



OFFER OF ENFORCEMENT UNDERTAKING

Regulatory Reform (Scotland) Act 2014 and the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 ("the Order")

When you have fully completed this form and signed the statement that follows section 12, please send the form to SEPA, The Registry Department, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ, alternatively you can email your completed form to us at registry@sepa.org.uk.

The Data Protection Act 1998

The Scottish Environment Protection Agency (SEPA) is responsible for protecting and improving the environment (including managing natural resources in a sustainable way). SEPA also has a duty (except where it would be inconsistent with protecting and improving the environment) to contribute to improving the health and wellbeing of the people of Scotland and contribute to achieving sustainable economic growth.

The information, including any personal data, provided will be processed by the Scottish Environment Protection Agency in connection with this undertaking, including any subsequent investigation and subsequent action, and may also be processed and/or disclosed in relation to the following:

- consulting with the public (including community groups and community councils), public bodies and other organisations (e.g. Scottish Government, Crown Office, Revenue Scotland) about the matters set out in this undertaking
- disclosing information to government or other public bodies about this undertaking
- if accepted by us, this undertaking will be published (with personal data removed) in accordance with our policy on publication of penalties and undertakings
- improving our service

Data Protection Registration Number: Z6161946

Please address any questions, comments and requests regarding our data processing practices to foi@sepa.org.uk.

You should ensure that any persons named on this form are informed of the contents of this Data Protection Notice.

If we accept your offer and you fail to comply with its terms, we will issue a certificate of non-compliance and may subsequently take any enforcement action against you for the offending behaviour; this can include referring the matter to COPFS for consideration of prosecution.

Further guidance on making a suitable offer can be found in Guidance on the use of Enforcement Action June 2016 <http://www.sepa.org.uk/media/219242/enforcement-guidance.pdf>

Information and guidance about making the offer

We strongly advise you to obtain independent legal advice before making any offer. The offer must be in writing. We encourage you to use this form because it has been designed to capture the information SEPA needs and will make it easier for SEPA to process your offer. If you cannot fit all of the details into any section, please continue on a separate piece of paper and submit that to us with the offer form and sign and date the separate pieces(s) of paper.

We aim to acknowledge receipt of your offer within 10 working days of receiving it and we will give you a contact name for the person who you should correspond with should you have any queries. There is no statutory determination period within which SEPA must decide whether to accept or reject your offer, however, we aim to communicate our decision to you in a timeous fashion.

When an offer is inappropriate

In the following circumstances, we will not consider an offer to be an appropriate enforcement action where:

- the offence has caused significant environmental harm (including damage that requires remedial measure to be taken under the Environmental Liability (Scotland) Regulations 2009);
- the offer includes a clause denying liability;
- we believe the responsible person will not comply with the EU offered;
- In addition we cannot accept an EU when we have already decided to:
 - impose a fixed monetary penalty or a variable monetary penalty in respect of the offence; or
- refer the offence to COPFS for consideration of prosecution.

In addition, there will be circumstances where it is not appropriate to accept an EU. This will be determined when reviewing the circumstances of the non-compliance against our

- enforcement factors and the Lord Advocates Guidelines.

Section 6 – where you have avoided costs (e.g. the costs of obtaining an environmental authorisation) and/or made a financial gain as a result of the offending behaviour, we expect you to make an offer that at least removes that benefit. You should not experience any financial benefit as a result of the offending behaviour.

SEPA can accept or reject your offer; we will inform you in writing of our decision. If your offer is rejected, there is no mechanism to lodge a statutory appeal.

If the offer is rejected you may decide to submit a different offer. Any revised offer should be submitted quickly as we are unable to accept an offer of an EU if we have already taken a formal decision about what other enforcement action we will take.

Section 1

Details of person making this Offer

Full name of person making offer:

[REDACTED]

(Partnership company comprising [REDACTED])

Are you:

An individual		A partnership	√
A limited company		A limited liability partnership	
Public Body		Other	

If 'Other', please specify:

Address and full Postcode:

[REDACTED]

Registered office Address (if different from above):

Registration Number (if a company or an LLP):

Contact Telephone Number: [REDACTED]

Email Address: [REDACTED]

If the Offer is made by a partnership, a limited company, a limited liability partnership, a public body or another entity, please give us the contact details of a person we can contact about the offer (e.g. this could be a managing partner, a company director or a Head of Service).

Full Name: [REDACTED]

Address (if different from above):

Contact Telephone Number: [REDACTED]

Email address: [REDACTED]

Section 2

Tell us about the act or omission that has led you to make this offer. Please give the location of the offending behaviour, include a National Grid Reference (NGR) if you can.

What happened or failed to happen? How did it happen? When did it happen?

