

[REDACTED]

**FMP Reference Number: FMP-2022-9010**

**SCOTTISH ENVIRONMENT PROTECTION AGENCY**

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

**FIXED MONETARY PENALTY NOTICE**

**To: Graham Construction Management Limited  
The Barn,  
Stonehouse  
Larkhall  
South Lanarkshire  
Scotland  
ML9 3PH**

**Company number SC374554**

The Scottish Environment Protection Agency ("SEPA"), hereby notifies you, that you are liable to a Fixed Monetary Penalty (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 Graham Construction Management Limited 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 employees of the company disposed of waste there by burning and there is no waste management licence in place for the land. This is contrary to the Environmental Protection Act 1990, Section 33(1)(b)(i), which states that, "a person shall not dispose of controlled waste on any land except under and in accordance with a waste management licence". It is an offence under Section 33(6) of the Environmental Protection Act 1990 to contravene Section 33(1)(b)(i).

On the 13 January 2022 at 14:00, an authorised SEPA Officer observed a fire at the construction site at the location below. When the Officer returned at 16:00 the fire was ongoing, but individuals present earlier had now vacated.

SEPA's Officer identified a number of items within the fire, including wood, metal, empty concrete bags and general waste, and considered these to be items of controlled waste. Photographs were taken.

On the 14 January 2022, two authorised SEPA Officers attended the site and spoke to witnesses who confirmed that all staff operating at the site were employees of Graham Construction Management Limited and no other persons were on site on 13 January. One witness confirmed that employees had been burning all throughout the development and confirmed that an employee had been burning controlled waste the previous day.

On the 09 February 2022, two authorised SEPA Officers attended the site and spoke to the Site Manager who confirmed that he was aware of the disposal of waste by burning since the start of the development. He also advised that he had not received any instruction, or given any instructions, about burning of waste at the site. He confirmed that the individual who had burned controlled waste on the 13 January was an employee of Graham Construction Management Limited.

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Under Section 38 of the Regulatory Reform (Scotland) Act 2014, an employer can be liable for a relevant offence committed by an employee. SEPA is satisfied that in this instance Graham Construction Management Limited failed to take all reasonable precautions and exercise all due diligence to prevent the offence being committed by their employee(s). On this basis SEPA has decided that proceedings should be taken against the company.

SEPA is satisfied that this was a waste disposal activity and that Graham Construction Management Limited has no authorisation to dispose of controlled waste on this land by burning.

Date of offence: 13 January 2022

Location of offence: Land at Muirhead Stables, near Dollar, FK14 7ND

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 .....   
Authorised to sign on behalf of  
The Scottish Environment Protection Agency

Date: 28 June 2022





## 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](http://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](mailto: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](mailto: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](mailto: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](http://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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