

Compliance Assessment Report CAR_NRW0037009

Permit being assessed: WP3231NB.

For: The Creamery , held by Dairy Partners (Cymru Wales) Limited

At: Aberarad, Newcastle Emlyn, Carmarthenshire, SA38 9DQ.

Type of assessment carried out: Site Inspection, Reason: Incident Response (Incident number 2003787).

On 21/09/2020 between 12:12 and 12:50.

Parts of permit assessed: See section 4 of this report

NRW Lead Officer: Neil Herbert.

Report sent to: Steve Welch, Site Manager on 07/10/2020.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
C1 - General Management - Staff competency/training	C3 Minor	1.1.1
E3 - Emissions - Surface water	Assessed (A)	
E3 - Emissions - Surface water	Action only (X)	

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

Total number of non-compliances recorded	Total non-compliance score
1	4

How we use the non-compliance score to calculate your annual fee is explained in the 'Important Information' section below.

2. What action is required?

Criteria	Action needed	Complete by
C1	Operator to implement appropriate management procedures to ensure staff competence and permit compliance.	Already completed
E3	Operator to ensure that all effluent parameters (e.g. pH) are at levels that do not cause pollution. This is an immediate ongoing action.	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 and/or suspension or revocation of your permit.

You are non-compliant with your permit.

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

Incident inspection and findings

- On the 21st September 2020 NRW received a report of a potentially polluting substance (foam) in the Afon Teifi, allegedly emanating from the Dairy Partners installation.
- An NRW officer attended and first inspected the outfall* that discharges into the Afon Teifi (NGR: SN31356 40462). Whilst a slight whiteish hue was seen in the receiving water, this was very localised (no more than 1m²). Some small fragments of a whitish scum were noted near the discharge point, but the discharge itself appeared clear at the time of this inspection. Foam was later noted well downstream of the outfall, although the source of this could not be verified.
- An officer then attended the site to inspect the installation's W1 emission point. The officer was accompanied by Steve Welch (SW) and Daryl White (DW) of Dairy Partners.
- An inspection of the effluent found within the W1 emission point, revealed no evidence of visual contamination. No foam was present.
- The operatives stated that there hadn't been an issue with the effluent on site, over the preceding day.
- A copy of the shift log was inspected for the preceding day and no issues with the effluent were recorded.
- SW also confirmed that COD results available that morning (and for the previous week) indicated no emission limit failures with the permit's COD limit.
- I then visited the site's laboratory to inspect the monitoring records, specifically the results for daily monitoring over the previous week. The records inspected indicated that COD limits were below the permit limit. We did however note that suspended solids limits on the 13th, 18th and 19th of September were elevated and exceeded the permit's emission limits. The pH results also appeared low (pH < 6) on the 12th, 13th, 18th, 19th and 20th of September. Whilst there are no specific emission limits for pH in this permit, pH levels below 6 (or greater than 9) could cause pollution and need to be avoided.
- The operator were instructed to submit a schedule 5 notification and investigate the apparent emission limit failure for TSS.
- A schedule 5 notification was subsequently emailed to NRW on the 22nd of September with the findings of Dairy Partner's investigation.
- The notification indicated that a new technician undertaking effluent testing, had made errors when calculating the test results. This resulted in the incorrect results being calculated for TSS and recorded in the site's monitoring records. This was not identified until NRW identified the apparent limit exceedances. The results have

since been corrected and the operator state that they were below the site's TSS emission limits.

- The new technician has since been re-trained. In future daily test results will now be verified by the environment manager on a daily basis.
- The operator must ensure that the activities undertaken under the provision of this site's EPR permit are by competent persons. The operator must also ensure that staff receive adequate training. It is unclear how the error (for such a critical element of the permit) was not identified sooner. Procedures should have been in place to ensure that any, apparent, environmental exceedance, would have triggered an immediate response (e.g. investigation, mitigation and notification (Schedule 5)). Given the previous assurance by Dairy Partners that monitoring data would be closely and regularly scrutinised**, then this recent event is of particular concern.
- However, whilst these failing have been noted, they are understood to be confined to a short period (14th to 21st September). Furthermore, it is also noted that since this event, the operator claim to have now put measures in place to prevent this happening again.

