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VMP Reference Number: VMP/2025-9019

Payment Reference Number: 9063012

Scottish Environment Protection Agency

The Environmental Regulation (Enforcement Measures) (Scotland) Order 2015

Variable Monetary Penalty Notice

To: Pat Munro (Alness) Limited (SC033294)
Caplich Quarry
Alness
IV17 0XU

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Notice is hereby given that, in terms of the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 ("the Order"), you are liable to pay a Variable Monetary Penalty ("VMP") of **£32,100.81**. Please refer to the accompanying Calculation to see how the amount has been calculated.

You are required to pay the VMP in full within 56 days beginning with the day this notice is served on you, or you may pay in instalments by paying the amounts and by the dates specified in the attached schedule. If you wish to pay in instalments, you must complete and return the attached payment plan and provide a receipt confirmation of a standing order in place with your bank within 10 days of the date of this notice.

You are liable to pay a VMP because SEPA is satisfied on the balance of probabilities that you have committed a relevant offence prescribed under the Order, namely an offence under S33(6) of Environmental Protection Act 1990 in that you did contravene Section 33(1)(b)(i) of the Environmental Protection Act 1990 in that you did knowingly cause or permit controlled waste to be disposed of in or on land when no waste management licence was in place authorising such a disposal.

Date of offence: Between 2 April 2018 and 21 February 2024.

Location of offence: Area of land at Caplich Quarry, Alness, IV17 0XU delineated in red on the Location Plan attached as **Appendix 1**.

Grounds for imposing the penalty: SEPA is satisfied on the balance of probabilities that you Pat Munro (Alness) Ltd knowingly caused or permitted:

- controlled waste consisting of waste types listed in part I of table 3 in paragraph 9 of the Waste Management Licensing (Scotland) Regulations 2011 (“**Potentially Exempt Material**”) to be disposed of at a depth up to three metres; and
- controlled waste namely textiles, plastic, wood, metal, metal rebar, concrete containing metal rebar, road planings, glass and engineered timber (“**Non Exempt Material**”) to be disposed of,

by burial at the above location without the authority of a waste management licence between the dates specified above.

It is an offence under S33(6) of EPA to contravene S33(1) of EPA. Section 33(1)(b)(i) of EPA states that, “a person shall not knowingly cause or knowingly permit controlled waste to be disposed of in any land except under and in accordance with a waste management licence.

Satellite imagery obtained by SEPA demonstrates changes to the former sand and gravel quarry over time. Images are contained in **Appendix 2** of this notice.

Significant changes can be seen to have begun occurring on imagery dated April 2018. At this time, the area was mostly filled with water. From the imagery it can be seen that the water-filled area has been gradually infilled over time to a point where there is almost no water present.

As a result of further investigations, it was established that waste was being deposited at the location shown on the plan and that this activity had been taking place since 2018. SEPA has evidence that controlled waste was used to infill the former pond area.

On 21 February 2024 SEPA officers attended the site to conduct further investigation, including the partial excavation of the above location. Three trial pits were excavated using mobile plant equipment with the assistance of Pat Munro (Alness) Limited after authorised SEPA officers required assistance under S108(4)(l) of the Environment Act 1995.

SEPA officers found evidence of controlled waste in each of the three trial pits. The findings are further described below:

Trial Pit 1: Depth 3m. This trial pit contained mixed soil, stones, road planings, engineered timber, angular blocks of masonry and concrete including concrete containing rebar.

Trial Pit 2: Depth 3m. This trial pit contained mixed soil and stones, fragments of brick, angular blocks of masonry, road planings ceramics, textile, wood, concrete containing metal rebar, metal and metal rebar.

Trial Pit 3: Depth 2.7m. This trial pit contained large blocks of masonry, slabs, ceramics, glass, slate, plastic and metal rebar.

The volume of Non Exempt Material found in the trial pits was minimal relative to the volume of Potentially Exempt Material found.

SEPA officers also examined material on the surface of the former ponded area. Officers noted that this included soil, stone, brick, plastic, engineered timber, ceramics, glass, manufactured material which appeared to be sections of roof tiles and road planings.

SEPA officers took photographs of their findings.

SEPA also conducted a flight using an Unmanned Aerial Vehicle (UAV), and with LiDAR (Light Detection and Ranging). SEPA was able to estimate the tonnage deposited above the previous water level but has been unable to evidence the depth or volume of waste deposited below the water level of the pond. The depth of the pond is not known by SEPA. Therefore, the volume is considered to be an underestimate. The tonnage is estimated to be around 20,000 tonnes.

During the investigation, a director of Pat Munro (Alness) Limited referred to them having failed to register an Exemption from Waste Management Licensing for the location above as a result of an administrative error.

