

[REDACTED]

FMP Reference Number: FMP-2022-9016

SCOTTISH ENVIRONMENT PROTECTION AGENCY

THE ENVIRONMENTAL REGULATION (ENFORCEMENT MEASURES) (SCOTLAND) ORDER 2015
("the Order")

FIXED MONETARY PENALTY NOTICE

To: **Michael Manson**
[REDACTED]
Dingwall
IV15 [REDACTED]

The Scottish Environment Protection Agency ("SEPA") has considered the representations made by you in response to notice of intent with reference number NOI/2022-9011. SEPA's response to those representations is contained in the attached schedule. SEPA has decided to impose a Fixed Monetary Penalty (FMP) on you.

SEPA hereby notifies you that you are liable to a FMP because SEPA is satisfied on the balance of probabilities that you have committed a relevant offence prescribed under the Order, namely an offence under Section 33(6) of the Environmental Protection Act 1990.

Grounds for imposing the penalty:

SEPA is satisfied that you disposed of controlled waste on land without the authority of a waste management licence on the date and at the location specified below in that you disposed of controlled waste by burning without the authority of a waste management licence contrary to the Environmental Protection Act 1990, Section 33(1)(b)(i).

In terms of Section 33(1)(b)(i) of the Environmental Protection Act 1990, a person shall not dispose of controlled waste on any land except under and in accordance with a waste management licence.

Disposal means any of the waste disposal operations listed in Part II of Schedule 4 of the Waste Management Licensing (Scotland) Regulations 2011, and any other operation relating to waste which is not recovery even where it has as a secondary consequence the reclamation of substances or energy. The burning of controlled waste is considered a waste disposal operation.

It is an offence under Section 33(6) of the Environmental Protection Act 1990 for a person to contravene Section 33(1)(b)(i).

SEPA has obtained the following evidence from witnesses as part of its investigation into this matter:

Witness A

The witness stated that, on 19 March 2022, they saw waste being brought on to the location specified below in a trailer towed by a "Manson Joinery" liveried van. The witness was able to identify you in the van, accompanied by two others. The witness observed a number of items of waste in the trailer, including kitchen units, plasterboard and a bathroom suite. The witness observed waste being deposited into a hole at the rear of the location specified below by you and the two other individuals. The witness saw branches being put on top of it.

[REDACTED]

[REDACTED]

On 9 April 2022 the same witness observed waste being brought to the location specified below by a different vehicle. This included a mattress and bed side units. They observed these items being deposited into the hole by you using a digger.

On 7 May 2022, the witness saw you burning branches near the hole. The witness observed you adding items to the fire including timber, plasterboard, bags and a tonne bag of rubble using a digger. They further state that at times the smoke was blacky, dark grey and covered a large area.

Witness B

A second witness observed a "Manson Joinery" liveried van and trailer bringing waste onto the location specified below on a date prior to 24 March 2022. This included kitchen cabinets and boxes. On the 24 March 2022 the same witness observed the base of a bed, mattresses, timber, black bags, OSB board and a pallet in a pit on the location specified below. The witness took a photograph of this and has provided it to SEPA.

On 7 May 2022, the same witness observed burning ongoing at the location specified below and identified you on site. The witness states that the smoke was initially white but changed to dark grey.

Witness C

On 7 May 2022, a third witness observed you operating a digger at the location specified below. They observed you setting light to branches near the hole and adding a tonne bag and its contents to the fire along with unspecified items from a trailer.

Authorised SEPA Officers

On 21 April 2021 at approximately 11:00, an authorised SEPA officer visited the location below and spoke with you. The SEPA Officer saw a large hole at the rear of the site. The SEPA Officer was able to identify a number of items of controlled waste in the hole, including kitchen cupboards, along with branches and root balls from trees. The SEPA officer advised you that it would be an offence to burn this waste and that it would need to be disposed of correctly. The SEPA Officer followed this up with an email on the same day and a subsequent phone call to remind you of your responsibilities in relation to the waste on site.

