

Compliance Assessment Report for: CAR_NRW0037788

Permit number	WP3231NB	Operator name	Dairy Partners (Cymru Wales) Ltd.
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Site name	The Creamery
Site address	Newcastle Emlyn
Type of assessment	Site inspection

Date of assessment	25 th February 2021 (date of incident)
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Parts of permit assessed	Unauthorised Emissions to Afon Arad
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NRW Lead officer	Neil Herbert	Accompanied by	N/A
Report sent to – Name and position	Andrew Jones SHE Manager	Date	29 th March 2021

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

Part of permitted activity assessed (use action criteria below)	Assessment result	Permit condition
E3 Emissions – Surface water	C3 Minor	3.1.1.
G3 Monitoring and records, maintenance and reporting – Maintenance records	C3 Minor	1.1.2
B4 Infrastructure – Containment of stored materials	C3 Minor	3.2.3
C1 General management – Staff competency/training	C3 Minor	1.1.1b

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

Total number of non-compliances recorded
4

2. What action is required?

Criteria	Action needed	Complete by
E3	Stop discharge.	Completed (25 th Feb 2021)
	Operator to permanently seal the W2 emission point and notify NRW when work completed.	9 th April 2021

Criteria	Action needed	Complete by
G3	The operator needs to review and ensure that the appropriate maintenance and inspection procedures are followed and records documenting these requirements are maintained.	Urgent 9th April 2021
	Operator to also ensure that the procedures are updated to incorporate any lessons learnt from this incident.	9th April 2021
B4	Containers with potentially polluting liquids must relocated immediately to a secure location with appropriate secondary containment.	Action completed
C1	Operator to ensure all staff are provided with refresher training over the requirement to follow the site's procedures, specifically to ensure that all potentially polluting liquids are stored in accordance with the permit.	9th April 2021

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

3. What will happen next?

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 any 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

Introduction

NRW attended the site following a report alleging a white pollutant was observed in the in the Afon Arad, downstream of the Dairy Partners facility at Newcastle Emlyn.

I met Mr. Steven Welch (SW), Andrew Jones (AJ) and Mr. Darryl White (DW) of Dairy Partners (DP) whilst on site.

Observations and Findings

- The Afon Arad runs through the creamery installation and on arrival the operator's representatives had already identified a leak of contaminated water, near the site's W2 emission point.
- A white liquid discharge was observed emanating from the river bank, directly adjacent to the W2 emission pipe¹, approx. NGR SN31597 40173. Whilst the discharge appeared to be relatively small, it was continuous (whilst I was on site).
- A sample (2L) of the discharge was collected and this was then split into two smaller (1L) samples. One was provided to the operator's representative (SW) and the second sample was retained and secured for analysis by NRW. An upstream and downstream sample were also later collected by NRW.
- The following table (Table 1) documents the results from the subsequent analysis of these three samples.

¹ There was no discharge from the W2 emission pipe.

Table 1: Showing results of water samples taken from the Afon Arad on the 25th of February 2021

Determinand	Upstream Sample Afon Arad	Discharge to Afon Arad	Downstream Sample of Afon Arad
BOD mg/l	<3	>7720	<3
COD mg/l	<10	12,800	<10
Ammoniacal Nitrogen mg/l	<0.03	6.28	<0.03
Suspended Solids mg/l	<6	108	8
Chloride mg/l	11.9	194	11.7
Orthophosphate mg/l	<0.02	54.9	<0.02
N Oxidised mg/l	1.92	<0.2	1.95
Nitrate mg/l	1.916	<0.196	1.946
Nitrite mg/l	<0.004	<0.004	<0.004
N Inorganic mg/l	<1.95	<6.48	<1.98
Temp Water °C	9	9	9

- Directly adjacent to the emission point, Dairy Partners have a sub-surface sump called the “lagoon”. The lagoon is approx. 3.5m wide by 11.5m long and 2m deep². This was being used to collect water contaminated by milk/creamery water, prior to further treatment at the facility’s effluent treatment plant. The lagoon appears to be of brick built construction, with some form of rendering. It appears that the integrity of the “lagoon” had failed and was leaking the contaminated water through the ground and into the river. The operator had already identified this as the likely source of the contamination and had been in the process of emptying the “lagoon” in order to stop the discharge.
- NRW undertook an inspection of the Arad, both upstream and downstream of the discharge and I was unable to identify any evidence suggesting any other discharges into the Arad. The Afon Arad was in spate with significant flow observed in the stream at the time of the inspection.

