed damage, spillage with a poor level of housekeeping. Photograph showing this can be seen below.



ACTION: You are required to clear this area and store reagents in the way that is stipulated in the EMS. Please submit to NRW an overview on how this will be completed along with an appropriate risk assessment for the activity. Please submit this information by 12:00 noon Friday 31st January 2020.

During compliance work we will identify non-conformances that are symptoms of underlying problems and seek to identify the root cause of any issues. In most cases the root cause of permit breaches is poor management. As highlighted above all the non-compliances are the result of failing to follow control measures and identify and prevent permit breaches. Any changes in activities should be reflected by reviewing and updating operating techniques and management systems.

During the inspection several non-compliances were identified. Key control measures were not being followed and operating techniques and management systems were not reflective of the operation on site. Site issues and permit breaches were not recognised or rectified and is a symptom of poor management procedures. Failure to follow key measures and operate the facility in accordance to the management systems is a breach of permit condition 1.1.1(a) This has been scored a CCS2 under C2).

The photographs included in this compliance form were taken during the site inspection. A notice of power and rights was issued for the photographs.

Any compliance criteria not highlighted in the above summary should be considered as not assessed.

END.

EPR Compliance Assessment Report

**Report ID:
CAR_NRW0036053**

This form will report compliance with your permit as determined by an NRW officer

Site	Building 2	Permit Ref	ZP3933NJ
Operator/Permit holder	The Treatment Hub Limited	Date	29/10/2019

Section 3 – Enforcement Response

You must take immediate action to rectify any non-compliance and prevent repetition. Non-compliance with your permit conditions constitutes an offence and can result in criminal prosecutions and/or suspension or revocation of a permit. Please read the detailed assessment in Section 2 and the steps you need to take in Section 4 below.

We will now consider what enforcement action is appropriate and notify you, referencing this form.

Section 4 – Action(s)

This section summarises the actions identified during the assessment along with the timescales for when they will need to be completed.

Criteria Ref.	CCS Category	Action required/advised	Due Date
See Section 1 above			
A1	C2	Submit details on new operations and submit a permit variation to reflect changes.	31/01/2020
A1	C2	Cease this activity. a permit variation is required to mix hazardous wastes.	28/02/2020
C2	C2	Please ensure that the required information is supplied to the receiving site.	16/12/2019
C2	C2	Store reagents in a manner stipulated in EMS. Submit a plan that commits and highlights how operations will return to compliance.	31/01/2020

Section 5 – Compliance notes for the Operator

To ensure you correct actual or potential non-compliance we may

- Advise on corrective actions verbally or in writing
- Require you to take specific actions verbally or in writing
- Issue a notice
- Require you to review your procedures or management system
- Change some of the conditions of your permit
- Decide to undertake a full review of your permit

Any breach of a permit condition is an offence and we may take legal action against you

- We will normally provide advice and guidance to assist you to come back into compliance either after an offence is committed or where we consider that an offence is likely to be committed. This is without prejudice to any other enforcement response that we consider may be required.
- Enforcement action can include the issue of a formal caution, prosecution, the service of a notice and/or suspension or revocation of the permit.

See our Enforcement and Civil Sanctions guidance for further information

This report does not relieve the site operator of the responsibility to

- Ensure you comply with the conditions of the permit at all times and prevent pollution of the environment
- Ensure you comply with other legislative provisions which may apply

Non-compliance scores and categories

CCS category	Description	Score
C1	A non-compliance that could have a major environmental effect	60
C2	A non-compliance which could have a significant environmental effect	31
C3	A non-compliance which could have a minor environmental effect	4
C4	A non-compliance which has no potential environmental effect	0.1

Operational Risk Appraisal (Opra) - Compliance assessment findings may affect your Opra score and/or your charges. This score influences the resource we use to assess permit compliance.

Section 6 – General information

Data protection notice

The information on this form will be processed by the Natural Resources Wales (NRW) to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s). The NRW may also use and/or disclose it in connection with:

- Offering/providing you with its literature/services relating to environmental matters
- Consulting with the public, public bodies and other organisations (eg. 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 its service
- Freedom of Information Act/Environmental Regulations request

The NRW may pass it on to its agents/representatives to do these things on its behalf. You should ensure that any persons named on this form are informed of the contents of this data protection notice.

Disclosure of information

The NRW will provide a copy of this report to the public register(s). However, if you consider that any information contained in this report should not be released to the public register(s) on the grounds of commercial confidentiality, you must write to your local area office within fifteen working days of receipt of this form indicating which information it concerns and why it should not be released, giving your reasons in full.

Customer charter

What can I do if I disagree with this compliance assessment report?

If you are unable to resolve the issue with your site officer, you should firstly discuss the matter with officer's line managers using the informal appeals procedure. If you wish to raise your dispute further through our official Complaints and Commendations procedure, phone our general enquiry number 0300 065 3000 (Mon to Fri 08.00 – 18.00) and ask for the Customer Contact team or send an email to enquiries@naturalresourceswales.gov.uk. If you are still dissatisfied you can make a complaint to the Public Services Ombudsman for Wales. For advice on how to complain to the Ombudsman phone their helpline on 0845 607 0987.

Welsh Language

If you would like this form in Welsh please contact your Regulatory Officer.

ANNEX B

Photographs from inspection 29/10/19







ANNEX C

(Report ID: CAR_NRW0023790 and CAR_NRW00325158)

Compliance Assessment Report

Report ID:
CAR_NRW0023790

This form will report compliance with your permit as determined by an NRW officer

Site	Building 2	Permit Ref	ZP3933NJ		
Operator/Permit holder	The Treatment Hub Limited				
Regime	Installations				
Date of assessment	19/07/2016	Time in	10:30	Out	11:45
Assessment type	Audit				
Parts of the permit assessed	Permitted area and EMS				
Lead officer's name	Davies, Gareth				
Accompanied by					
Recipient's name/position	Simon Farr/ Site Manager	Date issued	25/07/2016		

Section 1 – Compliance Assessment Summary

This is based on the requirements of the permit under the Environmental Permitting Regulations. A detailed explanation is captured in "Compliance Assessment Report Detail" (Section 2) and any actions you may need to take are given in the "Action(s)" (section 4). This summary details where we believe any non-compliance with the permit has occurred, the relevant condition and how the non-compliance has been categorised using our Compliance Classification Scheme (CCS). CCS Scores can be consolidated or suspended where appropriate, to reflect the impact of some non-compliances more accurately. For more details of our CCS scheme, contact your local office.

Permit conditions and compliance summary	CCS Category	Condition(s) breached
A1 - Specified by permit	A	
B1 - Infrastructure - Engineering for prevention and control of emissions	A	
C2 - General Management - Management system and operating procedures	C3	1.1.1
C3 - General Management - Materials acceptance	C3	2.3.1
D1 - Incident Management - Site security	A	
F1 - Amenity - Odour	A	
F2 - Amenity - Noise	A	
F3 - Amenity - Dust/fibres/particulates and litter	A	
F4 - Amenity - Pests/birds and scavengers	A	
F5 - Amenity - Deposits on road	A	

KEY: See Section 5 for breach categories, suspended scores will be indicated as such.

A = Assessed or assessed in part (no evidence of non-compliance), **X** = Action only,

O = Ongoing non-compliance, not scored.

Number of breaches recorded	2	Total compliance score (see section 5 for scoring scheme)	8
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If the Number of breaches recorded is greater than zero, please see Section 3 for our proposed enforcement response

Section 2 – Compliance Assessment Report Detail

This section contains a report of our findings and will usually include information on:

- The part(s) of the permit that were assessed (eg. Maintenance, training, combustion plant, etc)
- Where the type of assessment was 'Data Review' details of the report/results triggering the assessment
- Any non-compliances identified
- Any non-compliances with directly applicable legislation
- Details of any multiple non-compliances
- Information on the compliance score accrued inc.
- Details of advice given
- Any other areas of concern
- Any actions requested
- Any examples of good practice
- A reference to photos taken

Present

Simon Farr (SF) – The Treatment Hub Limited

Phillip Rees (PR) – Consultant and TCM to the Treatment Hub Limited

Gareth Davies (GD) – Natural Resources Wales

The purpose of the compliance visit was to assess compliance with the environmental permit EPR/ZP3933NJ held by The Treatment Hub Limited.

The photographs included in this Compliance Assessment Report were taken during a visit undertaken on 21 June 2016. There was no representative from The Treatment Hub Limited on site at the time. A separate Compliance Assessment Report has not been produced for this visit.

Waste Storage

While on site there was a large quantity of soil material currently being stored on site. This can be seen in the photographs below.



During the site meeting on 19 July 2016, SF estimated that there was approximately between 8800 and 9200 tonnes of material on site, of which 3500 tonnes has been treated. The remaining material has not been treated. The material will be treated once an outlet has been identified and a specification set.

The storage of greater than 5,250 tonnes is a breach of condition 2.3.1 and Table S1.2 that requires you to operate in accordance with application supporting document SOL0113ESP01. Section 4.8.3 of document SOL0113ESP01 states that no more than 5,250 tonnes of material will be stored internally at any one

time. **This has been scored a CCS3 under General Management – C3 Material acceptance.**

This is also a breach of condition 1.1.1, where the written management system has failed to identify and prevent a non-conformance with the permit from occurring. **This has also been scored a CCS3 under General Management – C2 Management system & operating procedures.**

A large amount of material was taken off site to a number of locations under CL:AIRE Declarations, with a small amount taken to landfill in order to create space to import further material.

SF confirmed that The Treatment Hub Limited were looking at a number of options that would facilitate the removal of a large amount of the material. A load of 500 tonnes was arranged for removal during the visit.

Pre-acceptance

SF confirmed that The Treatment Hub Limited had not accepted any hazardous waste and any waste had been below the relevant hazardous waste thresholds for the contaminants identified.

The amount of sampling requested prior to acceptance is based on the type of material. If material for example is accepted from a domestic oil spill (kerosene) then the amount of testing is not as great as if the material is accepted from a source with a number of potential contaminants. More detailed site investigation and analysis is requested if loads are greater than 1000 tonnes are accepted.

SF showed an example of a load of waste that was accepted following a domestic oil spill and the relevant waste acceptance paperwork completed on site.

Chemtest
The right chemistry to deliver results

Project: Questgate Capel Issac

Client: Natural Solutions	Chemtest Job No.: 16-17697			
Quotation No.: 10983	Chemtest Sample ID.: 173029			
Order No.: 10983	Client Sample Ref.: Capel Issac			
	Client Sample ID.: SS1			
	Sample Type: SOIL			
	Top Depth (m):			
	Bottom Depth (m):			
	Date Sampled: 12-Apr-16			
Determinand	Assayed	SOP	Units	LOD
Moisture	N	2030	%	0.02
TPH >C6-C10	N	2570	mg/kg	1
TPH >C10-C21	N	2570	mg/kg	1
TPH >C21-C40	N	2570	mg/kg	1
Total TPH >C6-C40	U	2570	mg/kg	10

The Hub
Advanced material treatment, remediation and recycling technology
Contaminated Soils / Waste Stream Treatment Form

Contaminated Soil / Waste Stream Description:
Oil contaminated soil from Capel Issac (washed soils)

Assigned Batch Number:	16-04-004
Estimated Volume:	
Contaminated Soils / Waste Stream Evaluation Form Complete	Signed: [Signature] Date: 15/4/16
Waste Pre Acceptance Protocol followed (attach details)	Signed: [Signature] Date: 21/4/16
Waste Acceptance Protocol followed (attach details)	Signed: [Signature] Date: 21/4/16

Treatment	Actual quantity of reagent used	Batch Number(s)	Estimated quantity of reagent used
Cement			
Bentonite			
Envirostream A			
Envirostream B			
Envirostream C			
Signed		Date	

Validation (include CoA's)

Does material meet pre-determined validation protocol	
Volume Treated	
Signed	Date

Shipment (include dockets)

Date released	
Volume	
Destination	
Signed	Date

The HUB

Advanced material treatment, remediation and recycling technology

Contaminated Soils Evaluation Form (Page 1 of 2)

Client: NATURAL SOILS (THE WALLS)	
Brief details of contaminated soils (including waste code): oil spill	
Source / location:	Capel 1552C
Estimated volume:	30 tonnes ACTUAL 26.78t
Contamination (analyse, WAC status):	See attached
Asbestos analysis:	NO
Site visit required:	NO
Additional analysis required:	NO
Signed:	Date: 15/4/16

Treatability required (if not, brief description of reason): NO	
Treatability findings (if applicable): N/A	
Proposed end usage: LANDFILL (WATER) OR LESS RECYCLING	
Signed:	Date: 15/4/16

The HUB

Advanced material treatment, remediation and recycling technology

Contaminated Soils Evaluation Form (Page 2 of 2)

Acceptance Protocol	
Waste pre-acceptance requirements: SEE ATTACHED	
Waste acceptance requirements: NO HAZARDOUS WASTE	
Testing frequency: Waste pre-acceptance: ONCE Waste acceptance: EVERY LOAD	
Signed:	Date: 15/4/16

Proposed Treatment	
	Actual quantity of material used
Cement	
Bentonite	
Environment A	
Environment B	
Environment C	
Treatment methodology	
Validation Protocol	
Signed:	Date:

A visual check is completed when the material is accepted on site. This is to ensure that it appears to be as described and as highlighted during any site investigation, such as does the material generate odour that would not be accepted based on the information provided.