On the 9 May 2022 at approximately 09:45, two authorised SEPA Officers attended the location below in response to burning complaints. They witnessed that the large hole had been covered over with soil. There were signs of a fire having taken place around the edge of this area.

On 16 May 2022 at approximately 11:00, two authorised SEPA Officers attended the location below. They witnessed black charred vegetation at the side of where the hole had been. Photographs of this were taken by an authorised SEPA Officer.

SEPA is satisfied, based on statements made by the witnesses, photographs provided and observations made by two authorised SEPA Officers on the location specified below, that you disposed of controlled waste by burning on the date and at the location specified below.

SEPA is satisfied that there is no authorisation to dispose of controlled waste by burning at that location.

Date of offence: 7 May 2022

Location of offence: Land 40 metres [REDACTED] Conon Bridge

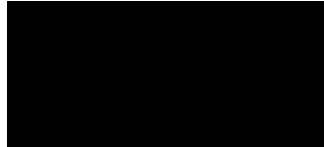
[REDACTED]

The amount of the FMP is £600.

You are required to pay the sum in full within 56 days beginning with the day this notice is served on you.

Details of how to pay, what will happen if you do not pay and how to appeal against this Notice are provided overleaf.

Signed

A large black rectangular redaction box covering the signature of the authorized representative.

Date 17 October 2022

Authorised to sign on behalf of
The Scottish Environment Protection Agency

Amount of Penalty and effect of payment

The penalty has been set in accordance with the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (“the Order”).

How to Pay a Fixed Monetary Penalty

Acceptable payment methods are: Personal or Company Cheques, Debit Card, Credit Card, Postal Orders, and BACS.

Card payments can be made via the SEPA “Pay My Account” Service at www.sepa.org.uk/payments. You should quote the FMP Reference Number as detailed on the front of this Notice in all communications with SEPA.

To make a BACS payment please email invoices@sepa.org.uk or call 07388 371 621 for our bank account details or queries.

Cheques and Postal Orders should be made payable to: Scottish Environment Protection Agency and sent to FMP Unit, SEPA, Strathallan House, Castle Business Park, Stirling, FK9 4TZ

Late payment and Non-payment

If you do not pay the full amount owed within 56 days beginning with the day this notice is served on you, the amount due will be increased by 40% in accordance with the Order. SEPA can recover sums due but not paid in full as a civil debt.

Appeals

You can appeal against this Notice to the Scottish Land Court within 28 days beginning with the date of service of this Notice on the grounds that:

- The decision was based on an error of fact
- The decision was wrong in Law
- The decision was unreasonable
- any other reason, (with the exception that the Order states that it is not a valid ground of appeal that SEPA failed to comply with the Guidance issued to it by the Lord Advocate under the Act).

You should submit your Appeal to The Scottish Land Court, George House, 126 George Street, Edinburgh, EH2 4HH. An application form for an appeal can be obtained by contacting the Court on 0131 271 4360 or from the Court’s website at <http://www.scottish-land-court.org.uk/using/making-an-application>. It would be helpful if you also sent a copy of your appeal documentation to SEPA, The Registry Department, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ.

The bringing of an appeal will have the effect of suspending payment of the penalty until after the appeal has been determined or withdrawn.

Queries

Any queries about this Notice should be addressed to SEPA, The Registry Department, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ or by email to registry@sepa.org.uk Please note that entering into correspondence does not alter the timescale for submission of an appeal or payment being due.

The Data Protection Act 2018

Any personal data, provided in connection with this Notice, will be processed by the Scottish Environment Protection Agency for the purposes of publication and may be disclosed to Scottish

Government and other public bodies. We may also pass it on to our agents/representatives to act on our behalf in connection with this Notice. Please address any questions, comments and requests regarding our data processing practices to dataprotection@sepa.org.uk

Additional information about how we use personal information in the context of monetary penalties is available in the relevant SEPA Privacy Notice, which can be accessed from our website www.sepa.org.uk/help/privacy-policy/privacy-notices

Information in relation to penalties will be published and publicised in accordance with SEPA's Policy on Communicating Penalties and Undertakings, which can be accessed from our website.

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