Immediate and Subsequent action taken

- SW confirmed that the lagoon would be dewatered as quickly as possible in order to stop the discharge. We understand that this was completed later that day.
- We have since been informed that Dairy Partners plan to decommission the lagoon permanently.
- As the lagoon will be decommissioned NRW now plan to remove the W2 emission point from the permit during the current permit variation determination.

² This an approximation of the dimension of the lagoon.

Compliance

- As can be seen from the results in Table 1, the polluting potential of the emission is evident when comparing the results of the discharge against the upstream value. However it is also clear that at the time the samples were taken, the actual impact on the receiving watercourse can be classified as a minor impact (**Low**). The operator has been fortunate in that the leak appears to be a minor one and the receiving water was in spate (providing significant dilution) at the time of the inspection. Had the containment failure been more significant and/or the river was in low flow condition, then the impact may have been more serious.

The emission identified on the 25th of February 2021 is considered a breach of condition 3.1.1 of the permit. A compliance classification score (ccs) of 3 has been attributed to this failure (e3).

Preliminary³ Root Cause identification

- It was evident from the brief and limited visual inspection that the “lagoon” structure appeared to be in poor condition and required maintenance. Large areas of the containment surface were visible where the render had clearly come away from the brickwork and the underlying brickwork was exposed. In some areas cracks were visible, including a vertical crack, possibly through the brickwork, leading down below the water level.
- The operator was also asked to provide copies of their records pertaining to the routine and periodic inspection and maintenance of the “lagoon” structure and integrity. The operator⁴ have been unable to provide any records demonstrating these checks were undertaken. The operator states that simple visual checks are periodically undertaken by site personnel, but these are not documented. There is also no record of any detailed integrity inspections of the asset, even by third party specialists, (e.g. as part of programmed preventative maintenance schedule).
- There was also no evidence to indicate measures⁵ to prevent erosion of the bank (directly adjacent to the outlet) which could have contributed to the damage to the lagoon structure.

The failure to make and/or retain records documenting this asset’s inspections is considered a breach of condition 1.1.2 of the permit. A CCS score of 3 has been attributed to this failure (g3).

³ A more detailed follow up root-cause investigation to this incident may be required, but we will consider this in due course.

⁴ email dated 12th March 2021.

⁵ If the operator (Dairy Partners) wish to consider making some repairs/improvements to reduce erosion risk along any section of river bank running through the site, they must ensure:

- that the proposed works are discussed (and where necessary approved) by Carmarthenshire County Council’s Land Drainage department who will be able to advise you on whether a Land Drainage Consent is required.
- that any works undertaken do not in themselves cause a pollution of the river and;
- that any works are not undertaken during the Salmonid spawning embargo period (i.e. no works between 15th Oct and 15th April).

Action: Whilst this asset has since been de-commissioned, there are other containment assets on site that may be affected by the issues encountered during this visit. The operator needs to review and ensure that the appropriate maintenance and inspection procedures are followed and records documenting these requirements are maintained. Operator to also ensure that the procedures are updated to incorporate any lessons learnt from this incident.

Other Matters

Secondary Containment

- Whilst on site we noted the following (see figure 1 & 2) evidence of container with potentially polluting (and dangerous) liquids in an un-secured manner and without secondary containment. In one case the liquids were stored near the Afon Arad (less than 5m).
- All potentially polluting liquids must be securely stored and provided with appropriate secondary containment.



Figure 1 and 2 Showing potentially pollution liquids being stored without secondary containment

Compliance

The failure to store potentially polluting liquids with appropriate secondary containment is contrary to condition 3.2.3 of the permit. A ccs score of 3 has been attributed to this failure (b4).

Root Cause

This issue has been raised previously⁶ and this recurring failure indicates a deficiency in staff competence or training (i.e. to ensure that potentially polluting liquids are not secured safely and provided with secondary containment).

This failure is considered a breach of condition 1.1.1b. A ccs score of 3 has been attributed to this breach (c1).

⁶ CAR_NRW0035714

Action: Operator to ensure all staff are provided with refresher training over the requirement to follow the site's procedures, specifically to ensure that all potentially polluting liquids are stored in accordance with the permit.

Note: Novel Coronavirus (COVID -19)

During December 2020 the impact of the novel coronavirus (COVID – 19) pandemic resulted in the imposition of additional stringent restrictions across the United Kingdom in order to reduce the impact of the virus.

These measures to control and reduce the spread of the virus are having an impact on NRW's ability to undertake its duties and will introduce delays in some of our work.

End of section 2

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 in the aspects assessed.
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

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.