During an interview under caution a director of Pat Munro (Alness) Limited confirmed that he was aware of the quarry being filled. The director stated that the infilling activity was part of a restoration plan.

Witnesses employed by Pat Munro (Alness) Limited stated that they were working for Pat Munro (Alness) Limited at the time of the offence.

Witnesses employed by Pat Munro (Alness) Limited stated that waste was brought to the Caplich Quarry site to be recycled. Some of the waste which was not recycled was used to fill the pond area.

A witness stated that "Nobody has ever given me direction to fill in that larger pond, but I have continued the process started before I took this job". The same witness also states, "All the material used to infill the pond has come from the main tip area across the road" and "We'd generically call the material in-filling the tip "inert".

Another witness states that they were required to deposit skips loads of waste at the former pond area.

SEPA officers checked the Public Register and confirmed there was no valid waste management authorisation in place authorising the said activity or exemption from the requirement to hold the same at that location.

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

Signed..... Date:

Authorised to sign on behalf of

The Scottish Environment Protection Agency

How to pay a Variable Monetary Penalty

Acceptable payment methods are: Debit Card, Credit Card and BACS.

Card payments can be made via the SEPA "Pay My Account" Service at www.sepa.org.uk/payments.

To make a BACS payment please email invoices@sepa.org.uk or call 03000 99 66 99 for our bank account details or queries.

You should quote the VMP Reference Number and Payment Reference Number as detailed on the front of this Notice in all communications with SEPA. If no reference number is provided, we may not be able to identify you have paid, and you may get the automatic increase in charges after payment is due.

Late payment and Non-payment

You must pay the full amount owed within 56 days beginning with the day this notice is served on you or, if agreed with SEPA, the dates specified for payment of that amount in the attached schedule. Failure to pay on time will result in late payment interest on the outstanding amount accruing on a daily basis at a rate of 8% per annum until the date payment is made in full.

SEPA CAN RECOVER SUMS DUE BUT NOT PAID, TOGETHER WITH ANY LATE PAYMENT INTEREST, IN FULL AS A CIVIL DEBT.

Appeals

You can appeal against SEPA's decision to impose the VMP 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 amount of the penalty is unreasonable.
- The decision was unreasonable for any other reason, or

- 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 Regulatory Reform (Scotland) Act 2014).

Your appeal should be made to The Principal Clerk, The Scottish Land Court, Parliament House, 11 Parliament Square, Edinburgh, EH1 1RQ. 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 Scottish Environment Protection Agency, Registry Department, Angus Smith Building, Unit 6, 4 Parklands Avenue, Holytown, Motherwell, ML1 4WQ.

If you appeal, then (unless you withdraw it) you will not have to pay the VMP unless the Scottish Land Court has confirmed that SEPA's decision was correct.

Queries

Any queries about this Notice should be addressed to Scottish Environment Protection Agency, Registry Department, Angus Smith Building, Unit 6, 4 Parklands Avenue, Holytown, Motherwell, ML1 4WQ or by email to registry@sepa.org.uk. Please note that entering into correspondence with SEPA does not alter the timescale for submission of an appeal or the date on which payment must be made.

The Data Protection Act 2018

Any personal data included in this Notice will be processed by the Scottish Environment Protection Agency for the purposes of publication and may be disclosed to the 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.

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.

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

Schedule to Variable Monetary Penalty Notice

Calculation of the Variable Monetary Penalty

SEPA, having followed its Guidance on How SEPA will Determine a Variable Monetary Penalty (August 2021), proposes that the amount of the variable monetary penalty is **£32,100.81**.

Potential environmental impact

SEPA is satisfied that the potential environmental impact of the offence is important in reflecting the seriousness of the offence. In this case, based on the evidence and using our professional judgement, we have determined that the level of potential environmental impact was **Low**. For this offence, the weighting therefore applied as a % of the statutory maximum amount of VMP is **2.5% (£1000)**.

Financial benefit

You avoided costs associated with obtaining the correct level of authorisation SEPA, namely a waste management licence. SEPA has calculated the costs of avoidance of a waste management licence during the period of offending.

SEPA is satisfied that financial benefit gained by you through the commission of the offence must be included in the overall VMP amount, and therefore the amount of financial benefit of **£30,900.81** should be included in the penalty calculation.

Economic impact

SEPA is satisfied the economic impact from the offence should be assessed, for these purposes, as zero.

Intent/culpability

SEPA considers that Pat Munro (Alness) Limited did not take reasonable care to put in place and enforce proper systems for avoiding commission of the offence so as to demonstrate negligence. For this offence, the weighting therefore applied as a % of the statutory maximum amount of VMP is **0.5% (£200)**.

Foreseeability

There is inconclusive evidence of whether the consequences of the offence were foreseeable.