For each of the loads that are accepted a specific formulation of raw materials will be added to the waste to achieve the target remediation levels. The remediation levels are based on the contaminants included in the waste and the intended use for the material.

Specific contractors are used to carry out the remediation works on site. Contractors receive training and will be provided with the specific formulation of raw materials. During the remediation process checks are carried out to ensure the correct amounts of raw materials are being used. PR attends site to monitor activities on site when remediation is being undertaken.

Any compliance criteria not highlighted in the above summary should be considered as not assessed.

END

In this document 'Natural Resources Wales' means the Natural Resource Body for Wales established by Article 3 of the Natural Resource Body for Wales (Establishment) Order 2012.

EPR Compliance Assessment Report

**Report ID:
CAR_NRW0023790**

This form will report compliance with your permit as determined by an NRW officer

Site	Building 2	Permit Ref	ZP3933NJ
Operator/Permit holder	The Treatment Hub Limited	Date	19/07/2016

Section 3 – Enforcement Response

You must take immediate action to rectify any non-compliance and prevent repetition. Non-compliance with your permit conditions constitutes an offence and can result in criminal prosecutions and/or suspension or revocation of a permit. Please read the detailed assessment in Section 2 and the steps you need to take in Section 4 below.

Section 4 – Action(s)

This section summarises the actions identified during the assessment along with the timescales for when they will need to be completed.

Criteria Ref.	CCS Category	Action required/advised	Due Date
See Section 1 above			
C3	C3	Please provide an action plan outlining how the tonnage of material on site will be brought down to 5250 tonnes.	30/09/2016
C2	C3	Please provide an action plan outlining how the tonnage of material on site will be brought down to 5250 tonnes.	30/09/2016

Section 5 – Compliance notes for the Operator

To ensure you correct actual or potential non-compliance we may

- Advise on corrective actions verbally or in writing
- Require you to take specific actions verbally or in writing
- Issue a notice
- Require you to review your procedures or management system
- Change some of the conditions of your permit
- Decide to undertake a full review of your permit

Any breach of a permit condition is an offence and we may take legal action against you

- We will normally provide advice and guidance to assist you to come back into compliance either after an offence is committed or where we consider that an offence is likely to be committed. This is without prejudice to any other enforcement response that we consider may be required.
- Enforcement action can include the issue of a formal caution, prosecution, the service of a notice and/or suspension or revocation of the permit.

See our Enforcement and Civil Sanctions guidance for further information

This report does not relieve the site operator of the responsibility to

- Ensure you comply with the conditions of the permit at all times and prevent pollution of the environment
- Ensure you comply with other legislative provisions which may apply

Non-compliance scores and categories

CCS category	Description	Score
C1	A non-compliance that could have a major environmental effect	60
C2	A non-compliance which could have a significant environmental effect	31
C3	A non-compliance which could have a minor environmental effect	4
C4	A non-compliance which has no potential environmental effect	0.1

Operational Risk Appraisal (Opra) - Compliance assessment findings may affect your Opra score and/or your charges. This score influences the resource we use to assess permit compliance.

Section 6 – General information

Data protection notice

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- Consulting with the public, public bodies and other organisations (eg. 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 its service
- Freedom of Information Act/Environmental Regulations request

The NRW may pass it on to its agents/representatives to do these things on its behalf. You should ensure that any persons named on this form are informed of the contents of this data protection notice.

Disclosure of information

The NRW will provide a copy of this report to the public register(s). However, if you consider that any information contained in this reports should not be released to the public register(s) on the grounds of commercial confidentiality, you must write to your local area office within twenty working days of receipt of this form indicating which information it concerns and why it should not be released, giving your reasons in full.

Customer charter

What can I do if I disagree with this compliance assessment report?

If you are unable to resolve the issue with your site officer, you should firstly discuss the matter with officer's line managers using the informal appeals procedure. If you wish to raise your dispute further through our official Complaints and Commendations procedure, phone our general enquiry number 0300 065 3000 (Mon to Fri 08.00 – 18.00) and ask for the Customer Contact team or send an email to enquiries@naturalresourceswales.gov.uk. If you are still dissatisfied you can make a complaint to the Public Services Ombudsman for Wales. For advice on how to complain to the Ombudsman phone their helpline on 0845 607 0987.

Welsh Language

If you would like this form in Welsh please contact your Regulatory Officer.

Compliance Assessment Report

Report ID:
CAR_NRW0032158

This form will report compliance with your permit as determined by an NRW officer

Site	Building 2	Permit Ref	ZP3933NJ		
Operator/Permit holder	The Treatment Hub Limited				
Regime	Installations				
Date of assessment	18/08/2017	Time in	10:00	Out	11:00
Assessment type	Audit				
Parts of the permit assessed	Permitted Operations				
Lead officer's name	Davies, Gareth				
Accompanied by	Laura Phillips				
Recipient's name/position	Simon Farr/ Site Manager	Date issued	13/09/2017		

Section 1 – Compliance Assessment Summary

This is based on the requirements of the permit under the Environmental Permitting Regulations or the licence under the Water Resources Act 1991 as amended by the Water Act 2003. A detailed explanation is captured in "Compliance Assessment Report Detail" (Section 2) and any actions you may need to take are given in the "Action(s)" (section 4). This summary details where we believe any non-compliance with the permit has occurred, the relevant condition and how the non-compliance has been categorised using our Compliance Classification Scheme (CCS). CCS Scores can be consolidated or suspended where appropriate, to reflect the impact of some non-compliances more accurately. For more details of our CCS scheme, contact your local office.

Permit conditions and compliance summary	CCS Category	Condition(s) breached
A1 - Specified by permit	A	
B4 - Infrastructure - Containment of stored materials	A	
C2 - General Management - Management system and operating procedures	C3	1.1.1
C3 - General Management - Materials acceptance	C3	2.3.1
D1 - Incident Management - Site security	A	
F1 - Amenity - Odour	A	
F2 - Amenity - Noise	A	
F3 - Amenity - Dust/fibres/particulates and litter	A	

KEY: See Section 5 for breach categories, suspended scores will be indicated as such.

A = Assessed or assessed in part (no evidence of non-compliance), **X** = Action only,

O = Ongoing non-compliance, not scored.

Number of breaches recorded	2	Total compliance score (see section 5 for scoring scheme)	8
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If the Number of breaches recorded is greater than zero, please see Section 3 for our proposed enforcement response

Section 2 – Compliance Assessment Report Detail

This section contains a report of our findings and will usually include information on:

- The part(s) of the permit that were assessed (eg. Maintenance, training, combustion plant, etc)
- Where the type of assessment was 'Data Review' details of the report/results triggering the assessment
- Any non-compliances identified
- Any non-compliances with directly applicable legislation
- Details of any multiple non-compliances
- Information on the compliance score accrued inc.
- Details of advice given
- Any other areas of concern
- Any actions requested
- Any examples of good practice
- A reference to photos taken

Present

Simon Farr (SF) – The Treatment Hub Ltd (TTHL)

Phillip Rees (PR) – Consultant to The Treatment Hub Ltd

Gareth Davies (GD) – Natural Resources Wales

Laura Phillips (LP) – Natural Resources Wales

The purpose of the inspection was to assess compliance with the environment permit reference EPR/ZP3933NJ held by TTHL.

Operations on site had recently seen the removal of approximately 1600 tonnes of material. This material had been sent and used as part of a landfill restoration project. Due to TTHL's location it continues to accept a number of loads from remediation contractors involved in the removal of contaminated soil generated as a result of domestic heating tank spillages.

Operations are being carried out within the building and are within the permitted boundary, see photographs below.



The necessary plant and equipment is not held on site permanently. When treatment is scheduled to be carried out, then the plant and equipment is brought to site to carry out the treatment.

It was noted from the waste returns for Q1 and Q2 of 2017 that hazardous waste had been accepted from 2 locations, 1284 tonnes from Manchester and 143 tonnes from Cardiff. SF confirmed that appropriate hazardous waste assessments had been carried out for these waste types and agreed to share the analysis with NRW.

GD mentioned that there was no record of consignee returns having been received for the loads of hazardous waste received on NRW's consignee returns system. SF confirmed that these had not been submitted and it was an oversight rather than a deliberate intention not to submit. SF confirmed that these would be back dated as required. The above two sites were the only sources of hazardous waste received on site since operations began on site.

Further information on how to submit consignee returns can be found via the link below:

<http://naturalresourceswales.gov.uk/guidance-and-advice/environmental-topics/waste-management/hazardous-waste-returns/?lang=en>

As the failure to submit consignee returns is an offence under the Hazardous Waste (Wales) Regulations 2005 a warning letter will be issued. This does not impact on the compliance score for the permit held by TTHL.

Upon review of the waste returns it was also noted that 990 tonnes of material had been removed from site during both Q1 and Q2 of 2017. It was established that this was not the case for Q2 of 2017 and was an administrative error. Following discussion with officers within the waste returns team, please could a revised waste return be submitted to correctly reflect the waste received and removed during Q2 of 2017 by 31 October 2017.

It was estimated that there was approximately 5600 tonnes of material on site at present following the removal of an estimated 1600 tonnes in recent months.

The storage of greater than 5,250 tonnes is a breach of condition 2.3.1 and Table S1.2 that requires you to operate in accordance with application supporting document SOL0113ESP01. Section 4.8.3 of document SOL0113ESP01 states that no more than 5,250 tonnes of material will be stored internally at any one time. This has been scored a CCS3 under General Management – C3 Material acceptance.

This is also a breach of condition 1.1.1, where the written management system has failed to identify and prevent a non-conformance with the permit from occurring. This has also been scored a CCS3 under General Management – C2 Management system & operating procedures.

It was agreed that the Section 4.8.3 of SOL0113ESP01 would be updated to reflect a tonnage of waste that better reflects the operations and capacity on site. This will ensure that TTHL remain compliant with condition 2.3.1 of the permit. Please confirm a date for when Section 4.8.3 of SOL0113ESP01 will be updated by 6 October 2017.

SF also noted that they were looking at using a further additive to the TPH contaminated soils to accelerate the treatment process. Further clarity will be provided via a separate e-mail as to whether a permit variation will need to be undertaken prior to this additive being used on site.

Any compliance criteria not highlighted in the above summary should be considered as not assessed.

In this document 'Natural Resources Wales' means the Natural Resource Body for Wales established by Article 3 of the Natural Resource Body for Wales (Establishment) Order 2012.

END

EPR Compliance Assessment Report

**Report ID:
CAR_NRW0032158**

This form will report compliance with your permit as determined by an NRW officer

Site	Building 2	Permit Ref	ZP3933NJ
Operator/Permit holder	The Treatment Hub Limited	Date	18/08/2017

Section 3 – Enforcement Response

You must take immediate action to rectify any non-compliance and prevent repetition. Non-compliance with your permit conditions constitutes an offence and can result in criminal prosecutions and/or suspension or revocation of a permit. Please read the detailed assessment in Section 2 and the steps you need to take in Section 4 below.

In respect of the above non-compliance you have been issued with a warning. At present we do not intend to take further enforcement action. This does not preclude us from taking additional enforcement action if further relevant information comes to light or offences continue.

Section 4 – Action(s)

This section summarises the actions identified during the assessment along with the timescales for when they will need to be completed.

Criteria Ref.	CCS Category	Action required/advised	Due Date
See Section 1 above			
C3	C3	A date for when the written management system shall be updated to be provided to NRW for agreement by 6 October 2017	06/10/2017
C2	C3	A date for when the written management system shall be updated to be provided to NRW for agreement by 6 October 2017	06/10/2017

Section 5 – Compliance notes for the Operator

To ensure you correct actual or potential non-compliance we may

- Advise on corrective actions verbally or in writing
- Require you to take specific actions verbally or in writing
- Issue a notice
- Require you to review your procedures or management system
- Change some of the conditions of your permit
- Decide to undertake a full review of your permit

Any breach of a permit condition is an offence and we may take legal action against you

- We will normally provide advice and guidance to assist you to come back into compliance either after an offence is committed or where we consider that an offence is likely to be committed. This is without prejudice to any other enforcement response that we consider may be required.
- Enforcement action can include the issue of a formal caution, prosecution, the service of a notice and/or suspension or revocation of the permit.

See our Enforcement and Civil Sanctions guidance for further information

This report does not relieve the site operator of the responsibility to

- Ensure you comply with the conditions of the permit at all times and prevent pollution of the environment
- Ensure you comply with other legislative provisions which may apply

Non-compliance scores and categories

CCS category	Description	Score
C1	A non-compliance that could have a major environmental effect	60
C2	A non-compliance which could have a significant environmental effect	31
C3	A non-compliance which could have a minor environmental effect	4
C4	A non-compliance which has no potential environmental effect	0.1

Operational Risk Appraisal (Opra) - Compliance assessment findings may affect your Opra score and/or your charges. This score influences the resource we use to assess permit compliance.

Section 6 – General information

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- 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 its service
- Freedom of Information Act/Environmental Regulations request

The NRW may pass it on to its agents/representatives to do these things on its behalf. You should ensure that any persons named on this form are informed of the contents of this data protection notice.

Disclosure of information

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Customer charter

What can I do if I disagree with this compliance assessment report?

