

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

Site	Nant Cwmcloch	Permit Ref	WA/065/0005/005		
Operator/Permit holder	Cwm Cloch Hydro Limited				
Regime	Water Abstraction				
Date of assessment	09/03/2020	Time in	10:45	Out	13:05
Assessment type	Site Inspection				
Parts of the permit assessed	Listed below				
Lead officer's name	Rees-Jones, Jenny				
Accompanied by	Jenkinson, Katrina				
Recipient's name/position	Richard Rees/ Director	Date issued	15/07/2020		

## 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
A1 - Specified by permit	C3	4.5 - Further conditions - operate and maintain intake works as per specifications and drawing
	C4	3.1 - Manner and extent of impoundment
	C3	3.1 - Manner and extend of impoundment

**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>3</b>	<b>Total compliance score</b> (see section 5 for scoring scheme)	<b>8.1</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

This inspection form relates to the impoundment licence at Cwm Cloch WA0650005005.

Please see CAR\_NRW0036775 in relation to abstraction licence WA0650005004 at the same site.

Arrived at end of track near Cwm Cloch at 10:45 and spoke to land owner.

Walked to intake, weather was dry at start of inspection becoming rainy.

### **Condition 3 - Manner and extent of impoundment**

Condition 3 of the impoundment licence refers to the licence drawings. These are also referred to in condition 9.2 of the abstraction licence.

Widths of abstraction and residual flow crests appeared to be correct. Width of hands off flow notch correct. Unable to measure depth of hands off flow notch accurately due to flow.

The following issues were noticed which require your attention:

#### **Plunge Pool**

The licence drawings include a plunge pool of a depth greater than 300mm. This is also required in condition 9.1 of the abstraction licence. The plunge pool is to enable downstream fish passage. No plunge pool had been built. The licence holder has spoken with the local Fisheries Technical Officer to discuss construction of a plunge pool, and the Fisheries Technical Officer has agreed to visit site whilst works are taking place.

*Action: please ensure that the plunge pool is constructed as soon as possible as per agreement with Local Fisheries Technical Officer and by no later than 01/09/2020.*

#### **Screen**

There is a lip at the bottom of the intake screen that protrudes from the slope of the screen and may potentially cause injury to any fish that pass over the screen. This lip is not included in the licence drawings referenced above.

*Action: Please discuss with Fisheries Officer Walter Hanks regarding the best way to resolve this and do so by 01/09/2020. If this is not completely removed and another resolution is agreed, it will need to be included in amendments to licence drawings (see below).*

#### **Score CCS C3.**

It was also noted that the drawings require the downstream face of the weir to be stone faced. At present the slope below the weir wall and screen are stone faced only.

#### **Intake constructed in mirror image**

The intake structure has been constructed in a mirror image of the licence drawing, with the intake screen and residual flow / hands off flow notch being on the opposite side of the watercourse to what is shown in the drawings. Please see photographs. The licence holder explained that he did not know the reason for this. Intakes should be constructed as per licence drawings because this is what has been agreed by NRW specialists through internal consultation.

*Action: The intake needs to be built as per the licence drawings. Otherwise, as built drawings need to be attached to the licence through a variation.*

#### **Score CCS C4.**

### **Condition 4.5 - Further Conditions relating to maintenance**

### Elver substrate

The licence drawings include elver substrate tiles, which were not present at the time of the inspections. The licence holder later confirmed by email when asked that he was aware that the elver pass had been lost to one of the floods over the winter and had ordered a new one to be fabricated. This should be attached soon. Condition 4.5 of the impoundment licence requires that the intake works are maintained in accordance with the licence drawings. Condition 9.2 of the abstraction licence also requires that the intake is maintained.

*Action: please ensure that the elver substrate is in place by 01/09/2020.*

**Score CCS C3.**



Please ensure that schemes are checked post construction and then regularly to check that they have been built as licensed, and ensure compliance with licence conditions. Please arrange for non-compliances to be resolved as soon as possible once noticed.

Non-compliances identified above communicated to licence holder by email on 06/04/2020. It was agreed that non-compliances would be resolved as quickly as possible, acknowledging COVID 19 restrictions. Apologies for delay in sending inspection form.

**On this occasion we have decided to issue you with a Warning for the non-compliances.**

**The warning is embedded within this report, please see Section 3. - Enforcement Response**

n.b. Please ignore any reference to Operational Risk Appraisal (OPRA) and Environmental Permitting Regulations (EPR) on the back of this form as they are not currently applicable to abstraction or impoundment licensing.

Please contact me if you wish to discuss further.

**Jenny Rees-Jones, Environment Officer**

**[jenny.rees-jones@cyfoethnaturiolcymru.gov.uk](mailto:jenny.rees-jones@cyfoethnaturiolcymru.gov.uk)**

## EPR Compliance Assessment Report

**Report ID:  
CAR\_NRW0036778**

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Operator/Permit holder	Cwm Cloch Hydro Limited	Date	09/03/2020

### 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.

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			
A1	C3	Re-instate elver substrate. Ensure that scheme is maintained.	01/09/2020
A1	C4	If licence holder does not intend to alter scheme to match licence drawings, an application should be made to amend licence drawings, however it is not guaranteed that this will be issued.	01/09/2020
A1	C3	Construct plunge pool as per licence and in agreement with Fisheries Technical Officer. Contact Fisheries Technical Officer to resolve lip.	01/09/2020

## 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](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.