SEPA considers that the foreseeability of the consequences of the commission of the offence is not known. For this offence, the weighting therefore applied as a % of the statutory maximum amount of VMP is **0% (£0)**.

Regulatory compliance history

No inspections, complaints or guidance letters are associated with you in the 5 years prior to the offence.

SEPA is satisfied that a person's regulatory compliance history should be reflected in the penalty. For this offence, the weighting therefore applied as a % of the statutory maximum amount of VMP is **0% (£0)**.

Previous enforcement action

SEPA is satisfied that there are no previous relevant convictions and no enforcement measures taken by SEPA against you within the 5 years preceding the date of the offence.

SEPA is satisfied that a person's enforcement history should be reflected in the penalty. For this offence, the weighting therefore applied as a % of the statutory maximum amount of VMP is **0% (£0)**.

Co-operation with SEPA's investigation

Having considered all the evidence in this case, we have used our professional judgement to determine that you were cooperative with this investigation. For this offence, the weighting therefore applied as a % of the statutory maximum amount of VMP is **0% (£0)**.

Other mitigating circumstances

SEPA has considered if there are other mitigating circumstances that should be taken into account and reflected in the level of the penalty.

SEPA's underlying objective in imposing a variable monetary penalty is to promote compliance with environmental obligations. A monetary penalty in this case should function as a general encouragement towards compliance with the law and a deterrent against non-compliance.

Taking into account all of the above, SEPA considers that a variable monetary penalty of £32,100.81 is a proportionate and proper level of penalty given the particular facts of the case, the need for consistency and the underlying objective in imposing the monetary penalty.

Payment plan

If you wish to pay in instalments, you must complete and return this payment plan by post to Scottish Environment Protection Agency, Registry Department, Angus Smith Building, Unit 6, 4 Parklands Avenue, Holytown, Motherwell, ML1 4WQ or by email to invoices@sepa.org.uk with your written agreement and provide a receipt confirmation of a standing order in place with your bank within 10 days of the date of this notice.

Payment Reference Number: 9063012

I agree to pay the following amounts on the following dates until the entire amount of £32,100.81 is paid in full:

Instalment 1: £	due on
Instalment 2: £	due on
Instalment 3: £	due on
Instalment 4: £	due on

I understand that failure to pay any of these amounts on the due date may result in SEPA recovering the full amount of the unpaid penalty, together with late payment interest on the full amount outstanding, as a civil debt.

I have read and understood the terms of this payment plan and agree to make each of the payments as they become due.