If you are unable to resolve the issue with your site officer, you should firstly discuss the matter with officer's line managers using the informal appeals procedure. If you wish to raise your dispute further through our official Complaints and Commendations procedure, phone our general enquiry number 0300 065 3000 (Mon to Fri 08.00 – 18.00) and ask for the Customer Contact team or send an email to enquiries@naturalresourceswales.gov.uk. If you are still dissatisfied you can make a complaint to the Public Services Ombudsman for Wales. For advice on how to complain to the Ombudsman phone their helpline on 0845 607 0987.

Welsh Language

If you would like this form in Welsh please contact your Regulatory Officer.

ANNEX D

(Report ID: CAR_NRW0036771)

Compliance Assessment Report

Report ID:
CAR_NRW0036771

This form will report compliance with your permit as determined by an NRW officer

Site	Building 2	Permit Ref	ZP3933NJ			
Operator/Permit holder	The Treatment Hub Limited					
Regime	Installations					
Date of assessment	02/07/2020	Time in	10:00	Out	12:00	
Assessment type	Audit					
Parts of the permit assessed	Waste storage					
Lead officer's name	Bacon-Weekes, Liane					
Accompanied by	Morgan, David					
Recipient's name/position	Simon Farr/ Director	Date issued	13/07/2020			

Section 1 – Compliance Assessment Summary

This is based on the requirements of the permit under the Environmental Permitting Regulations or the licence under the Water Resources Act 1991 as amended by the Water Act 2003. A detailed explanation is captured in "Compliance Assessment Report Detail" (Section 2) and any actions you may need to take are given in the "Action(s)" (section 4). This summary details where we believe any non-compliance with the permit has occurred, the relevant condition and how the non-compliance has been categorised using our Compliance Classification Scheme (CCS). CCS Scores can be consolidated or suspended where appropriate, to reflect the impact of some non-compliances more accurately. For more details of our CCS scheme, contact your local office.

Permit conditions and compliance summary	CCS Category	Condition(s) breached
C3 - General Management - Materials acceptance	C2	2.3.1

KEY: See Section 5 for breach categories, suspended scores will be indicated as such.

A = Assessed or assessed in part (no evidence of non-compliance), **X** = Action only,

O = Ongoing non-compliance, not scored.

Number of breaches recorded	1	Total compliance score (see section 5 for scoring scheme)	31
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If the Number of breaches recorded is greater than zero, please see Section 3 for our proposed enforcement response

Section 2 – Compliance Assessment Report Detail

This section contains a report of our findings and will usually include information on:

- The part(s) of the permit that were assessed (eg. Maintenance, training, combustion plant, etc)
- Where the type of assessment was 'Data Review' details of the report/results triggering the assessment
- Any non-compliances identified
- Any non-compliances with directly applicable legislation
- Details of any multiple non-compliances
- Information on the compliance score accrued inc.
- Details of advice given
- Any other areas of concern
- Any actions requested
- Any examples of good practice
- A reference to photos taken

A site compliance visit was undertaken on the 2nd July 2020. The purpose of inspection was to undertake a basic volumetric assessment of quantity of waste stored on site.

Person(s) Present

Simon Farr (SF) (Director)

Phillip Rees (PR) (Consultant and TCM to The Treatment Hub Ltd)

Liane Bacon-Weekes (LBW) (Natural Resources Wales).

David Morgan (DM) (Natural Resources Wales)

Permit Compliance Assessment

Condition 2.3.1 of your permit states:

"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"

Table S1.2 Operating techniques

Description	Parts	Date Received
EPR 1 - How to Comply With Your Environmental Permit.	All	N/A
Application supporting document SOL0113ESP01 received as part of application EPR/ZP3933NJ/A001	All	14/03/13

During the inspection it was evident that the quantity of waste stored on site exceeded the 5,250 tonnes listed in document SOL0113ESP01. In your email to NRW on the 23rd June 2020, you estimated there to be approximately 9,000 to 9,500 tonnes of waste stored and our calculations concurred with this estimation.

Failure to operate the facility using the techniques and, in a manner, described in the document SOL0113ESP01 as listed in table S1.2 is considered a significant breach of permit condition 2.3.1. This has been scored a CCS2 under C3 Sub-criteria (Materials Acceptance).

For this inspection the focus was solely on the quantity of waste stored on site. NRW will be carrying out further inspections to assess compliance with the remaining permit conditions.

NRW deems that the current operation at The Treatment Hub poses a risk of pollution to the environment due to storing hazardous wastes in a manner not authorised by the permit.

Under Regulation 37(1) and (5) of the Environmental Permitting (England and Wales) Regulations 2016, Natural Resources Wales may fully or partially suspend an environmental permit if it considers that the way your facility is being operated contravenes an environmental permit condition and the contravention involves and poses a risk of pollution.

Natural Resources Wales has made the decision to partially suspend the Environmental Permit (EPR-ZP3933NJ) by ceasing the input of waste until a time when the volume stored is reduced to permitted limits.

All waste stored on site prior to removal must be correctly classified in accordance with Guidance on the classification and assessment of waste (1st Edition v 1.1) Technical Guidance WM3 and HWR06 Classifying and coding wastes from physio-chemical treatment facilities version 5.

In addition, prior to the removal of any waste from site, you are required to submit to Natural Resources Wales, for agreement, the determined waste classification and details on the intended destination of the waste.

END.

EPR Compliance Assessment Report

**Report ID:
CAR_NRW0036771**

This form will report compliance with your permit as determined by an NRW officer

Site	Building 2	Permit Ref	ZP3933NJ
Operator/Permit holder	The Treatment Hub Limited	Date	02/07/2020

Section 3 – Enforcement Response

You must take immediate action to rectify any non-compliance and prevent repetition. Non-compliance with your permit conditions constitutes an offence and can result in criminal prosecutions and/or suspension or revocation of a permit. Please read the detailed assessment in Section 2 and the steps you need to take in Section 4 below.

We will now consider what enforcement action is appropriate and notify you, referencing this form.

Section 4 – Action(s)

This section summarises the actions identified during the assessment along with the timescales for when they will need to be completed.

Criteria Ref.	CCS Category	Action required/advised	Due Date
See Section 1 above			
C3	C2	Reduce quantity of waste on site to limits stipulated in the permit	31/01/2021

Section 5 – Compliance notes for the Operator

To ensure you correct actual or potential non-compliance we may

- Advise on corrective actions verbally or in writing
- Require you to take specific actions verbally or in writing
- Issue a notice
- Require you to review your procedures or management system
- Change some of the conditions of your permit
- Decide to undertake a full review of your permit

Any breach of a permit condition is an offence and we may take legal action against you

- We will normally provide advice and guidance to assist you to come back into compliance either after an offence is committed or where we consider that an offence is likely to be committed. This is without prejudice to any other enforcement response that we consider may be required.
- Enforcement action can include the issue of a formal caution, prosecution, the service of a notice and/or suspension or revocation of the permit.

See our Enforcement and Civil Sanctions guidance for further information

This report does not relieve the site operator of the responsibility to

- Ensure you comply with the conditions of the permit at all times and prevent pollution of the environment
- Ensure you comply with other legislative provisions which may apply

Non-compliance scores and categories

CCS category	Description	Score
C1	A non-compliance that could have a major environmental effect	60
C2	A non-compliance which could have a significant environmental effect	31
C3	A non-compliance which could have a minor environmental effect	4
C4	A non-compliance which has no potential environmental effect	0.1

Operational Risk Appraisal (Opra) - Compliance assessment findings may affect your Opra score and/or your charges. This score influences the resource we use to assess permit compliance.

Section 6 – General information

Data protection notice

The information on this form will be processed by the Natural Resources Wales (NRW) to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s). The NRW may also use and/or disclose it in connection with:

- Offering/providing you with its literature/services relating to environmental matters
- Consulting with the public, public bodies and other organisations (eg. 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 its service
- Freedom of Information Act/Environmental Regulations request

The NRW may pass it on to its agents/representatives to do these things on its behalf. You should ensure that any persons named on this form are informed of the contents of this data protection notice.

Disclosure of information

The NRW will provide a copy of this report to the public register(s). However, if you consider that any information contained in this report should not be released to the public register(s) on the grounds of commercial confidentiality, you must write to your local area office within fifteen working days of receipt of this form indicating which information it concerns and why it should not be released, giving your reasons in full.

Customer charter

What can I do if I disagree with this compliance assessment report?

If you are unable to resolve the issue with your site officer, you should firstly discuss the matter with officer's line managers using the informal appeals procedure. If you wish to raise your dispute further through our official Complaints and Commendations procedure, phone our general enquiry number 0300 065 3000 (Mon to Fri 08.00 – 18.00) and ask for the Customer Contact team or send an email to enquiries@naturalresourceswales.gov.uk. If you are still dissatisfied you can make a complaint to the Public Services Ombudsman for Wales. For advice on how to complain to the Ombudsman phone their helpline on 0845 607 0987.

Welsh Language

If you would like this form in Welsh please contact your Regulatory Officer.

ANNEX E

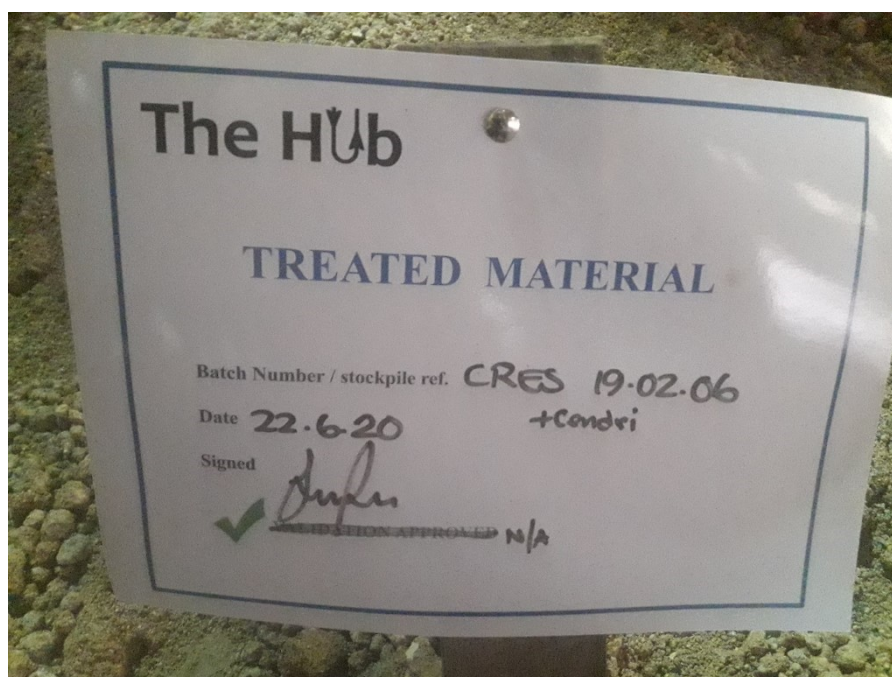
Photographs 2nd July 2020





ANNEX F

Delivery of sludge on waste marked treated – 2nd July 2020



ANNEX H

Photographs of lower part of building



Applied filters:

Return Period	Return Year	Waste Permit	Ref	Operator Name	Site Address1	Site Address2	Site Address3	Site Town City	Site State County	Site Postcode	Consignment Note Code	Multiple Round Number	Multiple Collection Number	Date Received	Producer Registration Number	Producer Postcode	EwcCode	Disposal Removal Code	Physical Form	Sum of Quantity	Hazard Code HP7 , HP10 , HP11 HP7 , HP14	Consignee Agency	Producer Agency	
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA680			30/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	32600	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	CAB328/00328			29/06/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	23480	HP7 , HP14	NRW	NRW
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	CAS613/LC001			29/06/2020 00:00	CAS613	SA12 8BH	170503	R05	Solid	45320	HP3	NRW	NRW
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	CAS613/LC002			29/06/2020 00:00	CAS613	SA12 8BH	170503	R05	Solid	44880	HP3	NRW	NRW
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	CAS613/LC003			29/06/2020 00:00	CAS613	SA12 8BH	170503	R05	Solid	35280	HP3	NRW	NRW
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	CAS613/LC004			29/06/2020 00:00	CAS613	SA12 8BH	170503	R05	Solid	35520	HP3	NRW	NRW
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA604			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	31920	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA618			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	30640	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA619			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	32360	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA620			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	34200	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA621			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	32640	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA627			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	32040	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA628			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	30720	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA630			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	32800	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA631			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	32280	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA632			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	35360	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA633			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	33120	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA634			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	35000	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA635			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	36120	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA636			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	38720	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA637			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	29600	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA638			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	38840	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA640			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	34480	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA641			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	36000	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA642			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	36840	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA643			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	32320	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA645			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	28320	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA646			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	32400	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA647			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	31360	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA648			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	36160	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA649			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	35760	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA650			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	30840	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA652			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	31440	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA653			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	28120	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA
2	2020	EPR/ZP3933NJ		Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Wanunarlywydd	Swansea	Swansea	SA5 4SF	KIERCO/BA654			29/06/2020 00:00	KIERCO	BS1 6QW	170503	R05	Solid	35200	HP7 , HP10 , HP11 HP7 , HP14	NRW	EA

