



Scottish
Forestry
Coilltearachd
na h-Alba

Enforcement Notice

Notice No. SFEAIN009/2

Scottish Statutory Instrument 2017 No.113
The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

“The Regulations”

<http://www.legislation.gov.uk/ssi/2017/113/contents/made>

Enforcement Notice under regulation 29 and schedule 4 of the Regulations

Name and address of the person on whom notice is served:

REDACTED-Sensitive Personal Information Euroforest Silviculture (Formerly Pryor and Rickett Silviculture Skiddaw House Carlisle Airport Business Park Carlisle CA6 4NW	The Trustees The Forestry Carbon Sequestration Fund Third Floor, La Plaiderie Chambers La Pladerie St Peters Port Guernsey GY1 1WG
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Address of issuing office:

Scottish Forestry
South Scotland
Weavers Court
Forest Mill
Selkirk
TD7 5NY

Tel: 0300 067 6007



1. Scottish Forestry issued an enforcement notice (SFEAIN009) stopping all works in relation to an EIA forestry project, namely afforestation at Stobo, access point grid reference NT16983677 (contract ref: 23FGS54754) on 10th September 2024 which was subsequently varied with the issue of the Statement of Reasons on 18th February 2025.
2. This is a further Notice, under paragraph 3(6)(b) of schedule 4 of the Regulations, varying Enforcement Notice SFEAIN009 issued on 10th September 2024.
3. In accordance with regulation 8(2)(b) of the Regulations, the giving of a statement of reasons by Scottish Forestry on 18th February 2025 under paragraph 3(5) of schedule 4 means that Stobo is a EIA Forestry project that will require EIA consent.
4. Enforcement Notice SFEAIN009 para 8 had the effect of stopping all site works to ensure that no further work took place that could have adversely impacted on the existing significant effects that arose from the heather spraying and track construction. This notice is to specifically vary that clause to allow for specified maintenance operations, set out in this notice to take place on site.
5. The Forestry Carbon Sequestration Fund sought a variation to the Enforcement Notice to allow some maintenance operations to be carried out on the areas previously planted. The following works were requested:
 - Beating up
 - Weed control – chemical, manual and motor manual (mechanical)
 - Partial reinstatement of the track
 - Planting native broadleaved species – (subsequently removed from the request)
6. Scottish Forestry have carefully considered the request made by the applicant for the maintenance works that they have proposed and other activities that they will need to carry out on the land whilst working through the EIA process. The principle concern for Scottish Forestry is to consider whether the operations are likely to have a significant effect on the environment or could aggravate existing significant effects on the site.
7. The following paragraphs outline the maintenance activities which are permitted, the necessary conditions attached to that permission and Scottish Forestry's reasons for permitting these activities.
8. **Beating Up** (a term meaning to replace the planted trees that have died)

A request to plant approximately 58000 new seedlings over the following species and areas, representing 8% of the trees previously planted:

Species	Net Area (ha)	Quantity Planted	Average % Loss	Replacements
SS	244.2	635,000	4.2%	26,500
SP	28.6	72,700	24.4%	17,750
DF	22.6	58,750	20.4%	12,000
TOTAL	317.6	766,450	7.6%	58,000

9. In landscape terms, over the duration of the application for EIA consent process, 100% stocked forest and 92% stocked forest will not look materially different, similarly over the duration of the application for EIA consent process, there will be no material difference in biodiversity terms. On that basis, it is our view that replacing the dead seedlings with new ones is not likely to have significant effects on the environment.

10. Therefore Scottish Forestry will permit the beating up operation subject to compliance with the conditions outlined in paragraphs 11 to 13.

11. You recognise and accept that any application for EIA consent for the Stobo woodland creation forestry project may be refused (or may be subject to conditions that do not allow planting in certain parts of the site).

12. You are prepared to accept that any beating up or future removal of the beat up plants as a result of EIA refusal or conditional consent is at the applicants own cost and risk.

13. You will provide details, in advance of carrying out any activities, of how you will avoid disturbance of breeding black grouse (from early April onwards) during these operations.