Signed _____

Name _____

Position _____

On Behalf of _____

Appendix 1

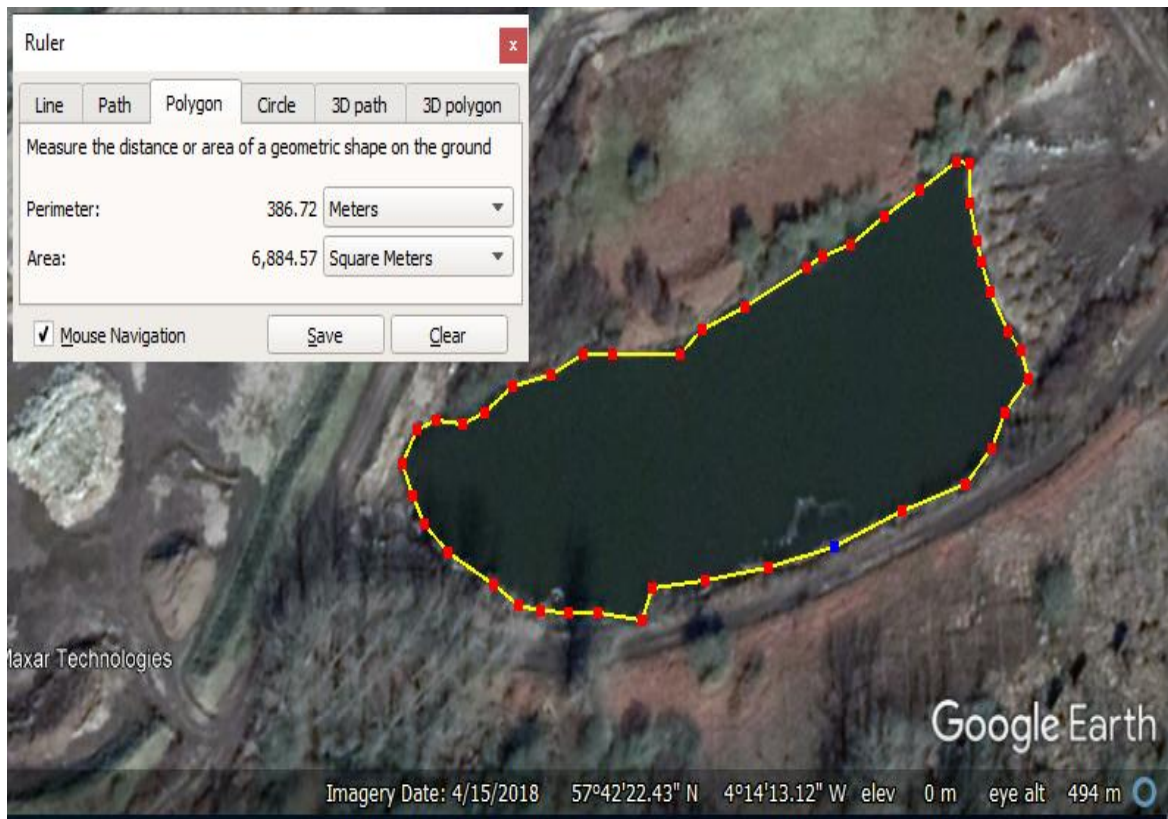


Location Plan: Area of land at Caplich Quarry Alness IV17 0XU delineated in red on the Location Plan.