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1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00182	29/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	21320 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00181	28/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	13520 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAE204/00239	28/02/2020 00:00	CAE204	SA13 2NR	190111	R05	Solid	31480 HP8 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAE204/00240	28/02/2020 00:00	CAE204	SA13 2NR	190113	R05	Solid	17160 HP8 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00180	27/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	18160 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	MSPCON/APL06	27/02/2020 00:00	MSPCON	BS11 9HL	170503	R05	Solid	37920 HP7 , HP11	NRW	EA
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00179	26/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	13320 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAE204/00238	26/02/2020 00:00	CAE204	SA13 2NR	190113	R05	Solid	14960 HP8 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00178	25/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	10400 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00176	24/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	7920 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00177	24/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	13560 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAE204/00236	24/02/2020 00:00	CAE204	SA13 2NR	190111	R05	Solid	25760 HP8 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAE204/00237	24/02/2020 00:00	CAE204	SA13 2NR	190113	R05	Solid	8520 HP8 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00173	22/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	9720 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00172	21/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	13360 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/52133	21/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	14600 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAO147/ZL129	21/02/2020 00:00	CAG147	NP4 0AZ	170503	R05	Solid	30320 HP3 , HP10 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAO147/ZL130	21/02/2020 00:00	CAG147	NP4 0AZ	170503	R05	Solid	36160 HP3 , HP10 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAO147/ZL131	21/02/2020 00:00	CAG147	NP4 0AZ	170503	R05	Solid	34720 HP3 , HP10 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00171	20/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	11080 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAN419/06346	20/02/2020 00:00	CAN419	NP19 4PP	190205	R05	Solid	33400 HP11	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAO147/ZL124	20/02/2020 00:00	CAG147	NP4 0AZ	170503	R05	Solid	36200 HP3 , HP10 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAO147/ZL125	20/02/2020 00:00	CAG147	NP4 0AZ	170503	R05	Solid	34840 HP3 , HP10 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAO147/ZL126	20/02/2020 00:00	CAG147	NP4 0AZ	170503	R05	Solid	30520 HP3 , HP10 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAO147/ZL127	20/02/2020 00:00	CAG147	NP4 0AZ	170503	R05	Solid	31920 HP3 , HP10 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAO147/ZL128	20/02/2020 00:00	CAG147	NP4 0AZ	170503	R05	Solid	37400 HP3 , HP10 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00170	19/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	9640 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAE204/00235	19/02/2020 00:00	CAE204	SA13 2NR	190111	R05	Solid	32840 HP8 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	MSPCON/APL05	19/02/2020 00:00	MSPCON	BS11 9HL	170503	R05	Solid	35000 HP7 , HP11	NRW	EA
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00168	18/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	18440 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00169	18/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	21080 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAN419/06337	18/02/2020 00:00	CAN419	NP19 4PP	190205	R05	Solid	34560 HP11	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	MSPCON/APL03	18/02/2020 00:00	MSPCON	BS11 9HL	170503	R05	Solid	34560 HP7 , HP11	NRW	EA
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	MSPCON/APL04	18/02/2020 00:00	MSPCON	BS11 9HL	170503	R05	Solid	35160 HP7 , HP11	NRW	EA
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAB328/00167	17/02/2020 00:00	CAB328	CF72 8YT	110109	R05	Solid	19520 HP7 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	CAE204/00234	17/02/2020 00:00	CAE204	SA13 2NR	190113	R05	Solid	11440 HP8 , HP14	NRW	NRW
1	2020	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlyydd	Swansea	Swansea	SA5 4SF	MSPCON/APL01	17/02/2020 00:00	MSPCON	BS11 9HL	170503	R05	Solid	34600 HP7 , HP11	NRW	EA

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1	2017	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlwydd	Swansea	Swansea	SA5 4SF	CAK563/00008	02/03/2017 00:00 CAK563	CF24 4HQ	170503	R05	Solid	71280 H7	NRW	NRW
1	2017	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlwydd	Swansea	Swansea	SA5 4SF	CAK563/00009	02/03/2017 00:00 CAK563	CF24 4HQ	170503	R05	Solid	73680 H7	NRW	NRW
1	2017	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlwydd	Swansea	Swansea	SA5 4SF	CAK563/00010	02/03/2017 00:00 CAK563	CF24 4HQ	170503	R05	Solid	69760 H7	NRW	NRW
1	2017	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlwydd	Swansea	Swansea	SA5 4SF	CAK563/00011	02/03/2017 00:00 CAK563	CF24 4HQ	170503	R05	Solid	71520 H7	NRW	NRW
1	2017	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlwydd	Swansea	Swansea	SA5 4SF	CAK563/00012	02/03/2017 00:00 CAK563	CF24 4HQ	170503	R05	Solid	73280 H7	NRW	NRW
1	2017	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlwydd	Swansea	Swansea	SA5 4SF	CAK563/00005	01/03/2017 00:00 CAK563	CF24 4HQ	170503	R05	Solid	71520 H7	NRW	NRW
1	2017	EPR/ZP3933NJ	Treatment Hub	Treatment hub	Building 2	Westfield Industrial Park	Waunarlwydd	Swansea	Swansea	SA5 4SF	CAK563/00006	01/03/2017 00:00 CAK563	CF24 4HQ	170503	R05	Solid	71840 H7	NRW	NRW

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Our ref: ST04/58586.1/TILLING

Your ref: EPR-ZP3933NJ

2 September 2020

When telephoning please ask for: Simon Tilling

Dear Natural Resources Wales

Our client: The Treatment Hub Limited
Suspension Notice in respect of environmental permit number EPR/ZP3933NJ
Installation: The Treatment Hub, Swansea

We write further to our letter of 14 August 2020 and your letter in response dated 27 August 2020. Defined terms in this letter have the meaning given to them in our 14 August 2020 letter.

Given the length of your letter and supporting papers, and the number of allegations and assertions made within it, you will appreciate that our client will need a short period of time to prepare its response. The substantive response will follow as soon as we are able to do so. In the interim, please note that our client does not accept a great number of the allegations and assertions made within your letter and reserves all of its rights.

We are conscious of the approaching deadline for appeal of the Notice. By our calculations, the last day for issuing an appeal is 16 September 2020. Please confirm that this is your understanding too.

Our intention is to provide you with our client's substantive response in good time before the deadline so that there is every opportunity for you to evaluate the merits of our client's submissions and, it is hoped, to withdraw the Notice, avoiding the time and costs of an appeal process. Our client welcomes the opportunity for constructive dialogue, both to expedite your decision-making and to address any clarifications you may require.

It is, of course, incumbent on both parties to narrow the issues and the purpose of this letter is to achieve consensus on the legal issues. Please confirm your agreement (or otherwise) to the four points below.

First, you state that RGN 11 is "*out of date*". It is important to be precise. It is our understanding that RGN 11 is still the extant Regulatory Guidance Note on Enforcement Powers and, as published guidance (not withdrawn), there is a legitimate expectation that NRW will not deviate from it without good reason. We acknowledged in our 14 August 2020 letter that RGN 11 did not expressly address the EPR 2016 and we asked if NRW would "*readily accept*" that the guidance in paragraph 3.45 about "*justification of the judgement, demonstration of a reasonably likelihood of impact, based on clear evidence, within the area of expertise of the person making the judgement*" applied as much to a judgement about the 'risk of pollution' as it would to a judgement about 'risk of serious pollution'. Your answer evades that straight-forward question. It is obvious (and, for the avoidance of doubt, fully accepted) that the threshold for a risk of serious pollution is a different threshold than for a risk of pollution, but in exercising its judgement, the same requirement for "*justification of the judgement, demonstration of a reasonably likelihood of impact, based on clear evidence, within the area of expertise of the person making the judgement*" must apply. If it is NRW's case that this element of RGN 11 does not apply, it must say so in clear terms.

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Second, we appear to agree (and the EPR 2016 is clear) that there are two limbs to Regulation 37(5): first, there must be a contravention of an environmental permit condition and second, that contravention must involve a risk of pollution. Both limbs must be satisfied. Our client does not dispute that the first limb is satisfied (our client's substantive response will address the factors behind this in more detail). Our client's challenge to the Notice concerns whether there is, in fact, any genuine reason to believe that there is a risk of pollution. We understand from your letter that NRW accepts that there are two limbs and that both limbs need to be satisfied. Please confirm this is the case.

Third, a two-limb test would only be necessary if it is possible to have satisfy one limb without satisfying the other. Therefore, a risk of pollution without a contravention of an environmental permit condition is not sufficient to serve a notice under Regulation 37(5) (noting of course that Regulation 37(1) remains open in such circumstances if the risk is serious). It must also be true that a contravention of an environmental permit condition without a risk of pollution is insufficient to invoke the powers under Regulation 37(5). However, the whole purpose of the environmental permitting regime is to authorise and control otherwise proscribed activities that inherently pose a risk to the environment. Therefore, one might argue that any contravention of an environmental permit condition poses a risk to the environment. Your letter comes close to arguing this point in the following passage: *"When an operator fails to comply with the conditions of their Environmental Permit or fails to operate their facility in manner as authorised by those conditions, it presents a risk of that operation negatively impacting the environment through the absence of appropriate controls"*. If such an argument is being advanced, it is flawed. Such an argument would make the second limb of Regulation 37(5) superfluous and redundant, and that cannot have been the intention of the legislature. It is our case that the second limb, the requirement for establishing the existence of a risk of pollution, must require identification a real, specific and quantifiable risk. There are of course other enforcement options for a contravention of environmental permit conditions: suspension notices are reserved only for those cases where there is a specific risk of pollution arising from that contravention, of sufficient magnitude to justify intervention. Reading your letter in its totality, we anticipate that we are in agreement on this point, but we should be grateful if you would confirm this.

Fourth, Regulation 37(5) requires an exercise of discretion. If (and only if) the two limbs are satisfied, Regulation 37(5) provides that NRW *"may"* serve a notice: it is not mandatory. The exercise of such discretion should be carried out in accordance with published guidance (if any) unless there is good reason to deviate. As you correctly note, RGN 11 does not expressly provide guidance on the exercise of Regulation 37(5) because it was last edited before the EPR 2016, but our client nevertheless has a right to receive the reasons for the decision, including the elements set out in paragraph 3.45 (justification of the judgement, demonstration of a reasonably likelihood of impact, based on clear evidence, within the area of expertise of the person making the judgement). Again, we hope this legal point is not in dispute.

If we are in agreement on these four points of law, then the issues between NRW and our client are reduced to a narrow set of points that remain in dispute: is there, in fact, a risk of pollution from the contravention of the permit (requiring a reasonable likelihood of impact, not just a theoretical risk); and did that risk justify, on an objective basis, the exercise of discretion to serve the Notice?

Please note that, in its substantive response, our client will argue that there is no genuine risk of pollution. Without prejudice to the arguments that our client may wish to present in its detailed submissions in due course, our client asks us to point out that it has been operating in the same manner for over 5 years, with the full knowledge of a number of NRW officers over the period, none of whom had expressed any concern that the operation posed the risk of pollution that is now relied upon in justification for the service of the Notice. Our client acknowledges that the site is operated in a different manner to that set out in its permit application (something which is being addressed through the permit variation) because the nature of site operations changed to provide for soil management from remediation projects alongside treatment operations. Our client acknowledges that it has a responsibility to keep its permit up to date (and is now doing so). However, previous NRW officers have understood the evolution of the business operations and the valuable role that this site serves in providing South Wales with a centre for soil management and processing alongside its original treatment operations, and in doing so promoting a circular economy. Therefore, although the overall maximum tonnage limit has been exceeded throughout this period, it is the nature of the material on the site that is important when considering the risk posed. As such, our client will argue that the suggestion that *"the quantity*

of waste is a fundamental factor" is simply not correct and ignores what is actually happening on site. It is our client's case that it has at all times retained effective control of the materials within the facility. As such, our client's argument is that, once its process is properly understood, it will become clear to NRW that there is no genuine risk of hazardous wastes leaving the facility for receiving sites, which is the one and only justification given for the service of the Notice (the risk of pollution put forward by NRW being a risk at receiving sites). It is also our client's case that previous NRW officers responsible for the site have understood this: it is noteworthy that following Paul Gibson's site inspection in December 2019 when volumes on site were greater than those at the time of the Notice, the conversation focused on varying the permit to ensure that the permit reflected activities on site, rather than talk of suspension notices arising from concerns about a risk of pollution. It is notable that there is nothing in NRW's explanation to date that explains why the operation is considered to be a risk now when it has been operating in this manner for many years.

Our client's substantive response will elaborate on these submissions but our client wanted us to provide this summary in advance to maximise the opportunity for NRW to consider its position in good time before the deadline for the issue of appeal proceedings.

Yours faithfully

A handwritten signature in cursive script that reads "Burges Salmon LLP".

BURGES SALMON LLP



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Ein cyf / Our ref: EPR-ZP3933NJ –
JCSL07/ST04/5856

Eich cyf / Your ref:
SL07/ST04/58586.1/LAVIN

Dyddiad/Date: 9th September 2020

By email only

Dear Sirs,

Your client: The Treatment Hub Limited
Suspension Notice in respect of environmental permit number
EPR/ZP3933NJ Installation: The Treatment Hub, Swansea

Thank you for your letter of the 2nd September. I note that you will be providing a substantive response to our letter of the 27th August 2020.

I can confirm that NRW believe that the deadline for lodging an Appeal is the 16th September 2020.

