Dear Sir

Re: NGO Coalition response to the Scottish Government's 2nd consultation on the Environmental Liability Directive

Please find attached a joint NGO coalition response to the above consultation on behalf of the following organisations:

- **Client Earth**
- **Eppac Limited**
- **Friends of the Earth Scotland**
- **GeneWatch UK**
- **GM Freeze**
- **Munlochy GM Vigil**
- **RSPB Scotland**
- **Scottish Wildlife Trusts**

A number of these organisations are also submitting separate responses on more specialised issues that are more particularly relevant to their specific organisations.

Yours faithfully

*James Thornton (ClientEarth)  Sandy Luk (Eppac) (FOE Scotland)  Becky Price (GeneWatch UK)  Pete Riley (GM Freeze)  Anthony Jackson (Munlochy GM Vigil)  Lloyd Austin (RSPB Scotland)  Jonathan Hughes (Scottish Wildlife Trusts)*
Summary of key comments

The environmental organisations listed above:

Support:

a. the inclusion of the right to notify action in the case of imminent threats, although in conformity with the provisions of the Environmental Liability Directive and the Aarhus Convention, the rights of standing of environmental organisations need to be clarified;

b. the introduction of flexibility in relation to joint liability, including the possibility of joint and several liability and the potential for Directors’ to be criminally liable if they commit offences under the Environmental Damage Regulations;

c. the exclusion of damage caused by genetically modified organisms (‘GMOs’) from the operation of the permit and state of the art defences;

d. the extension of the long-stop limitation period from 30 to 75 years in relation to GMO damage;

Disagree with:

e. the exclusion of SSSIs and Ramsar sites, as well as Biodiversity Action Plan (‘BAP’) habitats and species from the scope of the draft Regulations;

f. the approach taken towards the definition of the threshold for damage to protected species and habitats;

g. the approach taken towards the definition of water damage and restrictions on the size of water bodies concerned;

h. the complete lack of regulations in relation to marine damage, in particular in relation to marine SACs and to the Common Fisheries Policy.

Have concerns

i. in relation to the way powers and duties of the competent authority and the operator have been set out in the draft Regulations.

Contacts:

---

ClientEarth: James Thornton; CEO; 3 Chapel Place, London, EC2A 3DQ; tel. 0207 749 5970; jthornton@clientearth.org

eppac limited: Sandy Luk; 2 Friars Road, Weston, Herts SG4 7BA; tel. 07879 655779; sandy.luk@eppac.co.uk

Friends of the Earth Scotland: Duncan McLaren; Chief Executive; 5 Rose Street; Edinburgh EH2 2PR; tel: 0131 243 2700; dmclaren@foe-scotland.org.uk

GeneWatch UK: Becky Price; 60 Lightwood Road; Buxton, Derbyshire SK17 7BB; tel. 07949 396328; becky.price@genewatch.org

GM Freeze: Pete Riley; Campaign Director; 94, White Lion Street; London N1 9PF; tel. 0845 217 8992; pete@gmfreeze.org

Munlochy GM Vigil: Anthony Jackson, c/o Rose Cottage, Farness, The Black Isle, Scotland. IV7 8LY; 0775 386 5540; jacko@roskill.fsnet.co.uk

RSPB Scotland: Dunedin House, 25 Ravelston Terrace; Edinburgh; EH4 3TP; tel. 0131 311 6500; lloyd.austin@rspb.org.uk

Scottish Wildlife Trust: Jonathan Hughes; Scottish Wildlife Trust, Cramond House, Cramond Glebe Road, Edinburgh. EH4 6NS; tel. 0131 312 4771; jhughes@swt.org.uk