14. Weeding

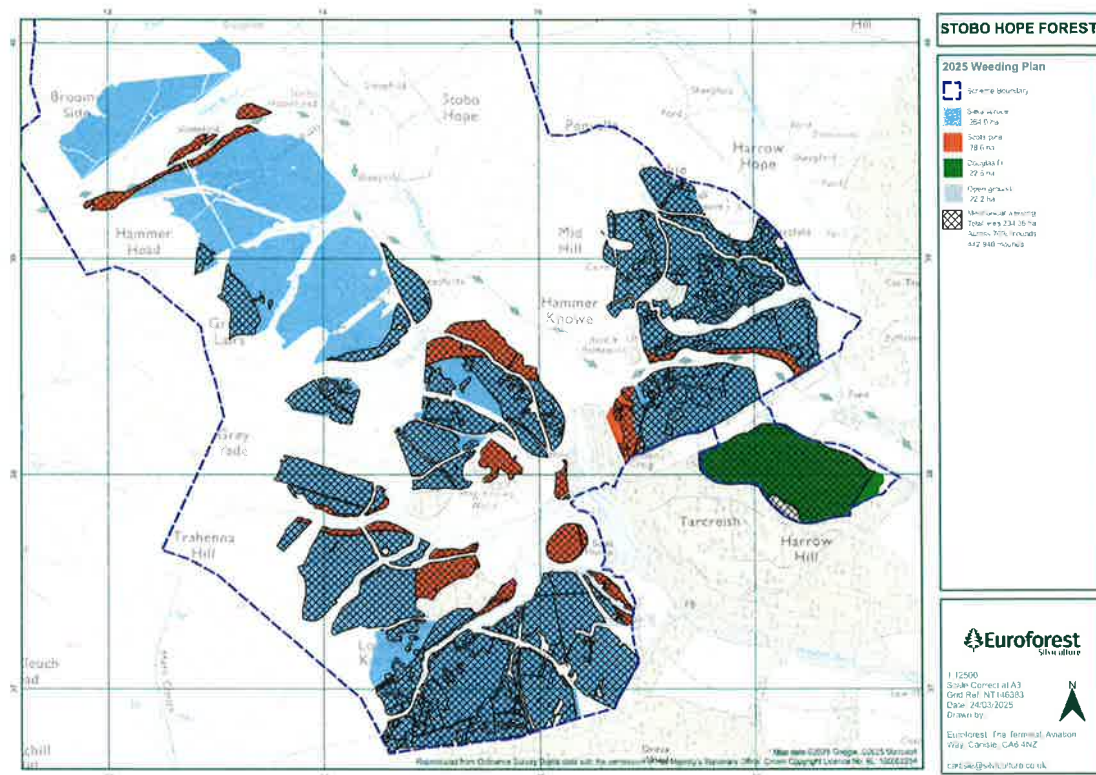
Prior to the Enforcement Notice being served on 10th September 2024, you had carried out the following weeding operations:

Species	Control Method	Operation Method	Application Window	Total Area	Area Treated
Bracken	Non-chemical* / Mechanical	3-section tined roller pulled by low-ground pressure crawler	Aug. '23	121.0	60.5
Heather (within NSA)	Non-chemical / motor-manual	Manual cutting / brushcutters	May-Aug. '24	156.5	28.5
Heather (out with NSA)	Glyphosate	ATV mounted GPS-controlled boom sprayer	Aug-Sept. '23	243.5	156.7**
TOTAL				521.0	245.7

This table shows that you had carried out weeding operations on approximately 90ha using manual / motor manual and mechanical means.

15. It is noted that you wish to carry your weed control operations as identified in the weeding plan (Map 1) This map represents a gross area of 234.36ha where mechanical weeding is proposed.

ap 1. Weeding map



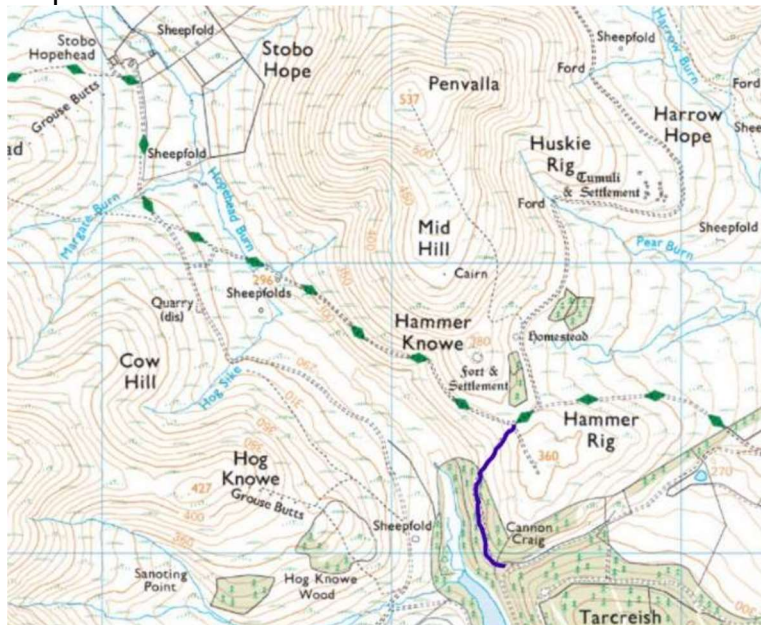
16. You intend to weed the cross hatched area on Map1, cutting back bracken, heather, thistle and grass in a 1m diameter zone (0.8m²) around each planted tree. Approximately 70% of the mounds within this area are affected in this way (1890 mounds/ha) giving a total area of disturbance of 1512m²/ha. The heather in this area was subject to motor manual weeding in 2024.
17. Given that:-
 - the purpose of the operation is to cut back the weeds to reduce the competition by slowing their growth rather than to killing the weeds entirely. These weeds had already been controlled during the initial ground preparation operations (either by mounding or mounding + non chemical weeding) and therefore at a young stage.
18. Scottish Forestry consider that these works are not likely to have a significant effect on the environment in respect of the landscape or biodiversity, and can be undertaken subject to the conditions outlined in paragraphs 19 to 21
19. You recognise that any application for EIA consent for the Stobo woodland creation forestry project may be refused (or be subject to conditions that do not allow planting on certain parts of the site.)
20. That you accept that any maintenance of the plants by weeding is at your own cost and risk.

