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Water Trigger Review
GPO Box 787
Canberra ACT 2601 Australia

By email to: wtreview@environment.gov.au

28 January 2016

To whom it may concern,

RE: Water Trigger Review

Humane Society International (**HSI**) welcomes the opportunity to make a submission to the Water Trigger Review on this important development to the *Environment Protection and Biodiversity Protection Act 1999* (**EPBC Act**) and provides the following comments as a stakeholder with a long-term interest in the EPBC Act. HSI considers that the water trigger is an appropriate, necessary and well-targeted regulation, and a valuable addition to the EPBC Act.

1. The appropriateness and necessity of the Water Trigger Regulation

TOR 1: Examine the appropriateness of the regulation including whether it is necessary and well targeted.

HSI considers that the inclusion of this water trigger in the EPBC Act in June 2013 after significant community outcry and concern regarding the impact that coal seam gas (**CSG**) and large coal mines were having on Australia's water resources was a significant and positive improvement to the regulatory scheme governing mining and CSG operations.

To judge whether this regulation is appropriate, necessary and well-targeted it is important to recognise the social and environmental context which was the impetus for this regulation. The Water Trigger Bill was introduced into Parliament by the then Member for New England Tony Windsor. In his second reading speech, Mr. Windsor talked about community concern and dissatisfaction with the state's response to concerns over groundwater impacts from CSG and mining:

"A lot of people are very concerned about the impact of coal-seam gas on the landscape. They have been very critical of the previous New South Wales Labor government, and rightly so..."

“The concern has not gone away—and I congratulate the minister and the Prime Minister on this particular legislation—and at that point it became very clear that if the concerns of many Australians were to be addressed then the Commonwealth, through the Environment Protection and Biodiversity Conservation Act, should in fact have a greater role to play....”¹

Mr. Windsor also detailed the perceived inadequate regulatory response from the state of NSW, particularly with regard to protecting groundwater from CSG and mining developments.

We wish to highlight the fact that community sentiment thought it appropriate, necessary and well-targeted for the Commonwealth to have regulatory oversight of the water impacts of coal seam gas and large coal mines which are generally handled by the states. This is because of the perceived poor handling of these issues by the states and in some cases, the intimacy between mining companies, lobby groups and state political parties through political donations which added to community distrust.

HSI agrees with the community that it is important for the Commonwealth to have oversight of state-approved mining and CSG developments where they impact groundwater as well as other MNES. Impacts on groundwater from CSG and mining developments can be significant and community concerns with the inadequacy of the states to regulate on these matters have not abated. Providing a trigger for Commonwealth assessment provides an important check and balance for these developments which may otherwise be assessed and approved by the state alone.

The inclusion of the water trigger in the EPBC Act showed there is immense value in an EPBC Act which retains Commonwealth assessment powers so that it is able to respond to the dynamic nature of environmental threats and our changing understanding of Matters of National Environmental Significance (**MNES**). The inclusion of the water trigger is an example of this.

2. The need to broaden the scope of the Water Trigger and further amendments required

TOR 2: Examine the effectiveness of the regulation in protecting water resources from the impacts of coal seam gas and large coal mining projects

TOR 3: Identify any opportunities to improve the effectiveness of the regulation

TOR 4: Examine the efficiency of the regulation in protecting water resources from the impacts of coal seam gas and large coal mining projects

¹ Mr Windsor, Second Reading Speech on the *Environment Protection and Biodiversity Conservation Amendment Bill 2013*, 21 March 2013.

While HSI strongly supports the inclusion of the water trigger in the EPBC Act, which has an important role in initiating Commonwealth oversight, there are a number of changes which would give it more strength to protect groundwater resources.

The water trigger in its current form is limited in its scope, only applying large coal mining developments, not all mining developments, and only to CSG developments and not all unconventional gas developments. Not only CSG or large coal mines will have significant impacts on groundwater, and as such the water trigger should be broadened to encompass the full range of mining and unconventional gas operations which may threaten water resources.

The current form of the trigger allows the Minister to issue conditional approval where there are significant impacts on water resources, rather than requiring the Minister to refuse a CSG or large coal mining development. Mining or unconventional gas developments that threaten water resources should not be allowed to continue; especially as there is a limit that conditional approval can do to prevent hydrological impacts which are irreversible.

The Minister should also be required to act on the advice of the Independent Expert Scientific Committee to ensure a science-based approach to approvals.

3. Consequential benefits for Australian biodiversity

An effective water trigger, improved in the manner specified above, would also bolster protections of listed threatened species and therefore other MNES. There are flow-on benefits for groundwater-dependent ecosystems and all the species, including threatened species that depend on them. This is of note to HSI which runs an active Nominations Program that seeks legal protections for Threatened Ecological Communities (**TECs**) and threatened species and has secured the listing of several TECs that are groundwater dependent.

Ensuring the protection of groundwater would have significance for threatened ecological communities such as the 'community of native species dependent on natural discharge of groundwater from the Great Artesian Basin', one of HSI's nominated threatened ecological communities which have been listed under the EPBC Act. Its distribution indicates its proximity to CSG fields in Queensland and therefore the potential for these ecological communities to be impacted by these developments.

Another ecological community which has been protected under the EPBC Act as a result of HSI's nomination is the Central Hunter Valley Eucalypt Forest and Woodland situated within the Hunter Valley in NSW which is heavily mined. The Conservation Advice for this community mentions their susceptibility to the disruption of and changes to hydrological processes as a result of mining and CSG which can lead to negative impacts on the community.

Yours sincerely,



HSI Biodiversity Officer