I agree that it is incumbent on parties to try to narrow the issues between us. In order to be clear, The Treatment Hub's permit was suspended because there is a breach of condition namely the amount of waste on site is in excess of that allowed under the permit. Due to this breach the waste on site is not being controlled, treated or segregated as required and therefore the waste leaving the site poses a risk to the recipient sites. NRW considers waste leaving the site is an absolute hazardous waste and only a hazardous landfill would have the appropriate infrastructure to deal with this waste so that it poses no risk to the environment.

In order for us to lift the suspension your Client need only remove the excess waste from site. Prior to removal, they must submit to NRW for agreement, the determined waste classification and details on the intended destination of the waste. This provides your client the opportunity to present their assessment and classification of the waste, and to submit any evidence that supports this determination. Once the site is back into compliance with the condition regarding waste amounts the suspension will be lifted. Please note that NRW have only imposed a partial suspension. The site cannot accept further waste however they

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PLEASE NOTE THAT AS OF 01.08.16 NRW WILL NO LONGER BE USING A DX ADDRESS

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg
Correspondence welcomed in Welsh and English

are able to treat and remove waste once they have provided the required evidence to us. NRW do take the suspension of a permit very seriously. Suspension is the only regulatory tool that NRW has to restrict the import of further waste. It is however within your Client's gift to comply with their permit condition and the suspension will be lifted.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'J Chapman', written in dark ink.

JANE CHAPMAN
PRINCIPAL SOLICITOR

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Our ref: ST04/58586.1/TILLING

Your ref: EPR-ZP3933NJ

11 September 2020

When telephoning please ask for: Simon Tilling

Dear Natural Resources Wales

Our client: The Treatment Hub Limited
Suspension Notice in respect of environmental permit number EPR/ZP3933NJ
Installation: The Treatment Hub, Swansea

We write further to your letters dated 27 August 2020 and 9 September 2020. As indicated in our letter of 2 September 2020, our client has prepared a detailed response to the substantive matters raised in your letter of 27 August, contained within the annex to this letter.

Your 9 September 2020 letter responds to our letter of 2 September 2020 in which we sought to ensure there was no difference between the parties in the interpretation of the legal test for the service of a suspension notice. We interpret your letter as agreement. On that basis, the points in dispute between the parties narrow to the following two issues:

- (a) is NRW's analysis of the risk to the environment from our client's contravention of its permit correct (requiring a reasonable likelihood of impact, not just a theoretical risk); and
- (b) did that risk justify, on an objective basis, the exercise of discretion to serve the Notice?

In your 9 September letter you have set out NRW's analysis of the risk to the environment from our client's contravention of its permit in succinct terms:

"In order to be clear, The Treatment Hub's permit was suspended because there is a breach of condition namely the amount of waste on site is in excess of that allowed under the permit. Due to this breach the waste on site is not being controlled, treated or segregated as required and therefore the waste leaving the site poses a risk to the recipient sites. NRW considers waste leaving the site is an absolute hazardous waste and only a hazardous landfill would have the appropriate infrastructure to deal with this waste so that it poses no risk to the environment."

This is helpful as it allows us to set out our client's position in equally clear terms:

It is accepted that there is a breach of the permit condition limiting the amount of waste on site.

It is denied that the waste on site is not being controlled, treated or segregated as required, and it is denied that this is due to the exceedance of the tonnage limits in the permit. It is accepted that the management of waste on site in practice is different from that envisaged when the permit application was made. However, it is our client's case that the waste is being controlled in a manner that is suitable for the waste streams that the site is receiving. Importantly, the amount of waste on site is not the cause of the difference in management approach adopted: the processes adopted are those suitable for the nature of the wastes, noting that a
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significant proportion of the waste received on site does not require treatment. The site has been operating in this manner since 2014 regardless of the amount of waste on site because our client believes that this is the correct way to manage these wastes.

It is denied that the waste leaving site poses a risk to the recipient sites: NRW does not put forward evidence for this, but submits that this must follow from the fact that the management processes on site are different to those set out in the permit. Our client's case is simple: the waste is processed according to its particular properties and is subject to robust WM3 classification before leaving site. No hazardous wastes have left the facility for receiving sites.

It is denied that the waste leaving the site is absolute hazardous waste: the materials are not hazardous wastes at all, let alone absolute hazardous wastes.

NRW will see from our client's detailed comments in the annex that there is a fundamental misunderstanding by NRW of our client's operations. For the avoidance of doubt, our client accepts that exceeding the limit of 5,250 tonnes for wastes requiring treatment might give rise to a degree of risk given the limitations of space on site. The important factor here is that the majority of the wastes received on site do not require treatment. The space available for treatment is adequate for those wastes that require treatment.

At the heart of the dispute appears to be our client's process of WM3 classification of the wastes on receipt and processing the wastes in accordance with its WM3 classification. It appears to be NRW's case that the classification by the waste producer is definitive. That does not reflect either the legal position (our client has a duty as waste holder to ensure that the classification is correct) or the practical reality of waste soil management across England and Wales.

In its detailed response, our client has sought to demonstrate that (a) the majority of wastes received to site do not need treatment; (b) as such, the areas available for treatment, although smaller in area than envisaged in the permit, are adequate for the lower volume of wastes that are treated; (c) as such, there is effective control over the waste processes on site; (d) as such, there is full confidence in the classification of waste that is leaving the site for receiving sites, and none of those wastes are hazardous; and (e) as such, there is no risk at the receiving sites. Our client's case is that, although it accepts the amounts exceed the permit limit and that this is a breach of permit, it does not follow that the breach gives rise to a risk of pollution. The issue of the Notice does not meet the legal test – a breach of permit and a consequential risk of pollution – and is therefore not lawful.

We note the suggestion that it is within our client's gift to simply comply with the terms of the Notice. That somewhat misses the point. Our client's case is that the material that is ready to leave site is non-hazardous and can be deployed at one of the receiving sites. It is NRW's case that the material is all "absolute hazardous waste" and needs to be sent to a hazardous waste landfill. Until that fundamental point of dispute is resolved, the waste cannot leave site.

It is for this reason that our client repeats its plea to NRW to engage with the reality of the operations on site and to understand the processes for waste management that are carried out so that the business can return to operation. This is not a case that can be resolved simply through complying with the Notice. NRW must engage with our client to understand the process on site in order to agree the classification of the waste under the terms of the Notice, in order to consider the extant permit variation application and the new permit application, and in order to regulate the facility in an appropriate risk-based manner in the future. Until these fundamental points are resolved, our client's business is severely constrained.

It appears to us that the most pragmatic and proportionate route forward is for NRW to:

- (a) accept that it may have misunderstood the nature of the operations at our client's facility, and therefore misjudged the risk of pollution;
- (b) to withdraw the Notice; and

(c) to engage with our client.

If, as a result of that engagement, NRW concludes that there is a risk of pollution, it is within NRW's power to issue a new suspension notice.

If NRW is not prepared to withdraw the Notice and engage in dialogue, an appeal will be our client's sole option.

Yours faithfully

A handwritten signature in cursive script that reads "Burges Salmon LLP".

BURGES SALMON LLP

Enc. Annex

ANNEX TO BURGESS SALMON LETTER DATED 11 SEPTEMBER 2020

The Treatment Hub Ltd's detailed response to NRW's letter of 27 August 2020

NRW – Natural Resources Wales

TTH – The Treatment Hub Limited

ETL – Envirotreat Technologies Ltd

Extracts from NRW Letter 27 August 2020	TTH's response
<u>Background</u>	
1 TTH hold a permit (ZP3393NJ) to operate a waste recovery installation for the treatment and processing of granular hazardous and non-hazardous wastes, primarily filter cakes and contaminated soils. It is based on a CL:AIRE Code of Practice hub and cluster model which is focused around a batch style process treating consignments of contaminated soils in individual separated stockpiles. The permit contains a range of conditions that TTH are required to comply with to protect the environment, minimise and reduce the risk of pollution and achieve the objectives of UK and European Legislation. It was issued following an assessment of the submitted application, accompanying procedures and risk assessments, and only authorises the company to undertake the activity applied for in the manner set out in their procedures. If TTH wish to change or amend any activities or processes they must first apply to vary the permit to enable the relevant and appropriate assessments to be undertaken. Only once the variation has been approved is the Company authorised to undertake the activity. To undertake activities not within the permit (even when a variation application has been submitted) is an offence.	It is common ground that TTH's current operations are not in accordance with the current conditions of permit ZP3393NJ. This was the subject of discussion between NRW and TTH in December 2019 during which the agreed course of action was for TTH to apply for a permit variation. It did so in February 2020. The permit variation provides a full account of the current operations. Further, it is TTH's case that NRW officers have been aware of the nature of the operations since 2014. It is therefore a source of considerable alarm that NRW's letter of 27 August 2020 displays a complete lack of understanding of the current operations. Given that the nature of the operations is fundamental to the resolution of this matter, the follow text provides a summary of current operations and an explanation of the differences with the permit. TTH applied for its environmental permit in the belief that its business would be the treatment of filter cakes, specifically, filter cake generated from the Tata Trostre works in Llanelli. However, in practice, this waste stream did not materialise. Instead, an opportunity arose for the processing of soils from the Hitachi Electrification Facility at Maliphant

Sidings in Swansea. Since then, the focus of TTH's business has been soil management and processing.

It has therefore always been the case that there are two waste management processes occurring at the facility. The main activity is soil management from remediation projects across the region.

It is accepted that the permit application was made on a different premise, envisaging a greater degree of hazardous waste treatment, and specifically, a physico-chemical processes that stabilised contaminants in the Trostre filter cake using the proprietary formula 'E-Clay'. It is not, however, unusual for operations to change depending on market conditions. In this case, the current operations have been carried out since the start of operations in 2014 in the full knowledge of NRW officers.

The soil management process has not in recent years utilised E-Clay or indeed any other physico-chemical process. Instead, the process employed has been one that would be recognised across construction sites and soil processing sites across England and Wales, as follows:

Waste soils are delivered to TTH from waste producers who have classified the waste as EWC 17 05 03* "soil and stones containing hazardous substances". The source is demolition and construction sites where soils will be deposited into large stockpiles often based on a conservative approach to the potential hazard classification of the soils.

On arrival, TTH has a pre-acceptance process that segregates and quarantines wastes on delivery pending the results of analysis. The analysis carried out by TTH is in full compliance with WM3.

Note that TTH has significant experience of waste classification under WM3. Since start of operations, TTH was worked closely with its parent company ETL, utilising the expertise gained by ETL over 20 years in the contaminated land remediation market (ETL runs on-site remediation projects and has carried out several such projects in Wales with the full support of NRW). Simon Farr is an employee of both TTH and ETL and

has accumulated significant experience and expertise in the management and understanding of contaminated soils, both for on-site remediation and for processing / effective management of soils within TTH.

In the vast majority of cases, the pre-acceptance analysis demonstrates that the soil is not hazardous waste and it is classified as EWC 17 05 04.

This should be wholly unsurprising to those who have experience of the sector. The email from Rebecca Bomers to Liane Bacon-Weekes dated 31 July 2020 explains some of the common factors.

This appears to be the main issue between NRW and TTH. It is TTH's case that it is TTH's duty, as the waste holder at that time, to ensure that the waste classification is correct. That is indeed the purpose of acceptance criteria and pre-acceptance analysis. If the waste is misclassified (that is, it is something different to what is suggested in the consignment note) such that TTH cannot process the waste stream, it would be rejected (and this has happened in the past). However, that is not the case with soil and stones waste-streams. Soil and stones have a mirror waste code: EWC 17 05 04 if the WM3 process concludes the soil and stones are not hazardous and EWC 17 05 03* if the WM3 concludes the soil and stones are hazardous. TTH can accept both and will deal with each accordingly.

It appears that NRW takes issue with this approach. It appears to be NRW's case that testing the soil and stones using the WM3 process and dealing with the soil and stones accordingly – either as hazardous or non-hazardous – is not permitted, and that the only option open to TTH if the soil and stones are non-hazardous is to send them back to the producer. If that is indeed NRW's case, then it is in error. It appears that NRW compounds this error by concluding that soil and stones classified as non-hazardous under the WM3 process pose a risk at receiving sites on the grounds that these soils and stones remain hazardous. Again, this is in error.

2	Condition 2.3.1 (a) of the permit stipulates that the activities on site must, unless otherwise agreed, be operated using the techniques and in the manner described in the documentation specified in schedule 1, table S1. This includes the document 'Application supporting document SOL0113ESP01' which was received and assessed as part of the permit application. The procedures and mitigation measures stipulated within the document are fundamental in the assessment of risk and the decision to issue the permit.	See TTH response to item 1 above.
3	In addition to the Operating Techniques, TTH is also required to manage and operate the activities in accordance with a written Environmental Management System ("EMS") (Permit condition 1.1.1.). The EMS stipulates and highlights the procedures the company will implement to minimise the risk of the activity and it makes a commitment to review these measures if there are changes to activities. To comply with condition 1.1.2, records must be kept that demonstrate compliance with the EMS and the procedures within it.	Following NRW's visits in October and December 2019, the EMS was updated in January 2020 to reflect current activities.
4	When an operator fails to comply with the conditions of their Environmental Permit or fails to operate their facility in manner as authorised by those conditions, it presents a risk of that operation negatively impacting the environment through the absence of appropriate controls. Failure to comply with permit conditions and the supporting operating techniques and management systems is an offence under the Environmental [sic]	TTH notes Burges Salmon's comments on this point in its 2 September letter. TTH accepts that operations are not in compliance with the current conditions of the permit but denies that the non-compliance with the permit presents a risk of negative impact to the environment. There is no evidence to support an allegation of increased risk.
5	TTH recognise and acknowledge this in Section 3.3.7 of document SOL0113ESP01 where it states: <i>All aspects of the operation will be managed in accordance within a formal Environmental Management and Quality Plan. The plan will define all activities throughout the lifecycle of the treatment process (i.e. pre-acceptance, acceptance, treatment, validation and final off-site transfer). The Environmental and Quality Management system will be designed to meet the requirements of the Environmental Permitting Regulations and associated pollution prevention guidance. The EMS has been designed to ensure:</i>	See TTH response to item 3 above.

