

## Compliance Assessment Report

**Report ID:**  
**CAR\_NRW0033736**

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

Site	Nant y Crogfryn - Transfer of water to Ty Mawr Reservoir	Permit Ref	24/67/5/0008
Operator/Permit holder	Hafren Dyfrdwy Cyfyngedig		
Regime	Water Abstraction		
Date of assessment	09/07/2018	Time in	12:20
Assessment type	Site Inspection	Out	12:40
Parts of the permit assessed	Site		
Lead officer's name	Rees-Jones, Jenny		
Accompanied by			
Recipient's name/position	Liz Franks/ Water Resources & Catchment Specialist (Wales)	Date issued	06/12/2018

### 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
B5 - Infrastructure - Plant and equipment	C3	Reference to Wrexham and East Denbighshire Water Act 1936. Requirement for means of which the rate of discharge of compensation water shall be measured and recorded.
C2 - General Management - Management system and operating procedures	C3	Reference to Wrexham and East Denbighshire Water Act 1936. Requirement for 98000 gallons per day = 445.52m <sup>3</sup> per day = 5.16 l/s of compensation water.

**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>2</b>	<b>Total compliance score</b> (see section 5 for scoring scheme)	<b>8</b>
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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

Visited with Jacob McMahon during period of dry weather.

The licence refers to the provisions of Sections 16, 17 and 18 of the Wrexham and East Denbighshire Water Act 1936. The Act states in Section 18 that a continuous flow making in aggregate 98,000 gallons (445.52m<sup>3</sup>) of water per day will be delivered into the Nant y Crogfrin Brook = 5.16 l/s. It requires a suitable gauge for automatically measuring and recording the rate of discharge.

I was told on the day of the visit that no water is currently being abstracted from Pant Glas and transferred to Ty Mawr. The operator provided records on 07/09/18 of water abstracted since the start of 2016. The records say that 24m<sup>3</sup> of water has been abstracted every day from 28/01/18 until 31/08/18, with the exception of one day for which no figure was recorded.

The level recorder that should measure the compensation flow was not working at the time of the visit. The depth of water over the v-notch was 6.5-7cm, see attached photos. The operator provided records of daily quantities of compensation flow released between 13/01/17 and 05/09/18.

The records say that 1224-1226m<sup>3</sup> of compensation flow water was released every day from 27/09/17 to 05/09/18, with the exception of 8 days when no data was recorded. NRW requested on 3rd October:

1. what depth over the v-notch this equates to (1224 m<sup>3</sup>/day)
2. what level over the v-notch the minimum compensation flow amount of 445.82 m<sup>3</sup>/day equates to.

NRW have not received this data, however the Licence Holder provided a diagram of the v-notch title Weir Details, Ref C1822. NRW calculate that a depth of 70mm over the v-notch would provide 1.81 l/s of compensation flow, or 156.384 m<sup>3</sup> per day. NRW calculate that the required depth of water over the v-notch to achieve the compensation flow of 5.16 l/s or 445.52 m<sup>3</sup>/day is 107mm.

The level recorder was previously found to be faulty in December 2015, and a warning letter was served for this offence. At the time, the Licence Holder was reminded that the 5.16 l/s is a compensation flow rather than a hands off flow and should be delivered at all times regardless of whether abstraction is taking place and regardless of whether flow into the reservoir is lower. At the time, it was discussed that if the abstraction licence, which NRW are responsible for enforcing, refers to the Act, and if the Licence Holder wished to apply to repeal the Act that was up to them. At the time the Licence Holder said that they were ceasing abstraction until they could arrange a better way of securing the compensation flow. It does not appear that this issue has been addressed during this time.

A warning letter was served for the same offence in 2015 (warning letter issued 2016). **This inspection form comes with a further warning.** The Licence Holder needs to address this issue in a timely manner to prevent continued non-compliance. Please report to NRW by 11/01/2019 detailing how you intend to comply with compensation flow requirement, proposing timescales, which need to be agreed with NRW.

At the time of the visit the abstraction licence 24/67/5/0008 for transfer of water from Pant Glas Reservoir / the Nant y Crogfrin to Ty Mawr Reservoir was held by Dee Valley Water. However the company's name had changed to Hafren Dyfrdwy Cyfyngedig on 29/06/18. No application had been made to change the name on the licence at the time of the visit. Note that this was a name change only via an administrative variation, the company number remained the same. The licences were not varied until 05/12/18.



Compensation flow over v-notch



Measurement of compensation flow over v-notch

## EPR Compliance Assessment Report

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### 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			
B5	C3	Licence Holder to ensure that compensation data is being recorded as per Act	31/01/2019
C2	C3	Licence Holder to report to NRW how they intend to comply with compensation flow requirement with agreed timescales.	31/01/2019

## 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.