

Compliance Assessment Report CAR_NRW0036907

Licence being assessed: 24/67/7/0167.

For: Afon Aber Sychnant & Tributary - water transfer to Pendinas Reservoir, held by Hafren Dyfrdwy Cyfyngedig.

At: Llandegla , Wrexham, Denbighshire, LL11 3AA.

Type of assessment: Report/Data Review, Reason: Routine.

On 24/07/2020.

Parts of licence assessed: Those listed below

NRW Lead Officer: Jenny Rees-Jones.

Report sent to: Elizabeth Franks, Environment & Natural Resources specialist (Wales), on 23/09/2020.

1. Summary of our findings (full details in section 4)

Part of licenced activity assessed (criteria)	Assessment result	Licence condition
WR-A4 - Abstraction specified by licence - Purposes of abstraction	C3 Minor	Condition 4 - transfer of water only from the Afon Abersychnant and an unnamed tributary of the Afon Abersychnant to Pendinas Reservoir
WR-B1 - Abstraction measurement and records - Means of measurement	C3 Minor	7.1 - means of measurement - a continuous integrating flow recorder

Result types are explained in more detail in the 'Important Information' section below.

2. What action is required?

Criteria	Action needed	Complete by
WR-A4	Stop abstraction for purposes other than that licensed.	30/10/2020
WR-B1	All water abstracted should be metered as per licence.	30/10/2020

Action criteria codes are listed in the 'Important Information' section below.

3. What will happen next?

Any non-compliance we have identified and recorded on this form is an offence. It can result in criminal prosecution or civil sanctions being imposed depending on the circumstances of the offence.

You are non-compliant with your licence.

We are currently considering taking enforcement action against you for the non-compliance recorded above. We will contact you in due course.

4. Details of our assessment

During the period of dry weather in 2020, NRW did not carry out compliance inspections on this site due to Covid 19 restrictions. Alternatively, NRW contacted Hafren Dyfrdwy, requesting data to check compliance and asking specific questions at certain sites. Hafren Dyfrdwy provided a report for this abstraction by email on 06/08/2020, which was followed by further information on 18/08/2020.

In the summer of 2018 it was identified that condition 4 and 7 of the licence were being breached. Condition 4 states that the purpose of the abstraction is for transfer to Pendinas reservoir only. Condition 7 relates to metering. During the inspection in 2018 it was identified that water was being sent to "waste" and bypassing the meter, so that the quantity of water being abstracted is not known. Water was being discharged to the Nant y Ffrith, which is a different catchment to the one it is abstracted from (Clywedog). A warning was issued and Hafren Dyfrdwy were given actions to meter the abstraction and comply with the purpose condition. Discussions followed regarding the potential options for the site including applying to vary the licence to include a "sweetening flow" condition.

A pre-application enquiry was submitted to NRW by Hafren Dyfrdwy on 19/03/2020. Further information was requested from Hafren Dyfrdwy on 22/04/2020. Some, but not all of the information was provided on 29/04/2020. The application was returned on 22/07/2020 because the remaining information had not been provided.

The following information was provided on 18/08/2020:

We have not actively used the transfer from Abersychnant to Pendinas this season due to quality concerns; the pipeline from Abersychnant enters Pendinas very close to the offtake to the works, which does not allow for sufficient mixing. Unfortunately, the valve at the end of the pipeline currently only enables us to switch between release into the reservoir or run to waste, not to shut off the flow. Therefore, we are currently still abstracting with water running to waste at the Pendinas Reservoir spillway.

We have started to investigate options to properly control and measure the abstraction. A site visit was carried out in early July, with an engineering contractor, to assess feasibility of the following options:

- Install a penstock at Afon Abersychnant intake to enable abstraction to be controlled at point of origin.*
- Install a new valve at Pendinas Reservoir to enable abstraction to be shut off prior to meter into the reservoir and remove the need to run to waste.*

Due to the nature of access to both sites, both options would be complicated due to difficulty of getting plant & equipment in situ. However, of the two, it is likely that the installation of a penstock at point of abstraction would be preferable.

The abstraction from Abersychnant has not been used for some time now due to the quality issues discussed earlier. We therefore also plan to speak with our Water Resources

planning team to assess how crucial this source would be in the future and assess whether revocation may actually be the best option in the long term.

Water is still not being abstracted for the purpose described in the licence. Hafren Dyfrdwy have provided some justification for running the water to waste, however this has not been requested and agreed in a formal application to vary the licence, and therefore it has not been assessed that there is a justification of need to abstract this water for the purpose of running to waste, rather than allowing it to remain in Abersychnant (Clywedog) catchment. On this occasion we have decided to score C3 for non compliance with Condition 4. Hafren Dyfrdwy do not know what quantity is being run to waste and diverted from its natural catchment because the abstraction is not being metered. We have decided to score C3 for non-compliance with condition 7.1.

Whilst we accept that the site is remote, and some consideration has been given to the potential options to return to compliance, it is unacceptable that water is still being abstracted for a purpose not listed in the licence and not metered two years after this has been initially identified and discussed with Hafren Dyfrdwy. **NRW are now considering serving a compliance notice to address the non-compliances identified in this form and will be in touch in due course.**

There have historically been issues at this abstraction with provision of the compensation flow. A photograph was provided dated 08/08/2020 showing a compensation discharge coming from one of the orifices in the dam wall, and flowing over the v-notch weir. It was not possible to say with certainty whether this was compliant with licence conditions as this needs to be measured, however it appeared compliant, so this condition has not been assessed at this time. Please ensure that the site is visited regularly and that the correct flow is being delivered.