- *The identification of all foreseeable environmental impacts and risks that The Treatment Hub activities pose to the environment.*
- *Prevention or minimisation of any identified risks to practical minimum.*
- *Legal Compliance assurance.*
- *Activities at the site will be managed in accordance with the management system, which will be subject to continuous review, audit and improvement. Specific detailed management system reviews will take place if there is a significant change to the activities, following an accident or if a non-compliance is found.*
- *Furthermore, the whole management system will be subject to annual external audit by competent third parties.*
- *The key aspects of the EMS for the site will include: Preventative maintenance; Operator requirements; Training and competence; Emergency response and incident management; and Monitoring, measurement and reporting.*

The environmental and quality management system and procedures will be written to ensure that the environmental risks and impact of the normal running of the site activities are documented and minimised

Responses to your Letter of 14 August 2020

- (a) **describe in detail the “risk of pollution” which you claim is sufficient to justify the suspension of our client’s environmental permit and provide evidence, including all documentation (risk assessments, technical reports etc.), by which you have analysed and quantified this risk;**

6 During an inspection on the 29th October 2019 several significant permit breaches were identified and listed procedures were not being adhered to. The operation and treatment process were far different to the activity authorised by the permit. A copy

See TTH response to item 1 above.

	of the Compliance Assessment Report (CAR) is attached (Report ID: CAR_NRW0036053). (Annex A)	
Volume of wastes on site		
7	Section 4.8.3 of the document SOL0113ESPOL states that no more than 5,250 tonnes of material will be stored internally at any one time. During the inspection it was evident that volumes of waste were stored in excess of the permitted limit. Much of building had been filled with treated and non-treated wastes which ran down the length of the building. The bottom section of the building and the lower doors could not be accessed. It was noted by the Company Director Mr. Simon Farr that in recent months there had been an increase in business that resulted in the site accepting more waste than it could treat and remove. It was estimated there was in excess of 12,000 tonnes of waste on site, but Mr. Farr could not provide an accurate total quantity of waste stored. (See Photos in Annex B)	NRW have misrepresented comments by Mr Farr, who actually stated that the space constraints would mean that the handling the soils would be more difficult and could entail double handling of the same soils (possible double relocation of soil stockpiles). The operation was still fully manageable and under effective control. Furthermore, NRW's assertion that TTH had accepted more waste than it could treat and remove is denied. In fact, TTH had taken steps to manage volumes of waste by turning away soil enquiries from customers and / or encouraging the treatment of soils on site (by ETL). TTH emphasises that it was not <u>treating</u> the bulk of the soils received at TTH: the process was one of soil management. See TTH response in item 1 above. TTH notes that, in this respect, a new permit application was originally promulgated in July 2019 with the intention of moving operations to a larger building on the same industrial estate. This permit application is currently still only at the 'duly made' stage.
8	The issue of storing waste in quantities greater than 5,250 tonnes has been raised and the site breached in two previous Compliance Assessment Reports (CAR) (Report ID: CAR_NRW0023790 and CAR_NRW00325158). (Annex C) During our inspection on the 2nd July 2020 it was evident and acknowledged by TTH the volume of waste on site remained in excess of permitted limits. In an email on the 23rd June 2020, Mr. Farr estimated there to be approximately 9,000 to 9,500 tonnes of waste stored and NRW calculations concurred with this estimation. Compliance Assessment Report (Report ID: CAR_NRW0036771). (Annex D)	TTH notes that the two previous CAR reports provided in Annex C refer solely to alleged breaches stemming from the volume of waste stored in site and not, more broadly, to the nature of operations at the site. As mentioned in respect of item 1 above, TTH has operated in the same manner for over 5 years with the full knowledge of a number of NRW officers, none of whom have expressed concern that the operation posed a risk of pollution With regard to the inspection on 2 July 2020, the quantity of waste on site represents a reduction of approximately 25% from October/December

2019, notwithstanding that significant adverse weather conditions combined with the complications of the COVID-19 lock-down from March 2020 meant that TTH's receptor site was not in a position to receive material for much of this period.

The December 2019 CAR Report required TTH to "reduce the quantity of waste on site". TTH complied with this requirement despite these circumstances beyond its control.

In respect of the 2 July visit, TTH notes that, prior to this visit in July, one of NRW's officers (Liane Bacon-Weekes) had previously made it clear to both Mr Farr and Philip Rees (TTH's Technically Competent Manager) that their attendance was not required on the day of the visit.

As it happens, Mr Farr and Mr Rees happened to be on site in any event. However, they were not asked to accompany the NRW officers whilst they undertook their assessment and the officers made no attempt to discuss the stockpiles on site or their relevance / status with Mr Farr or Mr Rees.

TTH understands that Mr Farr attempted to enter dialogue with NRW's officers regarding operational requirements, but that the officers were reluctant to engage in this respect (even stating that they were not prepared to discuss these matters). TTH also understands that Mr Farr showed Ms Bacon-Weekes photographs taken one week prior to the visit which showed considerably less materials at TTH. However, she did not appear to acknowledge this or have any regard to it.

During any appeal TTH will seek an explanation from NRW for why such dialogue was actively discouraged and avoided by NRW officers in circumstances where discussion could have addressed the concerns of those officers. It is TTH's position that this is poor practice.

The Environment Agency states the following in its guidance on assessing and scoring environmental permit compliance in respect of waste operations and installations:

		<i>“Explaining the Outcome of a Compliance Assessment:</i> <i>If they are available, we do a site visit for a compliance assessment when the site manager is present – or in the case of a waste operation, the technically competent manager. This is so we can make them aware of any non- compliances.</i> <i>We discuss with them the actions needed to remedy the non – compliance and the timeframe required for undertaking them. We summarise the discussion on the CAR Form”.</i> TTH would expect NRW to follow the same procedures as a matter of regulatory good practice.
9	Despite the quantity of waste being estimated as less than the October visit, the area used to accept and treat waste had been reduced further with stockpiled waste. (See photos in Annex E.)	See the TTH response at item 1 above. This is not surprising given that the majority of the soil and stones on site were not hazardous and did not require treatment. The areas for waste acceptance and waste treatment were perfectly adequate for the activities occurring on site at that time.
10	As a result of the large volume of waste stored on site, the area within the building available to treat waste has been considerably restricted. It was confirmed by Mr. Farr and evident that it was no longer possible to treat wastes in the manner authorised by the permit	On the issue of the area for treatment, see the TTH response to items 1 and 9 above. The statement about Mr Farr wholly misrepresents Mr Farr’s comments. TTH understands that Mr Farr was simply making the same point made in items 1 and 9 above, that the operations at TTH differed in practice from the permit and, as such, it was not surprising that the space for treatment was reduced.
Treatment of waste		
11	As stipulated in the procedures, incoming wastes are required to be stored in clearly separated stockpiles within the ‘untreated area’ of the building until it is scheduled for treatment. Each stockpile is to be fully characterised and evaluated by means of client analysis, TTH analysis and treatability trials. Each waste stream, or	See TTH’s response to item 1. This statement is evidence that NRW does not understand the current operations at TTH notwithstanding the fact that it has been explained to

contaminated soil waste stream, should be individually assessed, and the prescribed treatment recorded on either a 'Waste Stream Evaluation Form (Form TH-002) or 'Contaminated soils Evaluation Form (Form TH-001) whichever is appropriate. Details should include instruction on how to prepare the batch of E-Clay slurry, the volume of Contaminated Soil / Waste and the quantity of E-Clay slurry to be used and how to mix the Contaminated Soil / Waste with the E-Clay slurry and cement. A unique identity reference is assigned to each stockpile, that is to be retained throughout the treatment lifecycle and provide a clear audit trail of the waste assessment, acceptance, treatment, testing, validation and shipping. Following treatment, the quantities of reagent used together with respective batch numbers should be recorded on the relevant forms. It is noted that "actual usage will be cross checked against expected usage (based on E-Clay formulation and batch size)... Failure requires the material to be placed in Quarantine pending further investigation. The Waste Tracking System will require updating to reflect the status of the batch".	previous officers and is set out in clear terms in the permit variation of February 2020.
12 Under the TH1.2 Waste and Material Storage procedure it states that the status of each batch will be maintained on the waste tracking system (TH-DB002) and will be routinely tested as indicated on the waste stream evaluation form or contaminated soil evaluation forms. Once treated, batches will be stockpiled within the "Treated Materials" area and clearly labelled showing the Client, Date, Batch Number, Validation Status (Traffic Light label where GREEN = passed validation, RED =awaiting analysis). Material will remain within this area until scheduled for shipment or quarantined. The status of the batch will be maintained on the Waste Tracking System. Mr. Farr confirmed during site visits that as a result of the large volume of waste stored on site, TTH is unable to treat waste within prescribed individual separated batches or maintain the identity of waste streams within the main stockpile. He also confirmed that wastes are mixed pre and post treatment. Without this batch system TTH is unable to follow the protective control measures listed in their procedures. They are unable to monitor and test the effectiveness of the treatment or determine if it requires quarantining and further investigation.	TTH denies that Mr Farr gave the confirmations alleged. Mr Farr has again been misrepresented or misunderstood. TTH understands that Mr Farr told NRW officers that, following the WM3 classification of soils, those with sufficiently similar properties are bulked. This is permitted under HWR06 which states: <i>"Bulking of hazardous wastes is the mixing of hazardous waste with wastes of the same EWC code, same hazardous properties and similar constituents. It is not considered pre-mixing."</i> It must of course follow that bulking of non-hazardous wastes with wastes or the same EWC code, same properties and similar constituents must also be permissible.

13 The main stockpile of waste within the building is a combination and mixture of treated and untreated wastes incorporating contaminated soils and other wastes both hazardous and non-hazardous. During the visit on the 2nd July 2020 Officers witnessed a delivery of sludge waste that was deposited on a stockpile marked as “treated”. (See photos at Annex F)	This allegation is denied. Nothing in this stockpile is classified as hazardous waste. The large stockpile comprises soil waste streams which are compatible and were bulked accordingly. The majority of these soils are from one source only (Valero Cardiff). The implication is that TTH has mixed waste without regard for its provenance or characteristics. In fact, and consistent with our other responses, TTH has followed the common (and lawful) procedure of bulking similar wastes. In relation to the point made on the witnessing of the delivery and deposition of sludge waste, TTH notes that the officers on site who witnessed the delivery did not raise any concerns to Mr Farr (or, to our knowledge, any other TTH employee), ask any questions, or otherwise make any attempt to discuss the delivery or to understand the nature of the waste received. Ms Bacon-Weekes requested copies of the Duty of Care paperwork and analysis for previous deliveries of the same waste. Mr Farr forwarded all the paperwork requested via email on 3 July 2020. Ms Bacon-Weekes acknowledged receipt, but still did not raise any concerns or ask any questions on the matter.
14 Mr. Farr confirmed that the authorised E-Clay treatment process was no longer used to treat all waste streams. TPH contaminated soils, for example, merely undergo bio-remediation (via weathering). This treatment process is not authorised by the permit and therefore the risk assessments and control measures around this process have not been assessed or approved.	Mr Farr’s comments have again been misinterpreted. It is correct that the E-Clay treatment is not used for all waste streams: most waste streams do not require E-Clay treatment for the reasons explained above. We understand that Mr Farr explained that soils contaminated with biodegradable hydrocarbons do not need treating: it is sufficient to segregate such soils and allow the reduction in hydrocarbons to occur

		naturally over time. TTH does not employ active bioremediation processes.
15	It is generally understood that low weight hydrocarbons can be removed from material by evaporation or natural degradation processes, but these do not work for higher molecular weight hydrocarbons. TTH has made no distinction with regards to this and due to the lack available space within the building, it is evident that this separation is not occurring.	This comment is denied and is without foundation. TTH and ETL have between them extensive experience in contaminated land remediation technologies and has a comprehensive understanding of bioremediation processes (natural or active). TTH only deploys processes that will be effective: the process of segregation and storage over time is only deployed in specific, appropriate cases and always subject to testing. TTH uses this process only under proper conditions, including adequate spacing and segregation. NRW has adduced no evidence to the contrary.
Hazardous Wastes		
16	TTH accepts both hazardous and non-hazardous soils and other hazardous and non-hazardous wastes. The type and quantities of waste received can be evidenced through, submitted hazardous waste returns, quarterly waste returns and copies of the duty of care paperwork (March 2018 – March 2020) that were received as the result of EPR Reg 61 Notice served on 13th March 2020. It is clear from the hazardous waste returns submitted to NRW that hazardous wastes, both permitted and non-permitted have been accepted on site. Wastes include: (see attached report at Annex G) 11 01 09* sludges and filter cakes containing hazardous substances (MH) 19 01 13* fly ash containing hazardous substances (MH) 19 01 11* bottom ash and slag containing hazardous substances (MH) 17 05 03* Soil and stones containing hazardous substances (MH)	A significant majority of the waste received by TTH is soils. With regard to other waste streams, TTH only takes in materials that have beneficial use in its operations. None of the waste received by TTH in the course of normal operations is classified absolute hazardous (AH). TTH accepts that on occasion, wastes have been received that should not have been accepted. However these are isolated incidents as explained below. <u>EWC 12 01 16:</u> This related to one load (11.6 tonnes) of sand with elevated metals received on 24 January 2019 - the waste was received under EWC 12 01 06. This was not noted at acceptance. The material was assessed on receipt and found to have significantly less contamination than indicated, and that this, in fact, consisted of elevated

