

**Natural Resources Wales
Chester Road
Buckley
Flintshire
CH7 3AJ**

8 January 2021

Dear Sian,

Re: Site closure process and further plans

I am aware we discussed much of the content of your letter dated 2 December 2020 during your visit to site on 9 December 2020, however, I write to formally respond to the actions you raised and to provide some comments and responses (as date appropriate) to the CAR issued for the visit (CAR_NRW0037194).

Continued storage of limited waste types

***"Action 1** Please provide confirmation when removal of each of the waste types from site is completed"*

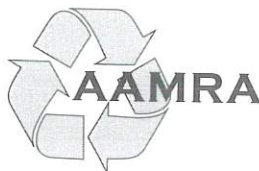
As discussed on 9 December, all materials continue to be stored on site although salt stocks have been reduced throughout December. The TFS application was submitted in December and we await a decision (including whether or not we can agree a financial guarantee can be provided from a financial institution without a UK presence). Subject to the expedient approval of the TFS, we remain on track to have all materials removed by end of Q1 2021. This target is, however, reliant upon the TFS.

Drainage

***"Action 2** Provide an initial report on the condition of the site drainage systems, an updated drainage diagram and details of any identified remedial works required and timescales for those repairs by 06/01/2021"*

As discussed during your visit, the survey had already been completed for the site drainage system which identified one damaged section that was subsequently excavated and repaired (as identified during your visit). Unfortunately, we are not yet in receipt of the formal report for this area, however, we expect it imminently.

As mentioned in the CAR, the CCTV surveys for the car park and access road drainage were incomplete, however despite our expectations to have commenced the survey the week following



your visit, heavy rain for the rest of the month rendered this impossible (we could not keep the roads clear long enough to attempt the survey). We now, subject to continuation of the current dry spell and above 0 temperatures, plan to commence this survey between 8 and 11 January. Completion of the drainage survey will demarcate the drainage network from different areas of the site and identify any previously unknown linkages.

We are continuing the studies with H Fraser Consulting and understand that we will require a permit variation(s) for any water discharge. For this purpose, we intend to calculate the acceptable discharge limits by calculating a flow and concentration in the discharge that will result in the net downstream concentration not exceeding an acceptable concentration. It was confirmed during our meeting that a clear demonstration of the drainage segregation in conjunction with the supporting information from the report of H Fraser Consulting would facilitate the consideration of selective discharges through the permit variation process, if appropriate. For information, the first round of ground and surface water monitoring has been completed and a second round is scheduled for w/c 11 January.

We have now collected and disposed off-site circa 1,000 tonnes of water from the drainage system. The extreme financial pressure this has placed on the business was discussed during your visit and, as you are aware, such costs are not sustainable in the longterm. Coupled with any threatened (at the time) enforcement action on the storm water lagoon and any ongoing liabilities imposed for water treatment post closure, our discussion highlighted that this financial burden may have the undesirable effect of putting the company into insolvency. You are aware Befesa is in the process of closing the site with a view to closing down all operations. This is not something we want and we would like to work with NRW to agree a reasonable solution that works for both parties. We, of course, continue to explore other treatment options to assist with the mitigation of these costs.

In terms of our legal responsibilities, it is our view that the mothballing of the site and surrender of the permit requires us to "hand over" in no worse condition than when the permit was granted. We do not consider it appropriate to utilise the permit surrender process to address the wider issue of land contamination in surrounding area, and we are reviewing the documentation available relating to the responsibilities for the historical landfill and of course considering the potential impact of significant unmapped and uncapped deposits of hazardous waste suspected in the vicinity of the site, of which you are of course aware.

Storm Water Lagoon

We note that the required actions for the storm water lagoon have been made the subject of a Regulation 36 notice and we are grateful for the timeframes afforded to us to respond. As you appreciate, this is a complex issue and we await the results of the H Fraser Consulting report. The conclusions of this report will inform these actions, and we will of respond separately to the requirements of this notice.

With regard to the short-term action raised in the CAR_NRW0037194, we respond as follows:

“Action: Provide confirmation of the measures taken to prevent the escape of water from the lagoon onto the adjacent grassed area by 08/01/2020.”

We can confirm that the particular area of concern, referenced in the last paragraph under “4. Details of our assessment”, has been actioned and addressed. However, as discussed, we are no longer withdrawing process water from the lagoon as there is no requirement to do so now that site operations have ceased. Further rainfall will, therefore, inevitably result in overflow. The current objective is to ensure that any overflow will be evenly distributed so there is no pathway for flow away from the lagoon. If this can be achieved, for every 10mm of rainfall, there would be only 100 litres of overflow per square meter of ground surrounding the lagoon. As such, this would localise and minimise any potential impact.