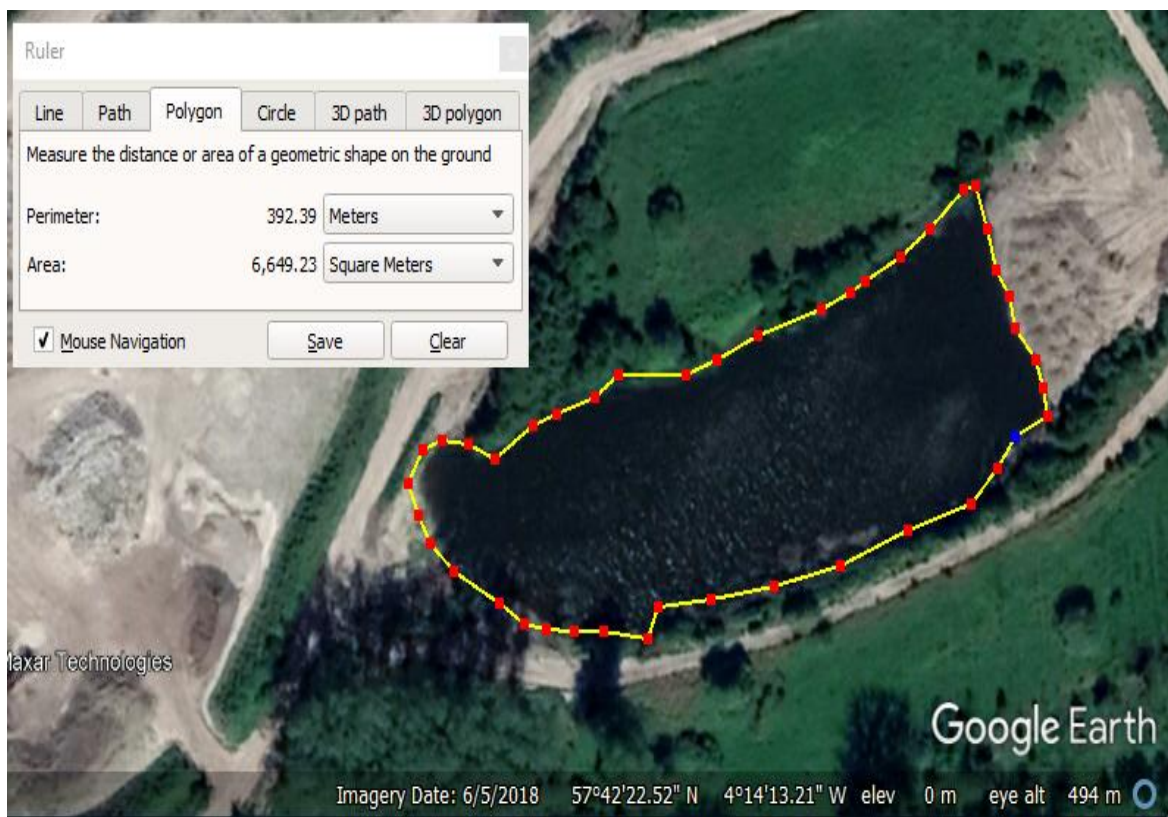
Appendix 2



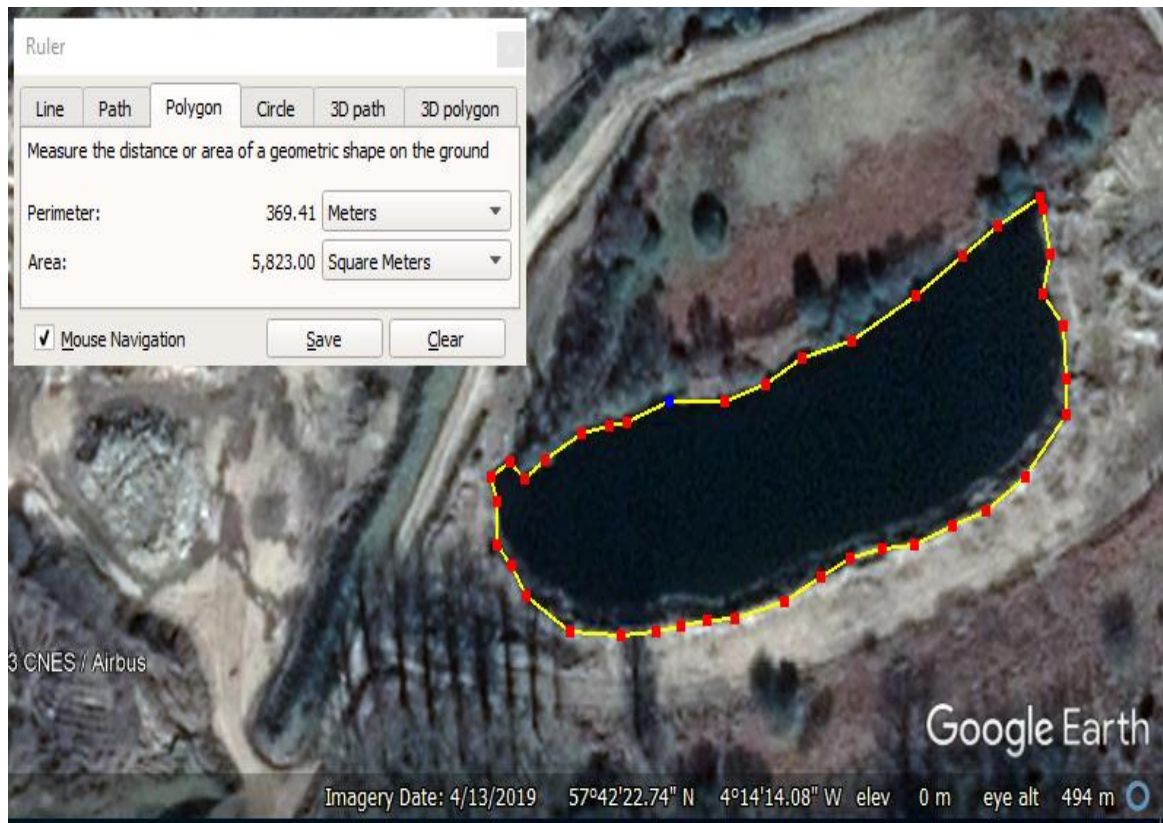
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15/04/2018