• 19 02 05* Sludges from physio/chemical treatment containing hazardous substances (MH) • 19 02 07* Oil and concentrates from separation – non permitted (MH) • 12 01 16* waste blasting material containing hazardous substances – Non permitted (AH) In addition to this, a review of the duty of care paperwork also identified the acceptance of: • 17 03 01* bituminous mixtures containing coal tar – non permitted (MH) • 17 06 03* other insulation materials consisting of or containing hazardous substances – non permitted (MH) • 19 02 07* oil and concentrates from separation – non permitted (AH)	hydrocarbons rather than elevated metals. Waste was properly processed with soils exhibiting a similar profile. The processed material was eventually sent to Tir John landfill for the purpose of landfill cover. Other enquiries for similar EWC wastes have been rejected. <u>EWC 19 02 07:</u> An enquiry was received from BKP for two waste streams, namely interceptor and centrifuge wastes. Submitted analysis suggested 7,900mg/kg and 2,590mg/kg TPH respectively. Initial discussions indicated that both these wastes would be received under EWC 17 05 03. The centrifuge waste was transferred under 19 02 07, this was not picked up on acceptance. Acceptance of these two consignments (under EWC 19 02 07) was recorded on both the hazardous waste returns and quarterly waste returns relating to this period. Two consignments of centrifuge waste (24.5 tonnes and 26.6 tonnes respectively) were received in November 2018 from BKP. Receipt of further consignments of centrifuge waste was stopped directly afterwards. The centrifuge waste in these two consignments was quarantined pending further assessment. Following testing and assessment this waste was eventually processed. The processed materials were eventually sent to Tir John landfill with other non-hazardous materials for the purpose of landfill cover. <u>EWC 17 03 01</u> The material was initially referred to as ‘coal tar’ at the enquiry stage. The analysis did not support this conclusion and it was agreed that the material would be received under EWC 17 05 03 as it consisted of soils, stone, some concrete and tarmac plainings.
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		One load (17.08 tonnes) was received on 25 May 2019 under EWC 17 03 01. This was indicated to the client and the material accepted subject to further testing. A sample of the tarmac content was submitted for testing, which indicated that the tarmac was not coal tar. It was agreed with the waste producer that the material could be coded EWC 17 05 03. The waste was screened and following appropriate processing the resultant oversize and fines were sent to Tir John for the purpose of landfill cover. <u>EWC 17 06 03</u> We have no data / records relating to waste being accepted under this code. We cannot comment further without seeing this information. We do not have the necessary paperwork in our possession as this was sent to Ms Bacon-Weekes in April and May under a Section 61 Notice.
17	The inability to maintain segregated stockpiles has resulted in contaminated soil wastes (hazardous and non-hazardous) and other wastes (hazardous and non-hazardous) being mixed. Mixing hazardous wastes is not authorised by the permit. TTH received a CCS2 score for breach of permit condition 2.3.6. and this was not refuted or appealed.	See TTH responses in items 1, 12 and 13 above.
18	During a site visit on the 16th December 2019, Mr. Farr informed NRW of the acceptance of a consignment of waste from Valero oil refinery in Pembrokeshire. Mr. Farr indicated that this waste was “somewhere” in the main stockpile. This is confirmed and highlighted in Figure 7 – Schematic of Stockpile location/ status within the Treatment Hub. HUB EP 001 - EPRZP3933NJ Variation support document SSF PLR January 2020 (20-01-20) - 1 (002). In figure 7 the consignment is shown as stockpile SP2A (Valero - Sanderson Environmental) and noted as “material wet (bunded to enable drying prior to processing). From the diagram it is evident that it is located within the main stockpile. The volume of waste on site has restricted the site’s ability to quarantine waste. On the 2nd July 2020, NRW officers gained access to the lower part of the building. It appeared that waste had been removed from this	It is TTH’s understanding that NRW has again misunderstood Mr Farr in December 2019. It is surprising that NRW’s officers did not seek clarification on this matter at the time of their visit in July 2020 (see item 13 above). Had they done so, Mr Farr would have confirmed that the main stockpile comprises compatible soils, including soils from Valero Cardiff - <u>not</u> Pembrokeshire, which is a completely different consignment. Waste from Valero Pembrokeshire <u>is</u> held on site, located to the rear of this stockpile as shown in Figure 8 in the variation support document recently submitted to NRW (Figure 7 in the previous variation submission

	area and no bunded was present. We are yet to question the company on this but will do so formally as part of our investigation. (Photograph at Annex H)	support document). This is contained within a cell and does not impact the main stockpile. The main stockpile will continue to be subject to thorough testing and assessment. The cell will be assessed independently.
19	As described in the guidance document HWR06 Classifying and coding wastes from physico-chemical treatment facilities: <i>Pre-mixing and bulking are forms of mixing. A chemical reaction should not usually take place during pre-mixing or bulking.</i> <i>Pre-mixing If a hazardous waste is mixed with:</i> • <i>a hazardous waste with a different EWC code;</i> • <i>a hazardous waste with the same EWC but different hazardous properties or chemical composition;</i> • <i>a non-hazardous waste; or</i> • <i>a non-waste</i> <i>and a reaction does not take place, then this is considered pre-mixing. This waste is coded 19 02 04* premixed wastes composed of at least one hazardous waste.</i> <i>This is an absolute hazardous waste; threshold criteria do not apply to absolute hazardous wastes.</i>	See answers above.
20	The dilution of hazardous substances to below thresholds is strictly prohibited under the Waste Framework Directive and this is further supported by the Landfill Directive which prohibits dilution alone as a means of reclassify waste from hazardous to non-hazardous/inert or non-hazardous to inert.	This statement is agreed. Any allegation that TTH dilutes wastes (hazardous to non-hazardous / inert or non-hazardous to inert) is strongly denied.

21 As TTH have not maintained segregated treatment stockpiles, nor are able to evidence appropriate treatment, it is the view of NRW that the main stockpile of waste must be considered and exported as hazardous waste. Hazardous wastes cannot be deposited without the appropriate controls and authorising permit. The waste must be assessed for pollution potential alongside the environment in which it is intended to be deposited. If not properly assessed a risk of pollution from leaching of hazardous substances must be assumed under the precautionary principle.	This analysis of TTH's processes and storage is incorrect. See TTH's responses in items 1, 9, 12, 13, 14, and 15. TTH concurs with the statement made in assessing the pollution potential alongside the environment in which it is intended to be deposited. This is always factored into TTH's rationale for wastes / recovered material leaving TTH (using its expertise and experience in this field). The requisite testing of material is carried out to demonstrate suitability for the designated receptor, with the intention of ensuring that the wastes / recovered materials are deemed suitable for the intended purpose.
22 The acceptance of hazardous waste without the correct permit and control measures has significant environmental and legal implications at the receiving sites.	See TTH response to item 21 above. This statement is agreed. Any allegation that TTH has sent hazardous wastes to receiving sites is strongly denied.
23 In correspondence from Mr. Mcleod on the 27th July 2020 it was noted: "Soils sent to the hub as hazardous are tested by ourselves on arrival and are, in most cases, found to be non-hazardous under WM3 classification. This is as a natural consequence of mixing during excavation, stockpiling if required and transporting. It is a judgement call therefore from ourselves whether there is a requirement for treatment and it is a COMPLETELY FALSE PREMISE for NRW to assume that all (or even the majority) of wastes will require treatment as seems to be the case judging by the comments made". The Waste Duty of Care Code of Practice outlines practical guidelines for the safe management of waste to protect human health and the environment. It is issued under section 34(7) of the Environmental Protection Act 1990. Section 3.5 of the Waste Duty of Care outlines the requirements for each waste holder to give an accurate description of the waste and contains all information that	NRW has misunderstood Mr McLeod's comments. The email does not state that it is a 'judgement call' as to whether the waste is hazardous and must be treated as such', as NRW has suggested. The words of the email are: "it is a judgment call therefore from ourselves whether there is a requirement for treatment". This is wholly different. The classification is a prescribed process under WM3. The waste is either hazardous or it is not. If the material is non-hazardous following the WM3 assessment then there would be no requirement for treatment unless specifically required for a particular application. Please can NRW clarify its comments on rejection of waste in the context of Mr McLeod's email: specifically, is it NRW's position that TTH (or any other operator) should reject waste if it is found to (in fact) be non-hazardous following WM3 assessment in the course of pre-acceptance

required for the lawful and safe handling of the material. The receiver (TTH) can only accept waste if it conforms to the description in the documentation supplied by the producer and holder. If the producer of waste has assessed and exported the waste as hazardous, it is not a “judgement call”, the waste is hazardous and must be treated as such. If the operator believes the waste does not meet the description supplied by the producer, the waste should be rejected and reclassified by the producer. This is further supported by condition 2.3.3 of the permit.	procedures? If so, please can NRW explain the regulatory justification for this in the context of waste hierarchy and zero waste objectives See our comments above.
24 In his email Mr. Mcleod refers to contaminated soils with no reference to the other hazardous wastes accepted at the facility. Once a soil is mixed with other wastes, it can no longer be regraded or classified as soil.	Soils are typically combined (bulked) where compatible and in accordance with the stated requirements in HWR06. Other waste streams are addressed in our permit variation.
Waste Validation	
25 Prior to waste being removed from site TTH is required to appropriately test and validate the waste in accordance to Procedure TH 1.6 Validation Process. It states: <i>Following treatment, the treated material will be stored within the “Treated Materials” area. Where upon a number of representative samples will be taken for Validation purposes. The number of samples and type of Validation testing required will differ depending on the waste stream and intended end use. These requirements will be specified on the Contaminated Soils Evaluation Form or Waste Stream Evaluation Form (whichever is applicable).</i> <i>All samples for chemical testing shall be submitted to an independent UKAS accredited laboratory. Test results will be compared to the Validation Criteria for compliance, in the event that the treated material does not meet the specified Validation Criteria for compliance then the treated material will be quarantined.</i> <i>All test certificates will be stored together with other controlled documentation relating to that batch. Stockpiled materials held within the “Treated Materials” area will indicate their Validation status RED = Validation pending, GREEN = Validation</i>	The majority of soils have not required treatment for the reasons stated. The appropriate validation is carried out in all cases. See TTH’s response to item 1.

approved. The Waste Tracking System will require updating to reflect the status of the batch. <i>On shipment a Certificate of Conformity may be required by the end user, the nature of this certificate will depend of end user requirements. In the event that a Certificate of Conformity is raised, then a copy will be stored together with other controlled documentation relating to that batch. Shipment dockets relating to the transfer offsite will be stored together with other controlled documentation relating to that batch.</i> As TTH do not maintain segregated stockpiles because of the quantity of waste on site they are unable to determine the number of respective samples required for appropriate validation as this is determined by waste stream and intended use. They are also unable to determine if a waste stream has failed a treatment process and needs to be quarantined for additional treatability trials or disposal. Test certificates can no longer be assigned to waste streams and the waste tracking system cannot be up-dated. This is caused by the excessive amounts of waste on site and the lack of segregation.	
26 Section 3.3.5 of document SOL0113ESPOL states: <i>... environmental/chemical criteria will also be determined. Each batch treated will be evaluated on a project by project basis against these environmental criteria for suitability: Total Petroleum Hydrocarbon content; Leachable Petroleum Hydrocarbon content; Leachable Polyaromatic Hydrocarbon content; BTEX; Total Petroleum Hydrocarbons (TPH); Inorganics (Cyanides, Ammonia etc) Arsenic; Cadmium; Chromium; Copper; Nickel; Zinc; Lead; Mercury; and Selenium.</i> <i>The specification / validation criteria will be based on specific customer requirements and the desired end use of the material...</i> The testing and sampling paperwork submitted by the TTH in response to an EPR Reg 61 Notice served on 10th June 2020 does not demonstrate or evidence that adequate testing is being completed on waste exported from site. It is evident from the paperwork that some of the hazardous substances listed have not been tested for. Whilst NRW did not request the specific forms required for validation, in the spirit of complying with the Notice and demonstrating compliance with validation	The analysis was carried out as required for the designated receptor site.

procedures, NRW would have expected this information to have been supplied. The paperwork supplied provides little confidence that the exported waste will not have detrimental effect at the receiver site.	
27 A review of Duty of Care paperwork, the findings of which will be communicated separately, has shown that approximately 35,000 tonnes of waste has been exported from TTH between April 2018 – March 2020. Waste has been exported as: • 'NON WASTE' code. • 17 01 01 – concrete (MN) • 17 05 04 – Soil and stones (MN) • 19 12 09 – Minerals (AN) • 19 13 02 – solid wastes from remediation (MN) • 20 02 01 – biodegradable waste (AN) • Approx. 45% had no waste code listed. The extent and severity of the permit breaches at TTH is a serious issue. The quantity of waste on site has reduced the capacity to store and treat waste appropriately. The mixed and blended waste is an absolute hazardous waste (regardless of thresholds) and a result of the unauthorised treatment process being undertaken. TTH are unable to demonstrate that hazardous substances within accepted wastes streams, no longer pose a risk of leaching into the receiving environment. Hazardous wastes can only be deposited at receiver sites that have the correct permit and control measures in place to prevent pollution. Waste leaving TTH has routinely been miscoded which has environmental and legal implications for the receiving sites.	See TTH responses to items 21 and 22. The allegation of routine miscoding and that hazardous wastes have been sent to receiving sites is strongly denied for all the reasons set out above. Wastes have been sent out in accordance with receptor requirements.

