

Compliance Assessment Report

Report ID:
CAR_NRW0035128

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

Site		Permit Ref	WA/067/0005/002			
Operator/Permit holder	R J Best					
Regime	Water Abstraction					
Date of assessment	01/05/2019	Time in	12:10	Out	13:30	
Assessment type	Site Inspection					
Parts of the permit assessed	Weir intake at SJ1820441637					
Lead officer's name	Rees-Jones, Jenny					
Accompanied by	Brannan, Callum					
Recipient's name/position	Mr W Best/ Licence Holder (1 of 3)	Date issued	21/05/2019			

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	C3	9.3i - Further conditions, 50% flow split 1 April - 31 December.
	C3	9.2 - further conditions, no abstraction should take place that would reduce immediately downstream watercourse below 7 litres per second
	C3	9.4 - Further conditions, construct, operate and maintain intake works so as to ensure compliance with licence conditions.
	C3	3.1 - means of abstraction, refers to drawings submitted 07/05/2010

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)	16
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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

Condition 3.1 of the abstraction licence references drawings submitted on 07/05/2010. The drawings show the intake arrangement, which facilitates abstraction for this licence for purposes of hydroelectric power generation, and for abstraction licence 24/67/5/20 for the purpose of water supply to several dwellings. The drawings show the modification of an old impoundment, which we understand to have been in place since the 1920s. The old impoundment has a penstock through it, supposedly to provide downstream flow historically. At the time of the visit this penstock was not passing water through. Water is mainly diverted to the left (looking downstream) down a leat which flows for a short distance above ground before going under ground.

The designs show two orifices cut in a barrier at the top of the leat: one for domestic supply and one to supply the turbine. The drawings show the flow to the domestic supply, via an orifice measuring 40mm x 26mm, to deliver 0.1762 litres per second (daily limit = 3350 gallons per day = 15.23 ML/d = instantaneous rate of 0.1762 litres per second, referenced on page 3 of the drawings submitted on 07/05/2010), set below the level of the hands off flow notch.

The designs show the orifice providing flow to the turbine should measure 475mm wide x 191mm deep.

The hands off flow notch and residual flow (flow split) notch appear to be cut into weir plates on the drawings. The designs say that weir plates are to be cut from rustless steel, and to be changed as per flow split conditions. The hands off flow notch is shown on the diagrams as the next lowest point measuring 200mm x 107mm. The residual flow notches, are designed to be situated so that their crest is level with the top of the hands off flow notch, and measuring 302mm wide x 191mm deep (summer, 50% of flow) and 504mm wide x 191mm deep (winter, 30% of flow). The residual flow crests should be level with the crest of the abstraction notch / orifice for the turbine.

Upon arriving at site we saw that a notch had been cut into the old concrete weir but there was no metal plate. The concrete notch measured 515mm wide x 175mm deep (below the level of the original crest). This appears to be 11mm wider than the summer residual flow notch in the drawings but 16mm shallower than in the drawings. There was no hands off flow notch. The notch was boarded up with a length of white plastic, which was impeding most of the flow down the natural course of the watercourse. I estimate that less than 1 litre per second was flowing down the watercourse, and there was very little flow in the watercourse immediately downstream. The rest of the flow was going down the leat.

It was difficult to see the abstraction orifices as they were below the water, but the arrangement appeared to consist of two wooden gates slotted into a concrete and concrete block structure at the top of the leat. The crest on which the wooden gates were resting were measured to be approximately 170mm below the original crest level that the residual flow notch had been cut into, although it was difficult to accurately measure as it was below the level of the water. This is roughly level with the residual flow crest.

Condition 9.2 states that no abstraction shall take place when the flow in the Vivod Brook immediately downstream of the authorised point of abstraction is equal to or less than 7 litres per second. There was clearly less than 7 litres per second and the flow in the leat was clearly much higher than the flow of 0.1762 litres per second.

Condition 9.3 states that from 1 April to 31 December each year, the quantity of water abstracted shall not exceed 50% of the available natural flow in the Vivod Brook in excess of 7 litres per second. As previously stated, the flow in the leat was considerably higher than the 0.17 litres per second designed to be abstracted through the notch cut into the leat barrier for the domestic abstraction, and less than 1 litre per second was being allowed downstream.

Condition 9.4 requires the Licence Holder to construct, operate and maintain the intake works so as to ensure compliance with the licence conditions.

No screen visible (as per condition 9.8 of licence). Difficult to see as under water. Licence holder to confirm whether there is a screen in place.

Mr Best explained that if only the amount licensed to be abstracted by 24/67/5/20 for water supply to the estate was released down the leat then it would soak into the ground before it arrived at the reservoir. If more water than the licensed amount is required to be abstracted in the current setup, then the licence holder either needs to apply for an upward variation to this licence or to find an alternative way of transferring the water abstracted for domestic supply without it being lost to the ground. Mr Best explained that there is no alternative water supply to the part of the estate that the abstraction feeds, but that there is an alternative supply of electricity. With this in mind, the licence holder should cease abstraction for hydroelectric power until it is possible to comply with the flow regime licensed by WA/067/0005/002 and 005. Given that there is no alternative water supply to the properties listed in 24/67/5/20, please ensure that you make arrangements to comply with this licence by no later than 31/08/19 (see impoundment CAR NRW0035130, and supply to properties CAR NRW0035142). If you think that this is not achievable please contact NRW as

soon as possible. Until all three licences WA/067/0005/002 and 005 and 24/67/5/20 are complied with, no more water should be abstracted at the weir, than is necessary to provide the licensed quantity of water at the properties and for the purpose listed in licence 24/67/5/20 . Advised Mr Best on 01/05/19 that he may need to seek consultant advice.

It is advisable in future to speak to Natural Resource Wales should you feel that you are having problems complying with any NRW licence.

Enforcement action is now being considered for the above offences.

For photographs please see impoundment inspection report CAR_NRW0035130.

EPR Compliance Assessment Report

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Operator/Permit holder	R J Best	Date	01/05/2019

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	C3	Comply with flow split as per licence. Abstraction under this licence (for HEP) should not take place until this is secured.	31/05/2019
A1	C3	Ensure hands of flow as per licence. Abstraction under this licence (for HEP) should not take place until this is secured.	31/05/2019
A1	C3	Cease abstraction under this licence (for electricity generation) until intake is constructed and operated as per licence drawings (either current licence or variation).	31/05/2019
A1	C3	Cease abstraction under this licence (for electricity generation) until intake is constructed and operated as per licence drawings (either current licence or variation).	31/05/2019

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.