05/06/2018

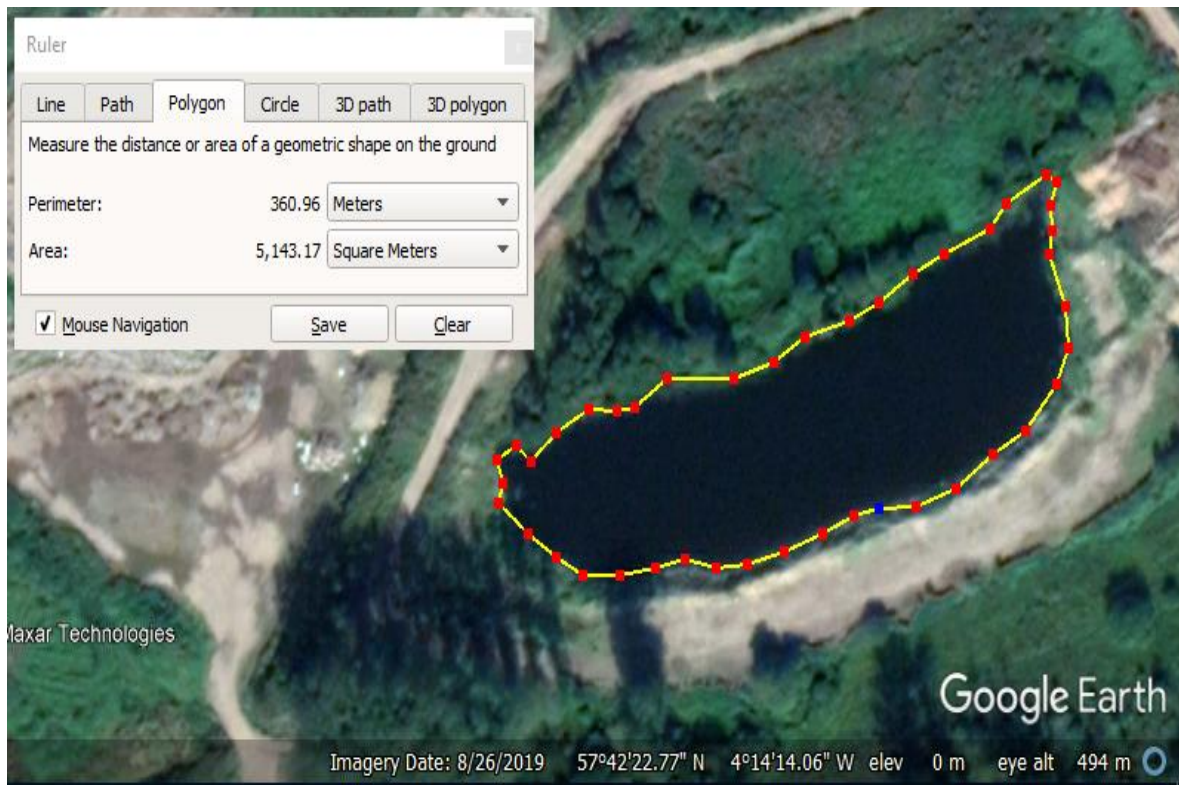


13/04/2019



17/05/2019

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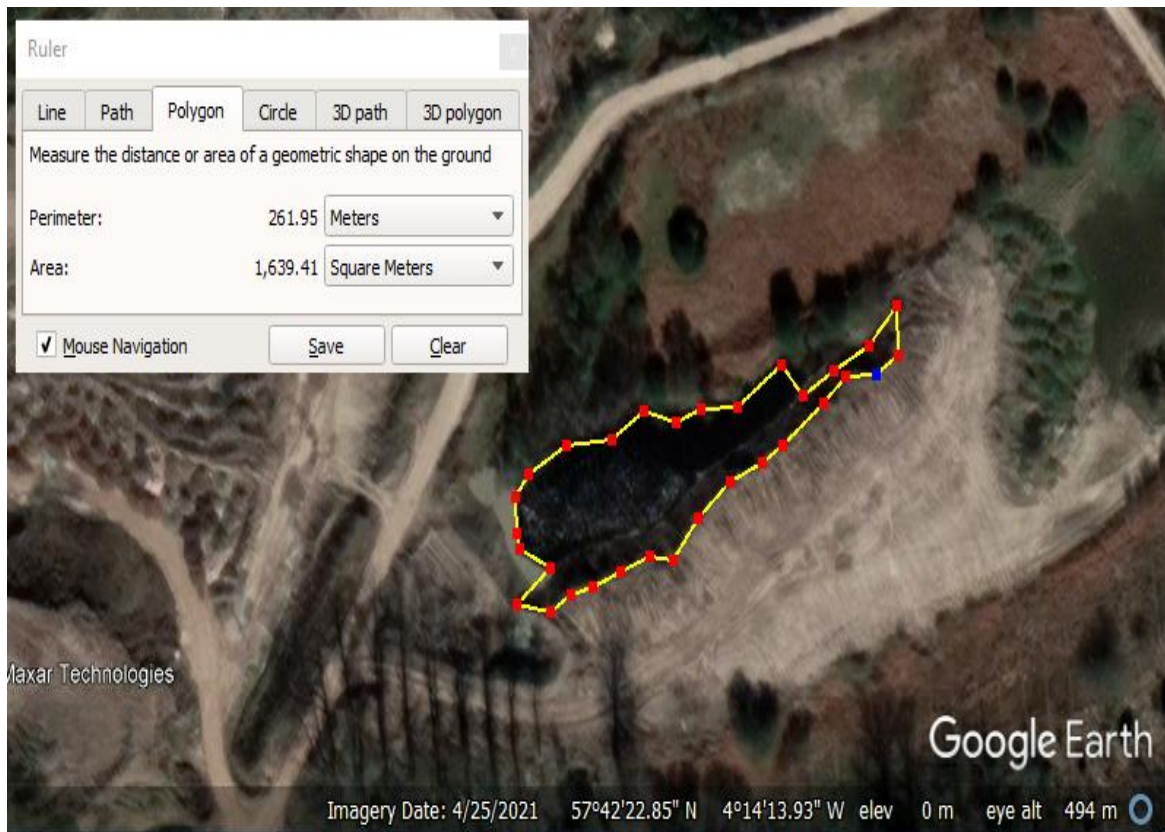