This will also facilitate a thorough assessment of the quality of water collected on the site, representative of all the expected sources without interference from surface water from the soft areas around the lagoon.

Land Ownership

As requested, and previously passed on, I had initial conversations about the water situation with both the neighbouring landowners however there is currently nothing further to update. We have ceased removing water from the adjacent field and Mr Jones has been informed of this. Again, the work being undertaken with H Fraser Consulting will inform future discussions.

“Action 3. Clarify the arrangements for the site access road that runs up to the industrial area by 06/01/2021”

I confirm that Befesa owns the access road up to the access gates for HH Wardle Estates property. The access road forms part of the title reference WA989121. For ease of reference, we attach a copy of the title plan which shows the extent of Befesa's ownership of the road up to the industrial area.

Ammonium Sulphate lagoon

“Action 4. Provide confirmation that drainage from this area is diverted to an appropriate collection system for disposal by 06/01/2021”

The above action relates to the bund sump in the ammonium sulphate processing area. While the site maintains a management presence, this sump is monitored and managed in the appropriate way such that there is no run-off from this area, so there is no current requirement for a permanent diversion to a collection system.

Further to the planned decommissioning of the AMS lagoon later in the year, we expect to demonstrate that the water collecting in this sump is uncontaminated and the appropriate permit variation application will be submitted.

Site security and long-term management

***"Action 5.** Provide a report on the outcomes of the risk assessment and changes to management of site security infrastructure and equipment by 26/02/2021"*

Agreed, report to follow.

H Fraser Consulting Technical Note 30496N2.2 Befesa Water Management

***"Action 6.** Following the review of the drainage system provide a scaled plan including all existing drainage components, flow directions, fluxes and water balances by 30/04/2021"*

Agreed, plan to follow.

We would comment at this stage, however, that it may be difficult (as acknowledged by NRW in the letter of 2 December 2020) to determine the original source of water contamination. That said, the landfill and other uncapped and unmapped deposits in the area are a good starting point. NRW have already accepted this possibility in the CAR form dated 27 March 2008 (to which we have referred in previous exchanges). It is our understanding that groundwater quality may be deteriorating below the site as the plume from the landfill moves northwards. We are in the process of gaining an understanding of how this may impact on the quality of water collecting at the site. As previously stated, the landfill and plume cannot be ignored as this will have long-term impacts on the area once Befesa is absent from the site.

The focus of our studies will be to understand that quality and quantity of water arriving on the site, so that dilution/treatment/discharge arrangements can be made. To inform this, we are assessing background surface water and groundwater quality, downstream and upstream of the site. However, given the context of the site in an aquifer that has been heavily and demonstrably impacted by landfill leachate and the aforementioned unmapped uncapped waste deposits, it is not our intention to ascertain to what extent, if any, the observed water quality derives from site activities. The background water quality issues, including those below the site, remain the responsibility of the original polluter and/or those subsequently dealing with the landfill legacy.

***"Action 7.** Provide a more detailed map and table that include the grid references of all the proposed surface and ground water sampling points. If these locations are subject to change once the monitoring work begins please provide revised versions showing the locations actually used. Is rainfall going to be reduced on site to inform the water balance calculations? Provide these before monitoring commences and no later than 06/01/2021"*

Complete and noted.

In addition to the specific matters addressed above, we consider it important to respond to some of the other matters set out within CAR form ref: CAR_NRW0037194

Noise observations

We note that the issue raised within the report dated 23 December 2020 seems to relate to one incident of alleged noise nuisance that occurred some 4 months prior. It is unclear to us why this has been included on the CAR form and we would prefer to see its deletion from the same.

As far as we are aware, there has been no confirmation that Befesa was the source of this complaint(s).

Further, as far as we have been made aware, there has only ever been one complainant complaining of a 'droning' noise yet NRW refer in the plural within the CAR form. Can you confirm what other complainants, if any, there have been? It being the case that there is only one, can NRW indicate the locations of the noise monitoring undertaken and relevance to the source of the complaint? We do not consider that an offsite alleged noise impact for which Befesa has not been proven to be the source should reasonably nor properly form part of this CAR form. Please can you confirm that this will be removed from the form and/or provide further details as requested.

If you have any questions or comments, please let me know.

Kind regards



Stuart

Enc: Title Plan