Compliance: The above failures are considered a breach of condition 1.1.1 of the permit. We have allocated a compliance classification score of 3 for this failure, against the c1 compliance heading (*General Management - Staff competency/training*). You have been issued with a warning for this failure.

Other Matters - Best Available Techniques Reference Document (BRef) for Food, Drink and Milk sector

Following the publication of the revised Best Available Techniques (BAT) Reference Document (BRef) for Food, Drink and Milk industries, the associated BAT conclusions to this document were published on the 4th December 2019 in the Official Journal of the European Union.

Earlier this year NRW issued a regulation 61 information notice to all operators in this sector and the notice requires Dairy Partners to provide information to confirm how they will comply with the BAT conclusions by the 31st of October 2020.

Notes:

*this outfall receives the drainage from the Dairy Partners site in addition to drainage from other buildings and businesses in the Aberarad area.

**following the serious management failures that occurred between 2016 to 2019, see CAR_NRW0036155 - 11th Feb 2020

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 permit is issued to you under the Environmental Permitting Regulations. You have a responsibility to comply with the conditions of your permit and prevent pollution/harm of 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
- review the conditions of your permit.

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	Score
C1 Major	Potential to have a major, serious, persistent and/or extensive impact or effect on the environment, people and/or property	60
C2 Significant	Potential to have a significant impact or effect on the environment, people and/or property	31
C3 Minor	Potential to have a minor or minimal impact or effect on the environment, people and/or property	4
C4 No environmental impact	Non-compliance at a regulated site that cannot foreseeably have any impact on the environment, people and/or property	0.1

How we use assessment scores

The number and severity of non-compliances recorded in a year will affect your annual subsistence fee the following year. A non-compliance factor is added to your site's Operator

Performance Risk Appraisal (OPRA) score when we calculate your fee to reflect the additional resource we use to assess permit compliance.

What are suspended scores?

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

Full list of Industry and Waste action criteria (used in section 1 and 2):**A: Permitted activities**

- A1 Specified by permit

B: Infrastructure

- B1 Infrastructure – Engineering for prevention and control of emissions
- B2 Infrastructure – Closure and decommissioning
- B3 Infrastructure – Site drainage engineering (clean and foul)
- B4 Infrastructure – Containment of stored materials
- B5 Infrastructure – Plant and equipment

C: General management

- C1 General management – Staff competency/training
- C2 General management – Management system and operating procedures
- C3 General management – Materials acceptance
- C4 General management – Storage, handling, labelling and segregation

D: Incident management

- D1 Incident management – Site security
- D2 Incident management – Accidents, emergency and incident planning

E: Emissions

- E1 Emissions – Air
- E2 Emissions – Land and groundwater
- E3 Emissions – Surface water
- E4 Emissions – Sewer
- E5 Emissions – Waste

F: Amenity

- F1 Amenity – Odour
- F2 Amenity – Noise
- F3 Amenity – Dust/fibres/particulates and litter
- F4 Amenity – Pests/birds and scavengers
- F5 Amenity – Deposits on road

G: Monitoring and records, maintenance and reporting

- G1 Monitoring and records, maintenance and reporting – Monitoring of emissions and environment
- G2 Monitoring and records, maintenance and reporting – Records of activity, site diary/journal/events
- G3 Monitoring and records, maintenance and reporting – Maintenance records
- G4 Monitoring and records, maintenance and reporting – Reporting and notification to Natural Resources Wales

H: Resources efficiency

- H1 Resource efficiency – Efficient use of raw materials
- H2 Resource efficiency – Energy efficiency

Enforcement response

Any permit condition non-compliance is an offence and we may take legal action against you. Action we take can include prosecution, serving a notice on you and/or suspension or revocation of your permit. 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 (Monday to Friday 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.