21. You provide details, in advance of carrying out any activities, of how you will avoid disturbance of breeding black grouse (from early April onwards) during these operations.
22. The impact of manual and motor manual weeding is less than that of chemical as it does not involve the death of the entire plant as happens with the use of systematic herbicide such as Glyphosate. The work proposed is in line with standard silvicultural approach to the maintenance of newly planted seedlings.
23. In the statement of reasons issued on 18th February 2025, Scottish Forestry concluded that there was a past, present and likely continuing, significant impact on the landscape and biodiversity as a result of the blanket over-spraying with Glyphosate. Given this position, it is considered that further chemical application will reinforce and aggravate the impact of the blanket over-spraying. Therefore, in the absence of any environmental information to the contrary, we do not permit any spot application of herbicide within Stobo woodland creation site for the duration of the application for EIA consent process. Any proposed future chemical use should be considered through the EIA process.

24. Partial Reinstatement of the track

You have sought agreement to partially reinstate the track illustrated in purple below. Whilst you have submitted a proposal to Scottish Forestry, this has not been approved and is under review.

Map 2 Unauthorised track Location



25. As this track was constructed/upgraded within the National Scenic Area, it is noted that you have applied to Scottish Borders Council for retrospective planning permission for the track (on the basis of your proposed partial reinstatement and partial track retention.)

26. Our view is that this track was constructed, or certainly significantly deepened and widened, by you for forestry purposes as part of the Stobo woodland creation EIA forestry project. You should have sought our permission for that track as part of this project. The landscape impacts of the unauthorised works are one of the reasons why Scottish Forestry concluded that Stobo woodland creation project was an EIA forestry project and therefore required our consent.
27. To ensure appropriate reinstatement of the track, this Notice varies the 10th September 2024 Enforcement Notice by setting out the steps we require you to comply with. The Schedule of Works is included as Annex 1 of this Notice.
28. There is some uncertainty as to when some earlier widening and deepening works were carried out, and under whose ownership. Scottish Forestry will continue to liaise with you to resolve that uncertainty. It is also noted that the timelines outlined in Annex 1 may be subject to some amendment as it will be necessary to wait until such time as your planning application to Scottish Borders Council for partial reinstatement is determined.
29. Irrespective of the decision taken by Scottish Borders Council regarding the retrospective planning application Scottish Forestry reserve the right to use enforcement powers under The Forestry(EIA)(Scotland) Regulations 2017 to require you to re-instate the track, at your own cost, as set out in Annex 1.

30. Fence and Gate Maintenance

It is noted that you have not requested a variation to the Enforcement Notice to allow for general maintenance of the fences and gates to be carried out. This work will be permitted on the basis that such work will be necessary to protect the seedlings that have already been planted, for the duration of the application for EIA consent process.

31. Deer Management and Removal of Livestock

It is noted that you have not requested a variation to the enforcement notice to allow you to manage deer and remove livestock from the woodland creation project area. As above, this work will be permitted for the duration of the application for EIA consent process, to protect seedlings already planted. These works will have no impact on landscape of biodiversity.

32. Site surveys

Further site survey work will be required in order that you can obtain adequate information to prepare your Application for EIA consent. It is clear that this work is needed as part of this process and hence permitted.

Neil Murray Conservator
For Scottish Forestry

Date : 23rd March 2025

Annex 1

Schedule of Works for track reinstatement

I. In relation to the construction of an unauthorised track in the National Scenic Area, by 30 May 2025:

- prepare a plan of works to restore the track, as shown in the Map 2 to its original condition (c 2m wide running surface with minimal batters) and submit the plan to Scottish Forestry, South Scotland Conservancy for approval.

The plan must include the following information:

- Timescale of operations
- Methods of restoration including methodology to ensure the restored levels are stable
- Cross sections of current track and proposed restored track at key locations
- Detail on how the excavated material is graded to ensure any remaining soil is available to create a seedbed and suitable material is used to build up the original levels
- The approach and contingency to ensure the restoration achieves sufficient vegetation cover in an agreed period
- Suitable approaches to managing water run-off in line with the UK Forestry Standard and relevant General Binding Rules
- Methods of monitoring the site after restoration
- Prior to the restoration of the track, proposals to monitor the unauthorised track for signs of instability in the constructed track or deterioration due to water flow.

II. The restoration must follow Scottish Natural Heritage: Constructed tracks in the [Scottish Uplands guidance](#):

III. Once the plan of works is approved by Scottish Forestry; by 30 September 2025, to carry out the works to the specification and timeframes within the approved plan.

IV. It may be necessary to include other works or monitoring, which may be identified as required during preparation and approval of the plan of works.

Aerial images of the track area

23 April 2020



03 April 2023