26/08/2019



24/02/2021

OFFICIAL

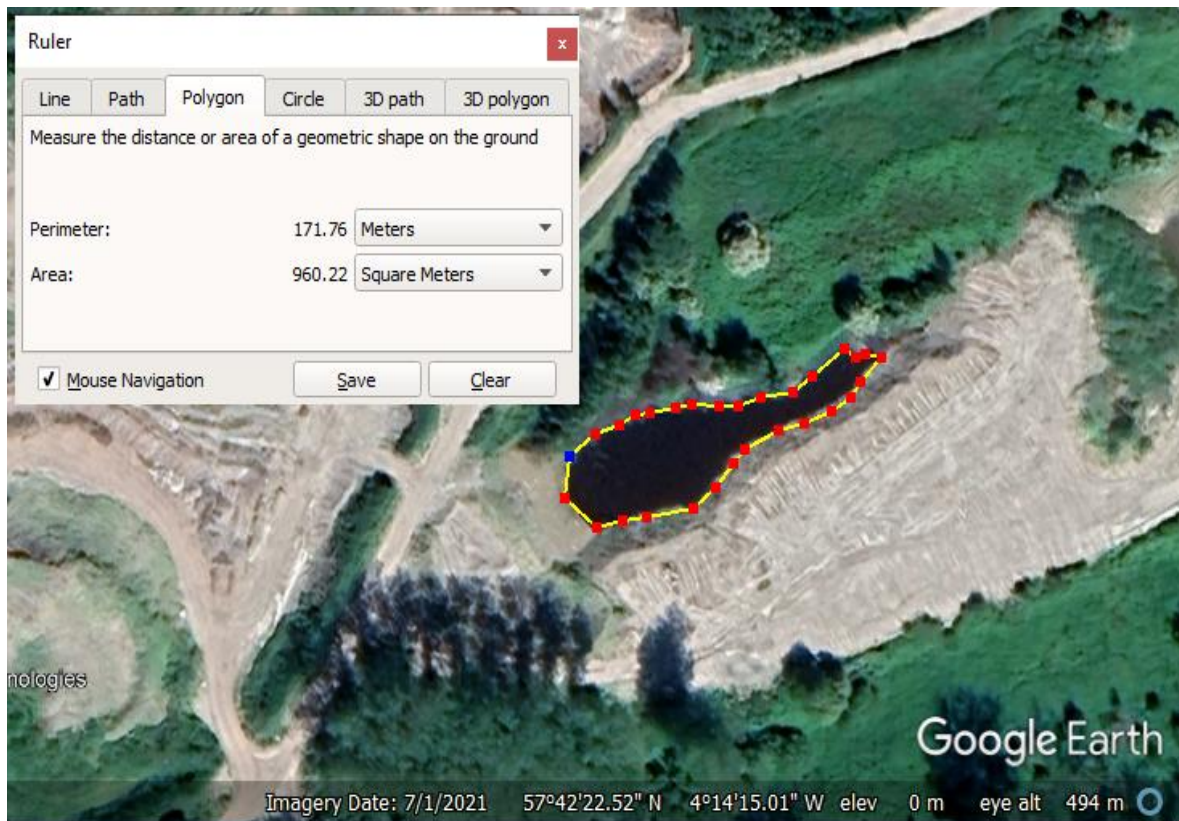


25/04/2021

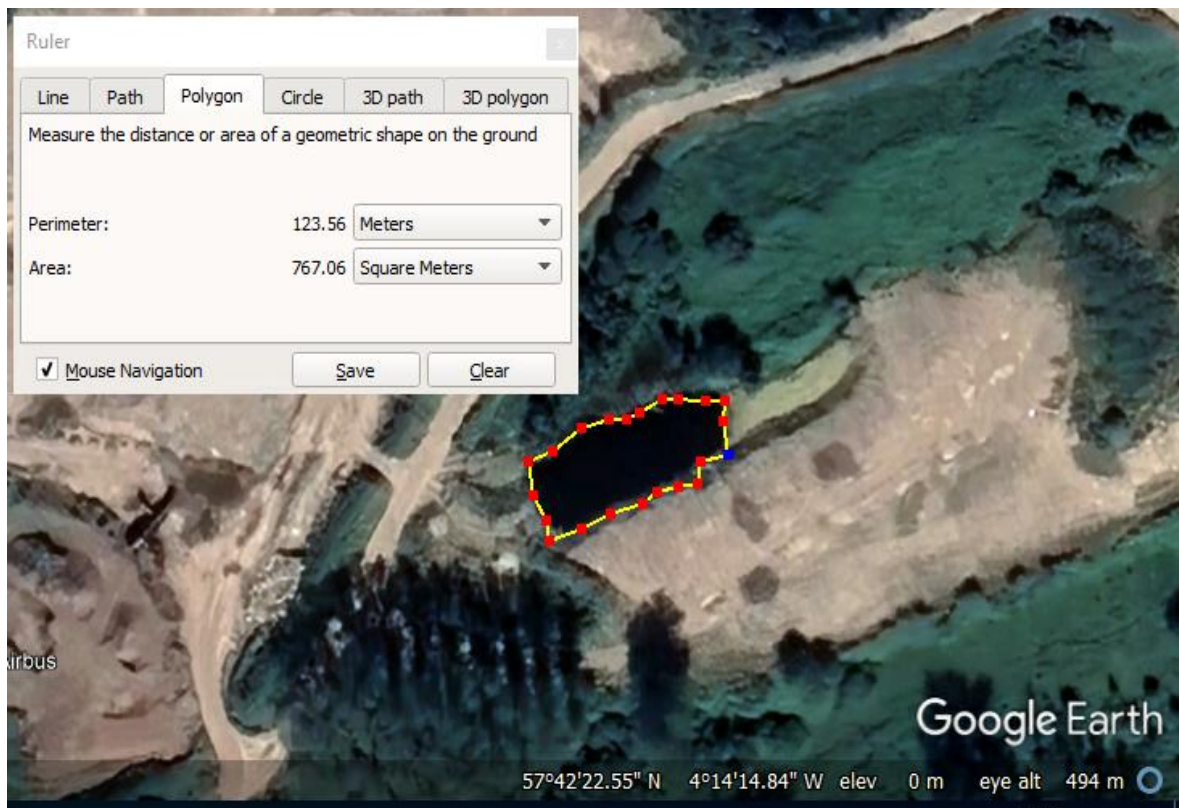


28/06/2021