On Monday 16th August 2021 while stirring slurry in the lagoon on farm I accidentally hit the lower side of the lagoon with the slurry stirrer, this ripped the lining of the lagoon. I was unaware of the extent of the damage/ implications of this until Sepa officers contacted me the following day explaining there was reports of pollution in the water ways in the local area.

Section 3

If the act or omission was a breach of an environmental authorisation, please provide the authorisation number and tell us what condition or conditions were breached.

This was not in relation to an environmental authorisation.

Section 4

If you know the legislation that has been breached, please refer to it here, giving the name of the Act and section number or the name of the Regulations and regulation number.

A breach of Regulation 44(1)(a) of The Water Environment (Controlled Activities) (Scotland) Regulations 2011

Section 5

What, if any, environmental impact was caused by the offending behaviour (e.g. any impact on water, air, land, human health or amenity)?

The environmental impact was that slurry got into the water system leaving the farm into the wider environment resulting in the death of fish & invertebrates in the local water systems.

Section 6

What, if any, costs did you avoid, or financial benefit did you make from the offending behaviour?

There was no financial gain from this incident.

Conversely there has been significant costs incurred to;

-Act promptly to limit damage employing a digger immediately to divert leaking slurry away from the water course to immediately stop pollution entering the water course, following advice from Sepa investigating officers on what actions they required both immediately & in the coming weeks to restore the lagoon & improve its function.

-Empty the lagoon -involved hiring 2 tractor & tankers for the day as well as a specialist suction tanker on day 1 (which was not very successful), so contract hired a digger driver to dig down into the lagoon & scoop remaining slurry out into 3 hired tractor & trailers for a day

-Make repairs to the lagoon lining including digger work to reinstate banking,

-Improvements to the function of the slurry lagoon including installation of a visual inspection chamber with overflow discharge diverted into the field to reduce risk of pollution entering water ways if there were to be a future leak,

-Installation of a concrete embankment on the south-west corner of the lagoon for mixing/ extraction of slurry & subsequently hiring a contractor to seal the side of the lagoon liner onto the concrete plinth & provide warranty for works.

Digger Hire with operator to do all excavation works over several days £7500

Tractor & trailer hire 3x12x£35 £1500,

Tanker & driver hire £2000,

KCP suction tanker £1700/day hire,

Lagoon Repairs £2200,

Load of concrete for embankment (labour done by myself & farm employee) £800

Pipe fittings for inspection chamber & separate discharge & sluice shut off £1900

=£18100

Section 7

How are you going to ensure the offence does not continue or recur and what date/dates will you have achieved that/those action(s) by? Please specify what will be done and the date which it will be done by.

Going forward I will not use the unguarded mixer device again as no longer feel comfortable with this device. I will employ contractors with more sophisticated mixing equipment with more appropriate safety guards in place to avoid the lagoon lining becoming damaged again. These actions have been implemented with immediate effect following the incident occurring.

I have engaged with the manufacturer of the slurry stirrer ([REDACTED]) to notify them of this incident & enquire about updating their design to minimise the risk of another incident happening to another farmer elsewhere in the country. They have been receptive to discussions & have said they have since designed & developed a retrofit safety attachment - a lower leg to stop the propeller from being lowered onto a surface.

I have installed a concrete embankment so mixing can take place at a location that if equipment were to fail this material is not perishable.

I have installed a visual inspection chamber which will be checked regularly (weekly) for leaks.

I have diverted the overflow from this inspection chamber so in the unlikely event of a future leak slurry will be diverted to discharge into the field away from water ways to avoid contamination of the water course.

I will utilise contractors more frequently in future in a little & often approach to spreading slurry so this is not applied as thick & will ensure generous no spread margins around water ways are left free of slurry to minimise risk of water contamination while spreading. Immediate effect.

I will try to use contractors that have flow rate monitors so they can monitor the level of slurry being applied. Ongoing

In January 2021 (with support of government grant funding) I did purchase a dribble bar, we also purchased some piping in 2021 but require a slurry pump, hire tractor & flow meter to be able to spread my own slurry, I hope to do this in the coming year so I can do this task myself.

I have engaged with Sepa & NFU to write a blog to be entered in the NFU Leader publication which is distributed to approximately 8000 farmers monthly. We have liaised with Stuart Martin (Scottish Dairy Hub & Policy Manager for the NFU) who has committed to assist us with getting this published. The purpose of this article is to raise awareness to other farmers of the potential hazards of farm waste & how this can impact on the environment if not managed correctly/in the event of an accident/incident & how prompt corrective action & early cooperation with authorities is key to managing this. If the offer of EU is accepted we would work with the NFU to get this blog into a Leader Publication within the next 4 months.