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

If you have any queries about this report, or to discuss completion of any actions, please contact the NRW Officer named above.

Important information

Legal status of this report

Your licence is issued to you under the Water Resources Act 1991 as amended by the Water Act 2003. You have a responsibility to comply with the conditions of your licence and prevent pollution/harm to the environment. You must also ensure that you comply with any other relevant legislation that may apply to your site's operations.

This report explains the findings of our assessment and any action you are required to take. We categorise non-compliance using our guidance for assessing non-compliance at regulated sites.

When we find potential non-compliance/s we will normally give you advice on how to maintain compliance.

To correct non-compliance, we may:

- require you to take specific actions
- issue a notice.

Any advice and guidance we give will be without prejudice to any other enforcement response that we consider may be required.

Assessment results and non-compliance categories (used in section 1):

Assessment result	Description
Assessed (A)	Assessed or assessed in part, no evidence of non-compliance found
Action only (X)	Action only relating to the activity assessment
Ongoing (O)	Ongoing non-compliance, not scored

Non-compliance category	Description
C1 Major	Potential to have a major, serious, persistent and/or extensive impact or effect on the environment, people and/or property
C2 Significant	Potential to have a significant impact or effect on the environment, people and/or property
C3 Minor	Potential to have a minor or minimal impact or effect on the environment, people and/or property
C4 No environmental impact	Non-compliance at a regulated site that cannot foreseeably have any impact on the environment, people and/or property

If your assessment result in Section 1 is suspended, what does this mean?

In line with our guidance, we may suspend non-compliance for up to six months to allow time for remedial action to be taken. These will be re-instated if the action is not completed.

Full list of Water resource action criteria (used in section 1 and 2):**WR A: Abstraction specified by Licence**

- WR-A1 Source of supply
- WR-A2 Points of abstraction
- WR-A3 Means of abstraction
- WR-A4 Purposes of abstraction
- WR-A5 Period of abstraction
- WR-A6 Quantities
- WR-A7 Land
- WR-A8 Other specified on licence

WR B: Abstraction measurement and records

- WR-B1 Means of measurement
- WR-B2 Recording
- WR-B3 Reporting

WR C: Surface / Groundwater level and protected flow

- WR-C1 Minimum hands-off flow/level requirements
- WR-C2 Flow/level measurement devices
- WR-C3 Recording
- WR-C4 Reporting

WR D: Environmental monitoring and information

- WR-D1 Recording
- WR-D2 Reporting
- WR-D3 Notifications

WR E: Fish and eel passage

- WR-E1 Infrastructure specified by licence
- WR-E2 Maintenance and records

WR F: Discharge

- WR-F1 Point of discharge
- WR-F2 Infrastructure
- WR-F3 Measurement
- WR-F4 Recording
- WR-F5 Reporting

WR G: Impoundment specified by licence

- WR-G1 Inland water to be impounded
- WR-G2 Manner and extent of impoundment
- WR-G3 Point(s) of impoundment
- WR-G4 Construction and removal requirements
- WR-G5 Other specified on licence

WR H: Borehole infrastructure

- WR-H1 Infrastructure and accessibility
- WR-H2 Maintenance and calibration

Enforcement response

Any licence condition non-compliance is an offence and we may take legal action against you. Action we take can include prosecution or civil sanctions. See our Enforcement and Sanctions Guidance for further information.

Data protection notice

You should make sure that anyone named in this report knows that the information it contains will be processed by Natural Resources Wales to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s).

We may also use and/or disclose the report in connection with:

- offering or providing you with our literature or services relating to environmental matters
- consulting with the public, public bodies and other organisations (e.g. 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 our service
- Freedom of Information Act or Environmental Information Regulations requests.

We may also pass it on to our agents or representatives to do these things on our behalf.

Disclosure of information – this report will be available to view on-line

If you think this report contains commercially confidential information that should not be placed on our public register, you must contact your local Natural Resources Wales office within **fifteen working days** of receiving this report, using the contact details in the accompanying email or letter. You must give a full explanation of why it should not be added to our public register, including specifying which information is commercially confidential. We will assess your request and respond to you within 20 working days to let you know if we agree to your request.

What do I do if I disagree with the report or have a complaint?

If you disagree with this compliance assessment report, you should contact the lead officer without delay to discuss your concerns.

If you are unable to resolve the issue with the lead officer or their line manager you should contact our Customer Contact team on 0300 065 3000 (Mon to Fri 08:00 – 18:00), or email enquiries@naturalresourceswales.gov.uk for details of how to raise your dispute further through our Complaints and Commendations procedure.

If you are dissatisfied with our response, you can contact the Public Services Ombudsman for Wales by phone on 0300 7900203 or by email at ask@ombudsman.wales

Welsh Language Standards

We are committed to establishing Natural Resources Wales as a naturally bilingual organisation. We will provide compliance reports in your preferred language.