

Compliance Assessment Report

Report ID:
CAR_NRW0036201

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

Site	Four Cilcain Reservoirs and One Mill Pond (Linked to 24/67/8/0079)	Permit Ref	24/67/8/0056		
Operator/Permit holder	Dwr Cymru Cyfyngedig				
Regime	Water Abstraction				
Date of assessment	09/07/2019 - 25/07/2019	Time in	N/A	Out	N/A
Assessment type	Report/Data Review				
Parts of the permit assessed	Returns				
Lead officer's name	Rees-Jones, Jenny				
Accompanied by					
Recipient's name/position	Jo Cullen/ Water Resources Manager	Date issued	28/01/2020		

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
C2 - General Management - Management system and operating procedures	C4	Condition d refers to the Central Flintshire Water Board Order 1964, which refers to the Hawarden and District Waterworks Act 1883, which in S45 requires that a regular continuous supply of at least 250,000 gallons are delivered to the Garth Brook per 24 hours.

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)	0.1
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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

Returns submitted by DCWW show under release of compensation flow to the Garth brook as per the information below.

Date	Flow ML/day
09/07/2020	0.987
22/07/2020	1.031
23/07/2020	1.108
24/07/2020	1.053
25/07/2020	0.898

DCWW are licensed to abstract from Cilcain Reservoir under abstraction licence 24/67/8/0056 which refers to the Central Flintshire Water Board Order 1964, which refers to the Hawarden and District Waterworks Act 1883 which requires that 250000 gallons of water per day, equivalent to 1.14 MI/d or 13.1 l/s is released into the Garth Brook as compensation water.

The Cilcain reservoirs were last used for public water supply in May 1994 and DCWW state that they have no need for them operationally anymore. Without intervention, the outflow from the lake would be equal to inflow minus evaporation from the reservoir plus rainfall onto the reservoir, and flow in the downstream watercourse would be fairly natural.

DCWW have previously stated that the release required by the Act is unusually high, equivalent to roughly Q82, therefor the compensation requirement for Cilcain exceeds the dry weather inflows to reservoir 3 and 4 so although DCWW are not currently using the sources, they still have to draw the reservoirs down to stay compliant with the Hawarden and District Water Works Act 1883. The purpose of the compensation flows was to supply water to mills which no longer exist.

In 2012 Environment Agency Wales granted a request from DCWW to temporarily reduce the compensation flow from the reservoirs to 7.8 l/s for a trial period (or 0.68 MI/d). In 2018, when DCWW breached the lower informally agreed compensation flow arrangement during a period of developing drought, the issue was raised again. DCWW were advised to seek legal advice about changing the requirements of the Act and Order.

Some progress has been made with this, however there are issues surrounding the fact that DCWW do not own all of the reservoirs. DCWW continue to pursue this issue with their legal team.

When asked about the above data, DCWW explained that although the flows dropped below the rate in the Act of 1.14MI/d, they are compliant with the reduced rate of 0.68 MI/d, which. DCWW said that they use the higher rate for self-reporting. DCWW reiterated that during low flows they need to draw down the reservoir just to achieve the reduced rate, which is a concern for the local angling club due to potential impact on fish stock.

The above C4 categorisation relates to a breach of the higher rate of compensation flow 1.14 MI/d as written into the Act, rather than the lower rate of 0.68 MI/d. Advice and guidance is selected as the appropriate enforcement option, however, the agreement in 2012 was a temporary agreement and, whilst some progress has been made since the review of 2018 data, further work is required and a permanent legal arrangement needs to be reached.

Jenny Rees-Jones
Swyddog Amgylchedd / Environment Officer
Cyfoeth Naturiol Cymru / Natural Resources Wales
0300 065 3856

EPR Compliance Assessment Report

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Operator/Permit holder	Dwr Cymru Cyfyngedig	Date	09/07/2019

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.

Other than the provision of advice and guidance, at present we do not intend to take further enforcement action in respect of the non-compliance identified above. This does not preclude us from taking enforcement action if further relevant information comes to light or advice isn't followed.

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			
C2	C4	Report on progress with legal team on matter of altering compensation condition.	28/02/2020

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.