Section 8

What are you going to do to restore the environment to the state it was in prior to the offence having occurred? OR If restoration is not possible or not a viable option, what alternate actions are you going to do to benefit or improve the environment? What date/dates will you have achieved that/those actions by?

The incident caused fish to die, we have engaged with the Allan Water Angling Association to discuss contributing towards restocking the river. However they advised that re-stocking is not something they currently do as scientific evidence does not support this. They work closely with the Forth Rivers Trust on any projects involving the river. They have shared with me a copy of their 5 year management plan which sets out the activities the association is looking to embark on in the next few years. The association have 3 focus areas being River Improvements, Angling Improvements & Administrative improvements. We have discussed what we could collaborate on that would help them to improve the environment around the river. If this EU is accepted we would make payment to the angling association within a 3 month period.

Section 9

If you intend to make a financial donation to a third party, tell us the amount, who it will be paid to, why and the date you will make the payment.

We commit to make a donation of £1250 to Allan Water Angling Association as a contribution towards their priorities primarily this will be used for improving private access through the purchase of materials to repair styles & instal kissing gates, provide labour to improve pathways. This payment can be evidenced by copy of cheque/BACs leaving our account/receipt from the Association.

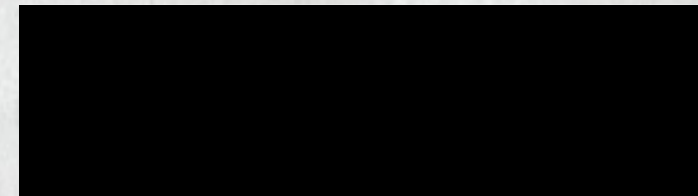
We commit to make a donation of £1250 to Forth Rivers Trust to sponsor one primary school (preferably Dunblane or if they decline to participate another as matched by the Forth Rivers Trust) to participate in the 'Fish in the Classroom' educational activities. This would be paid when required by the Rivers Trust (November onwards). Similarly this payment can be evidenced by copy of cheque/BACs & receipt from the Rivers Trust

Section 10

What additional commitments are you making to benefit or improve the environment? What date/dates will those commitments be fulfilled by?

We have also engaged with the Forth Rivers Trust to discuss what projects we could support them & to help benefit the environment/local population's enjoyment of the area. After meetings & discussions we have committed to sponsor an education programme called Fish in the Classroom for the primary five children in Dunblane Primary School. The project runs yearly from January to March when the Trust engages with schools across the Forth to provide an interactive learning experience to children. This educates the children on the life cycle of the Brown Trout & gets them to nurture Brown trout from eggs, fry into baby fish & log their progress until ready to be released into the river. Staff from the trust then accompany the children on an educational visit to the river to release the fish in the river & learn about other invertebrates & the environment whist on their trip. [Fish in the Classroom | Forth Rivers Trust](#) This project is undertaken annually in the spring to coincide with the Trout spawning & hatching season. Schools are approached in November. In the event Dunblane

primary school do not wish to participate in 2023 we will sponsor another school as identified by the Rivers Trust. This will be paid when required by the Trust ahead of the project beginning (within 6 months).



5/1/23

Section 11

Has the offending behaviour had an impact on the local community? YES / NO

If YES, have you consulted with them regarding this offer? YES / NO

If so, please provide details of any consultations

The local community have not directly been affected by this incident. Recreational hobbies of those within the community may have been indirectly impacted through fish kills. I have not consulted with the community directly on this but through our engagement with the Angling Association & Forth Rivers Trust hope we can make some positive contribution to the local community through improving public access & school educational programme.

Section 12

If you intend to make a contribution towards SEPA's costs in connection with this offer, tell us the amount and the date you will make the payment. Alternatively, if you have not requested information from SEPA in respect to our costs and intend to make a contribution please state this intent.

Please do not submit any payments with this offer. Any payments submitted to SEPA will be returned prior to any decision being made by SEPA in respect to your offer.

We are not aware of the costs to Sepa in connection with investigating the incident. I have recently asked for information on this. We would like to weight financial contributions towards improving the environment & thus make an offer of £1500 towards SEPA's costs.

Known Amount: £1500

Date for payment: Within 30 days of the Enforcement Undertaking being accepted.

Statement:

I confirm that any financial donation to a third party mentioned in Section 9 is a donation that I will receive no benefit from.

This offer of undertaking is made in accordance with Schedule 3 of the Order

Signature

[Redacted Signature]

Full Name:

[Redacted Full Name]

Date:

5/9/22

Please be aware that if you are signing this form on behalf of a company, partnership or other corporate body, you are holding yourself out as being an authorised signatory and your signature will bind the company, partnership or other corporate body.