28 NRW served Notice on The Treatment Hub as it considers that the operational failures at the facility are significant enough to pose a risk of pollution at receiver sites. Suspension notices are used to stop offending or to bring an activity or operation under regulatory control and used where necessary to prevent the risk of pollution.	As noted in correspondence from ourselves and our legal representatives, Burges Salmon, TTH does not accept the basis on which the suspension notice was served. In particular TTH does not accept that there is any risk of pollution from its processes and operations at its installation so as to justify service of this notice as a preventative or protective measure.
(b) give specific details of the nature of the pollution that you claim to be involved and provide relevant evidence of such pollution or the risk of such pollution;	
29 "Pollution" is defined in the Regulations as any emission as a result of human activity which may • be harmful to human health or the quality of the environment, • cause offence to a human sense • result in damage to material property, or • impair or interfere with amenities and other legitimate uses of the environment. It is evident from the hazardous waste returns and the duty of care paperwork that TTH have accepted hazardous wastes containing various hazardous substances. Within the duty of care paper work the reasons given for hazardous waste contamination ranged from • Soils with elevated petrol, diesel, oil and polycyclic aromatic hydrocarbons.	The vast majority of soils received at TTH have been demonstrated to be non-hazardous following WM3 assessment and do not exhibit these waste HP codes (by virtue of the analysis carried out upon receipt of the waste at TTH).

	• Soils with high pH values, soils with elevated alkaline compounds including calcium hydroxide/calcium oxide/sodium hydroxide. • Soils with elevated metal contamination including zinc/nickel/copper/magnesium/manganese/chromium/lead/zinc chromate. As such, the most commonly used hazard codes in the consignment notes for waste entering TTH are: HP5 (Harmful), HP7 (Carcinogenic), HP8 (corrosive), HP10 (Toxic for reproduction), HP11 (Mutagenic) and HP14 (Ecotoxic).	
30	For a hazardous waste to be considered non-hazardous (low risk) the hazardous substances must either be removed (not diluted) to below threshold levels or transformed into non-hazardous substances.	See TTH response at item 1.
31	The quantity of waste on site has reduced TTH's capacity to appropriately treat the waste. The current process being undertaken on site does not remove or transform hazardous substances within the waste and therefore there is a risk of these entering the environment at the receiver sites.	See TTH's responses to item 1 and items 7 to 10.
32	From the duty of care paperwork, it is evident that waste has been removed and accepted at receiver sites that are not permitted or have the appropriate controls in place to accept it. This is due to the inability of the site to manage the waste on site appropriately due to the excess waste.	This is strongly denied.
(c) confirm that the source-pathway-receptor model formed part of your analysis and provide details of how it was applied (the explanation in the email dated 4 August 2020 from Liane Bacon-Weekes is wholly inadequate but if this is the only analysis upon which the decision was based then please say so in clear terms);		
33	The overview provided in a) details how the TTH failure to comply with permit conditions and management procedure poses a risk of hazardous wastes leaving the facility and introducing hazardous substances into the environment at receiver sites.	TTH believes that NRW's analysis and application of this model continues to be fundamentally flawed. The pollution linkage model (source-pathway-receptor) is a well-understood model which is applied on a site-specific basis. The source

As a summary and to emphasise the source pathway receptor model: Source – TTH accept hazardous wastes and due to the large volume of waste stockpiled, they are unable to store and treat waste in accordance to approved procedures. This creates a risk of hazardous substances leaving site without the appropriate controls. Pathway – TTH have failed to accurately classify and validate waste removed from site. This is evident through a review of the duty of care paperwork and quarterly waste returns. Receptor – risk of Waste from the TTH has been deposited in two known locations that are not permitted to accept hazardous waste. The purpose of Notice is to provide a protective response and prevent the risk of pollution occurring.	is the contaminant substance in the material deployed to site, the receptor could be (for example) groundwater or humans, and the pathway is the plausible route between the two which depends very much on the specific characteristics of the receiving site. It is on this basis that a pollution risk must be assessed. NRW has not done this for any receiving site. See also TTH's response in item 4.
(d) particularise the specific “hazardous wastes” that led to the decision to serve the Notice (and provide related evidence) and give detail as to how these “hazardous wastes” were factored into your risk assessment and analysis (including using the source-pathway-receptor model);	
34 No particular hazardous wastes led to the decision to serve the Notice. The Notice was served as a result of the quantity of waste on site which restricts TTH ability to treat waste in accordance with permit conditions. To comply with the Notice TTH is required to reduce the quantity of waste to 5,250 tonnes which will provide the space for individual waste streams to be treated separately.	TTH notes that no particular hazardous wastes have been identified by NRW.
(e) confirm that the officers involved in the decision-making process had relevant and specific technical expertise in relation to the specialist waste management operations carried out at our client's installation and provide details of this expertise;	
35 The officers involved in regulating TTH are experienced officers with expertise in regulating a range of complex waste management facilities. Whilst it is helpful for an officer to have specialist knowledge on a specific treatment process, it is not essential when assessing permit compliance.	TTH's concerns are rooted in the apparent misunderstanding by NRW of large parts of TTH's operations. Ms Bacon-Weekes stated during the visit in October 2019 that she lacked the necessary experience and understanding and would have to discuss

The decision to serve a Notice is not down to one officer but a process of reviews and checks through several tiers of management and the NRW legal team.	with an experienced officer. She indicated that she would arrange a follow-up visit with a more experienced officer who was more familiar with the type of operation carried out at TTH. It is imperative, given the nature of operations at the site, that relevant regulatory personnel have adequate technical expertise. TTH requests disclosure of the paperwork for the 'reviews and checks' carried out so that it can understand the technical expertise of those involved and the degree of scrutiny and challenge that this decision was subjected to.
(f) advise if third-party consultants were instructed on this matter, or if not, whether this was considered and why it was rejected; and	
36 NRW did not consider it necessary to seek the advice of third-party consultants. The Notice was served as a result of permit non-compliance and therefore, as the Regulator, we do not require advice from a third party.	See TTH's response to item 35.
37 With regards to an assessment of the quantity of waste, in an email on 23rd June 2020 Mr. Farr estimated there to be 9,000 to 9,500 tonnes of waste stockpiled within the building. Officers attended and completed a basic volumetric assessment and were content with the estimation provided by Mr. Farr. Had the officer's calculations indicated a large discrepancy with the tonnage, NRW may have considered instructing a quantity surveyor at that time.	This volume of waste is not in dispute.
(g) confirm that legal advice was taken prior to service of the Notice, and in accordance with paragraph 3.53 of Natural Resource Wales' Regulatory Guidance Note 11 ("RGN 11"), or, if not, why not.	
38 Yes, legal advice was taken prior to serving the Notice in accordance to RGN 11. Due to the extent and severity of the permit breaches at TTH, NRW deemed that a protective response was necessary, proportionate and justified. Whilst there are other regulatory tools to return an operation into compliance, it was considered counterproductive to allow the operator to continue to accept waste when the quantity	TTH does not accept the justification for service of a suspension notice in respect of any alleged breaches of permit conditions, in particular that this was required as a protective or preventative measure.

	of waste is a fundamental factor in creating the issue. TTH is required to reduce the quantity of waste on site to permitted limits and must ensure that the waste is accurately classified and exported to suitably authorised facilities. The Notice is a partial suspension and therefore restricts the acceptance of waste only; it does not restrict other aspects of the permit allowing TTH to treat waste in the manner authorised by the permit. NRW appreciates that TTH has applied to vary the permit to increase tonnage limits and change treatment processes and the delay in assessing the application has been far from ideal. However, permit variations cannot be pre-determined and TTH is required, and has been reminded, that they must comply with the existing permit conditions until the permit variation has been issued. It is the Operator's responsibility to understand the limitations of their permit and to make changes to the permit prior to them being implemented on site.	
39	TTH has been aware for many years that a permit variation is required. As previously indicated the issue around storing excess volumes has been raised with TTH on previous occasions and the company themselves have acknowledged the need to update the permit and operating procedures to reflect activities on site. - On the 19th July 2016 (Report ID: CAR_NRW0023790) TTH breach of permit for storing 8,800 tonnes of waste on site. - On the 4th December 2017 (Report ID: CAR_NRW0032158) TTH breached for storing 5,600 tonnes of waste on site. It was agreed that the Section 4.8.3 of SOL0113ESP01 would be updated to reflect a tonnage of waste that better reflects the operations and capacity on site. This was to ensure that TTH remained compliant with condition 2.3.1 of the permit. TTH was to confirm a date for when Section 4.8.3 of SOL0113ESP01 will be updated by 6 October 2017.	See TTH's response in item 8. It was a specific and stated requirement of NRW within the December 2019 CAR report for TTH to submit a permit variation to reflect current operations at TTH and to up-date the permit accordingly: In accordance with this stipulated requirement, TTH submitted the variation in mid-February 2020. TTH had every reason to believe that the intention was to review and issue the variation expeditiously. We are now in early September 2020 and this variation application has yet to be duly made (over 6 months on from when the permit variation was submitted as a stipulated requirement of NRW).
40	In relation to your query regarding RGN 11. RGN 11 is an out of date Guidance Note and is currently being reviewed by NRW. As previously indicated, RGN 11 is based on the Environmental Permitting (England and Wales) Regulations 2010 (EPR 2010).	TTH notes the response provided by Burges Salmon in its letter dated 2 September 2020 in respect of this point.

EPR 2010 did not have the ability to serve a Regulation 37(1) and (5) Suspension Notice based on breach of permit conditions and risk of pollution.

EPR 2016 states;

(5) If the regulator considers that the manner of operating a regulated facility contravenes an environmental permit condition, and that such contravention involves a risk of pollution or, in the case of a flood risk activity, a risk specified in paragraph (6), it may serve a suspension notice on the operator.

(6) The following are risks specified for the purposes of paragraph (5)--

(a) risk of flooding;

(b) risk of detrimental impact on drainage;

(c) risk of harm to the environment.

As the “judgement” at Paragraph 3.45 of RGN 11 is based on EPR 2010 we cannot agree that it applies in full to Regulation 37(5) of EPR 2016. Paragraph 3.3.5 of RGN 11 states “suspension notice can be used where something has already happened to cause a risk of serious pollution or where we consider something is likely to happen that will cause a risk of serious pollution”. Therefore, when RGN 11 applied, it would not always have been possible to apply the judgement in paragraph 3.45; when dealing with something that is “likely to happen”, it would not be possible to show the “effects on the environment or health”. For Reg 37(5), NRW has to show that there is a breach of permit condition that involves a “risk of pollution”. The “risk” of pollution does not require NRW to demonstrate an actual pollution.

The “judgement” confers that NRW should “demonstrate that there is some reasonable likelihood that these risks could have a long-term negative impact or a significant immediate detrimental effect”. NRW would submit that “long term negative impact or a significant immediate detrimental effect” is in relation to “serious pollution” and does not apply in this instance. For Reg 37(5) NRW is only required to demonstrate that there is a “risk” of pollution caused by the condition breach.

41 The “risk” of pollution, as described in detail above, is a consequence of the volumes of waste stored on site. TTH are unable to segregate or treat wastes in accordance to approved and authorised procedures. As a result, they are unable to demonstrate that hazardous substances, within accepted wastes streams, no longer pose a risk to the environment. Hazardous wastes can only be deposited at receiver sites that have the correct permit, control measures and infrastructure to prevent pollution. Without such controls, there will always be a “risk” of these wastes impacting the environment and causing a pollution.	See TTH’s response to items 21 and 22.
42 NRW does not take the issuing of suspension Notices lightly but considered it necessary to restrict further waste being accepted and removed from site without the appropriate assessments and controls. It does not consider it appropriate to withdraw the Notice and urges TTH to focus on complying with the steps listed in the Notice schedules. It is positive to hear that the operator wishes to engage in dialogue to address our concerns. NRW is still in the process of investigating parts of the operation and appreciate the Company’s co-operation. To further this we will be inviting the Director Mr. Simon Farr in for formal interview under PACE and this will be communicated separately.	TTH is a stand-alone business with no other form of income and has been severely impacted by this suspension notice both in terms of financial impact / business continuity and reputation. TTH is particularly concerned that NRW has taken action on the basis of what appears to be a fundamental misunderstanding of operations and processes at TTH’s installation. There are several instances of comments attributed to Mr Farr which have clearly been misrepresented.