

Compliance Assessment Report CAR_NRW0038325

Permit being assessed: YP3398FW.

For: Llwyn Fynwent, held by Michael John Oliver

At: Aberystwyth, Ceredigion, SY23 4HA.

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

On 23/06/2021.

Parts of permit assessed: Competency of Technically Competent Manager (TCM) and Waste Returns

NRW Lead Officer: Bethan Lewis.

Report sent to: Michael Oliver, Permit Holder on 24/06/2021.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C3 Minor	6.1.1
C1 - General Management - Staff competency/training	C3 Minor	Section 74(3)(b) of the Environmental Protection Act 1990

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

Total number of non-compliances recorded	Total non-compliance score
2	8

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
G4	Submit waste returns for all wastes imported to and removed from the site for the following financial years: 2020-21, 2019-20, 2018-19, 2017-18, 2016-17 and 2015-16 and continue to submit waste returns by the expected deadlines.	02/08/2021
C1	Provide information demonstrating your compliance/non-compliance with the WAMITAB competence scheme in your 2020-21 and future waste returns.	02/08/2021

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

Between November 2020 and February 2021, and as part of Natural Resources Wales' (NRW) routine assessments for compliance, waste returns submitted by Llwynfynwent ELV site were reviewed, in addition to the continuing competence of the site's Technically Competent Manager (TCM). Details of these reviews can be found within the Compliance Assessment Report (CAR) (Report ID: CAR_NRW0037371) dated the 12th of February 2021.

Permit Breaches:

G4 Reporting and notification to Natural Resources Wales - Cat 3; Permit Condition 6.1.1

During the review of Llwynfynwent's waste returns, it was identified that no annual waste return had been submitted for the site since 2013, despite each of the following CARs highlighting to Mr. Oliver, the permit holder, that waste returns must be submitted each financial year under permit condition 6.1.1:

- CAR (Report ID: 34265/0254703) dated the 31st of December 2015;
- CAR (Report ID: CAR_NRW0031370) dated the 14th of November 2017;
- CAR (Report ID: CAR_NRW0034026) dated the 8th of October 2018;
- CAR (Report ID: CAR_NRW0035693) dated the 12th of November 2020.

Within the CAR (Report ID: CAR_NRW0037371) dated the 12th of February 2021 therefore, Mr. Oliver was asked to "submit waste returns for all wastes imported to and removed from the site for the following financial years: 2019-20, 2018-19, 2017-18, 2016-17 and 2015-16" by the 12th of March 2021. This has however not been completed. Mr. Oliver was also asked to "continue to submit waste returns by the expected deadlines" in future, however no waste return has been submitted for the 2020-21 reporting period, despite the 5th of May 2021 submission deadline having already passed. The site has therefore been scored for a further category 3 breach under the above condition (G4).

In order to rectify this breach, we ask that Mr. Oliver submit waste returns for all wastes imported to and removed from the site for the following financial years: 2020-21, 2019-20, 2018-19, 2017-18, 2016-17 and 2015-16 by the 2nd of August 2021. This will enable NRW to track waste and identify whether waste is being handled correctly and in line with regulation and the waste duty of care. These waste returns must be submitted even if the site did not accept or remove any waste during these reporting periods. Under permit conditions 5.3.1 and 5.3.3, records should have been maintained of all wastes accepted and despatched from the site, and therefore this should be an achievable action within the timeframe given.

As before, we also ask that Mr. Oliver continue to submit waste returns by the expected deadlines in future, which in Llwynfynwent's case is the 5th of May - one month following the end of the financial year. Whilst the deadlines provided under the following link do not apply to Llwynfynwent, it provides further guidance on submitting waste returns which Mr. Oliver may find useful:

<https://naturalresources.wales/guidance-and-advice/environmental-topics/waste-management/submit-your-waste-return/?lang=en>

We wish to highlight to Mr. Oliver that the site will continue to be scored until the above has been completed and that the number of non-compliances the site accumulates within a given year will affect the site's annual subsistence fee for the following year.

C1 Staff Competency/Training - Cat 3; Permit Condition: Section 74(3)(b) of the Environmental Protection Act 1990

According to NRW records, the latest continuing competence certificate of the site's TCM, Mr. Oliver, expired on the 28th of February 2014. This is something that has been highlighted to Mr. Oliver in numerous CARs previously, including in the CAR (Report ID: CAR_NRW0031370) dated the 14th of November 2017, where Mr. Oliver was asked to complete his continuing competence test within three months.

When reminded of his lack of continuing competency during the above review, Mr. Oliver booked to re-take his continuing competence test on the 5th of January 2021. Due to the date of this test however, it is likely to have been delayed due to COVID-19 restrictions. Despite this, NRW's regulatory decision statement states that TCMs, whose primary/continuing competency has expired, should look to re-book their test as soon as the test centres re-open. In light of the easing of COVID-19 restrictions therefore, there is an expectation that by now, Mr. Oliver has either taken his continuing competence test or has received a rescheduled date to take his test.

Within the CAR (Report ID: CAR_NRW0037371) dated the 12th of February 2021, Mr. Oliver was asked to complete his continuing competence test at the earliest opportunity and provide information demonstrating his compliance/non-compliance with the WAMITAB competence scheme in Llwynfynwent's future waste returns, as per Part 3 Paragraph 2 of the Environmental Protection (Miscellaneous Amendments) Regulations 2018. As noted above however, Mr. Oliver has failed to submit Llwynfynwent's latest waste return for the 2020-21 reporting period. It is therefore currently unknown whether the activities authorised by Llwynfynwent's permit are managed by a technically competent person, as is required by Section 74(3)(b) of the Environmental Protection Act 1990. The site has therefore been scored for a further category 3 breach under the above condition (C1).

In order to rectify this breach, we ask that Mr. Oliver provide information demonstrating his compliance/non-compliance with the WAMITAB competence scheme in Llwynfynwent's 2020-21 waste return he is to submit before the 2nd of August 2021. Mr. Oliver should then continue to provide this information in all future waste returns.

As continuing competency ensures that TCMs are able to manage waste and waste sites in accordance with applicable legislation and their environmental permits, Mr. Oliver's failure to submit waste returns could be accredited to his lack of continuing competency. If Mr.

Oliver fails to complete his continuing competence test and demonstrate his competence in Llwynfynwent's waste returns therefore, NRW may consider serving Mr. Oliver with an enforcement notice requiring him to do so. Mr. Oliver should be aware that failing to comply with the terms set out in an enforcement notice constitutes an offence.

Further Action:

Under Part 3(1)(2) of the Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018, Mr. Oliver "must manage and operate the waste operation in accordance with a system (a "written management system"), described in a document or documents, which identifies and minimises the risks of pollution arising from the waste operation". In order for NRW to review this written management system, we ask that Mr. Oliver provide NRW with a copy of Llwynfynwent's written management system by the 2nd of August 2021.

If Mr. Oliver is unable to complete any actions noted above by the 2nd of August 2021, or is seeking further clarification on any topic, we ask that he contact the officer noted above by phone or by email prior to the 2nd of August 2021.

In this document 'Natural Resources Wales' means the Natural Resources Body for Wales established by Article 3 of the Natural Resources Body for Wales (Establishment) order 2012.

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.