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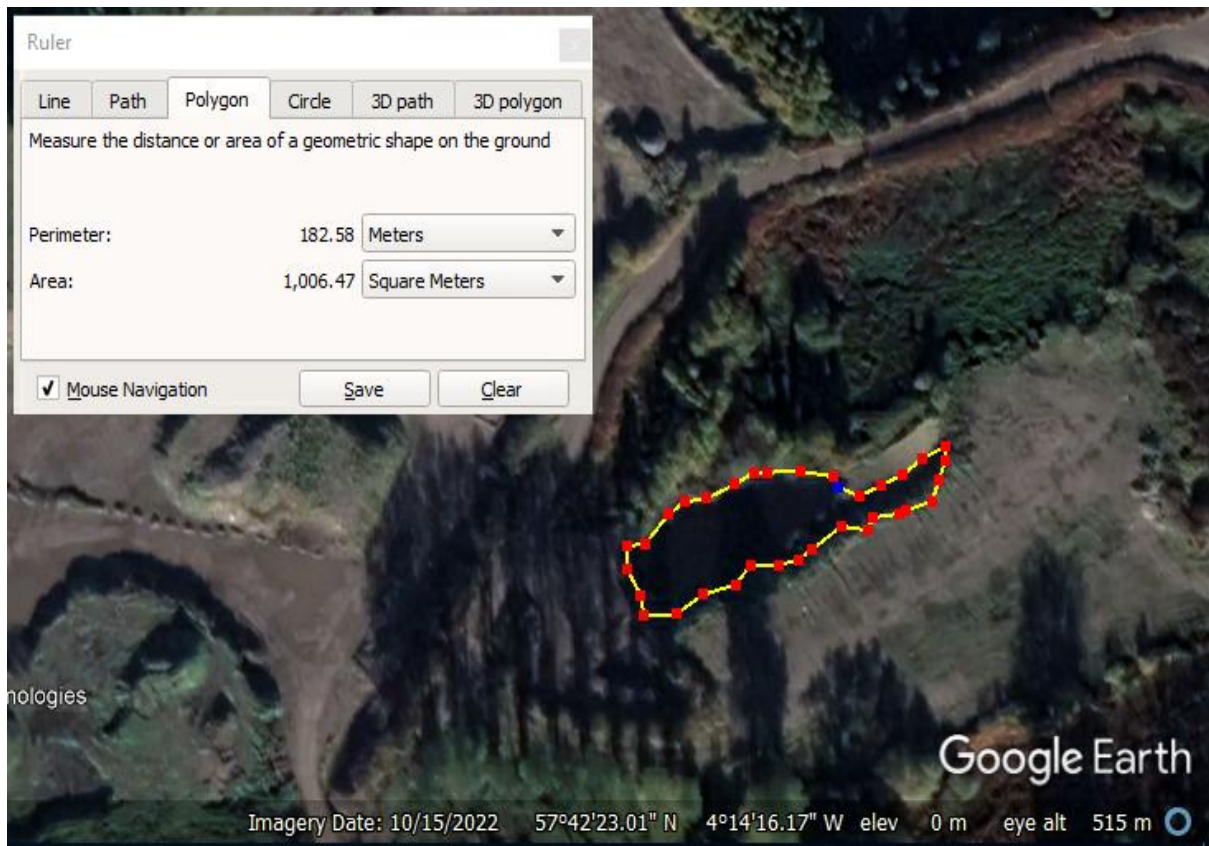


01/07/2021



07/2022

OFFICIAL



15/10/2022