

Compliance Assessment Report CAR_NRW0036905

Licence being assessed: 24/67/7/0220.

For: Abstraction from the River Dee at Twll near Bangor-on-Dee - 'off-peak', held by Hafren Dyfrdwy Cyfyngedig.

At: Caia Park, Cross Lanes, LL13 0TN.

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

On 27/05/2020 - 29/05/2020.

Parts of licence assessed: Self-report

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-A6 - Abstraction specified by licence - Quantities	C4 No impact	10c and 7ii - over abstraction when Dee below 13.07 cumecs at Eccleston Ferry

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

2. What action is required?

Criteria	Action needed	Complete by
WR-A6	Ensure all staff are fully aware of licence conditions that relate to their role, including roles that they may cover for a limited period of time.	Already completed

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.

At this time, we are issuing you with a warning for the non-compliance recorded above. Warnings may influence future enforcement response for continued or further non-compliance.

This statement does not stop us from taking additional enforcement action if further relevant information comes to light or offences continue.

4. Details of our assessment

Hafren Dyfrdwy self-reported by email to NRW on 09/07/2020 that they had over abstracted on the following dates by abstracting the corresponding quantities:

27/05/2020: 45.77 ML

28/05/2020: 47.34 ML

29/05/2020: 47.44 ML

The over abstractions were also reported on the telephone closer to the event.

Condition 7i of the licence allows a maximum quantity of 37.52 ML/d to be abstracted.

Condition 7ii allow an additional 6.819 ML/d to be abstracted, subject to condition 10c. This gives a maximum of 44.34ML/d.

Hafren Dyfrdwy are also licensed to abstract from this location under licence WA/067/0007/0016, which allows a further 8 ML/d abstraction.

On these dates the flow at Eccleston Ferry were below 13.07m³/s. Condition 10c of the licence states that no abstraction shall be made under condition 7ii of the licence when the predicted flow at Eccleston Ferry is less than 13.07 cumecs. Therefor the daily limit of 37.52 ML should have been adhered to on licence 24/67/7/0220, in addition to 8 ML on licence WA/067/0007/0016, giving a total daily limit of 45.52 ML

These over abstractions equate to 0.55%, 4% and 4.2% respectively above the combined daily maximum of the two licences, when the flow at Eccleston Ferry is below 13.07m³/s.

When asked to explain the reason that the over-abstraction occurred, Hafren Dyfrdwy responded that: *the licence exceedance occurred over three days in the run up to the weekend. As with most other water companies, we experienced unprecedented high demand during May which led to pumps at Sesswick being run at a higher rate than normal to ensure Marchwiell was topped up ahead of the weekend (when we generally see our highest demand), but forgetting to check that the river level allowed for this rate of abstraction.*

When asked what measures had been put in place to prevent a recurrence of this type of non-compliance, Hafren Dyfrdwy responded: *Our control room have been reminded of the need to check whether the Dee is supported prior to increasing the abstraction rate. In addition to them continuing to receive the weekly Dee Stocks email, the Dee monitoring point of Farndon has been added to the ST/HD rivers spreadsheet held by the Water Resources Network Control team and it is now been included in their checks. The river levels spreadsheet is updated weekly, except over the summer (or whenever we would expect river levels to be lower) when the checks switch to every week day. We therefore now have two points of reference for checking whether the Dee is being supported to ensure that we don't exceed the licence again.*

On this occasion it has been decided to score a category C4. This was a minimal over abstraction, however failing to check the river level and adjust the rate of abstraction

accordingly could potentially cause environmental impact. Therefore **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

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.