

## Compliance Assessment Report

**Report ID:**  
**CAR\_NRW0035130**

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

|                              |                                    |             |                 |     |       |
|------------------------------|------------------------------------|-------------|-----------------|-----|-------|
| Site                         |                                    | Permit Ref  | WA/067/0005/005 |     |       |
| 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           | 4.4iv - further conditions, maintain impoundment to prevent leakage and be free from obstruction                                                    |
|                                          | C3           | 4.1ii - further conditions, during periods of abstraction for HEP, flow passing impoundment should comply with abstraction licence WA/067/0005/002. |
|                                          | C3           | 3.1i - manner and extent of impoundment, refers to drawings submitted 07/05/2010                                                                    |
|                                          | C3           | 4.4i - further conditions, construct, operate and maintain impoundment to ensure licence compliance.                                                |

**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.

|                                    |          |                                                                     |           |
|------------------------------------|----------|---------------------------------------------------------------------|-----------|
| <b>Number of breaches recorded</b> | <b>4</b> | <b>Total compliance score</b><br>(see section 5 for scoring scheme) | <b>16</b> |
|------------------------------------|----------|---------------------------------------------------------------------|-----------|

**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 impoundment 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 3.1ii says that the licence holder shall install a "rocky ramp" fish access structure subject to condition 4.4 to the satisfaction of the Agency. Condition 4 says that the licence holder shall finalise the design of the "rocky ramp" fish access structure during the scheme construction phase and that this must be approved by the local fisheries officer before the scheme is commissioned and becomes operational. I am unable to find evidence that a structure was ever approved by the Agency or NRW. Could the licence holder please confirm whether they think that this was ever approved and give details.

Condition 4.1ii states that during periods of abstraction for the purpose of micro hydroelectric power generation as authorised by abstraction licence WA/067/0005/002, the flow passing this impoundment shall comply with the conditions of that licence. Several conditions of the abstraction licence were not being complied with. Please see CAR\_NRW0035128 for details of abstraction licence inspection.

Condition 4.4iv says that the licence holder shall maintain the impoundment licence to prevent leakage and be free from obstruction at all times. The notch that should have provided downstream flow was blocked, so as to ensure adequate downstream flow. The impoundment licence does not allow for this to be blocked. It appeared that the wooden gate structure was allowing more water through than the flow regime licensed in the abstraction licence, and licence 24/67/5/20. It should be ensured that the wooden gates do not allow leakage.

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. If you think that this is not achievable please contact NRW as soon as possible. (\*Until this date, or until alternative arrangements have been made to comply with licence 24/67/5/20, whichever is soonest, the impoundment must be operated so as to allow abstraction of no more water than is required to provide supply to the properties and the purposes listed in licence 24/67/5/20. Please contact me by 31/05/19, stating how you propose to operate the impoundment to achieve interim arrangements). Advised Mr Best on 01/05/19 that he may need to seek consultant advice.

Enforcement action is now being considered for the above offences.



Residual flow notch blocked by board. No hands off flow notch. This notch should pass 7 litres per second plus 50% of the flow in the watercourse downstream.



Water flowing down leat. This should allow 50% of the flow above 7 litres per second. This should also allow the domestic supply of 3350 gallons per day, which is an average flow of 0.18 litres per second. Therefor the impoundment should allow more flow to the watercourse, than to the leat.

## EPR Compliance Assessment Report

**Report ID:  
CAR\_NRW0035130**

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

|                        |          |            |                 |
|------------------------|----------|------------|-----------------|
| Site                   |          | Permit Ref | WA/067/0005/005 |
| 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           | Keep free from blockages and leaks, with the exception of those required to secure supply as per 24/67/5/20 until arrangement in place. See note *.                                                            | 31/05/2019 |
| A1                  | C3           | Cease abstraction under WA/067/0005/002 until flow passing impoundment complies with conditions.                                                                                                               | 31/05/2019 |
| A1                  | C3           | Construct and operate intake as per licence drawings (either current licence or variation). Cease abstraction for HEP under WA/067/0005/002 until intake compliant. For impoundment for 24/67/5/20 see note *. | 31/05/2019 |
| A1                  | C3           | Make arrangements to secure compliance with 24/67/5/20 so as to prevent non-compliance with this impoundment licence. Apply for variation to impoundment licence if necessary.                                 | 31/08/2019 |

## 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](mailto: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.