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Sharii G.I., Doctor of Economics
shariy.grigoriy61@gmail.com ORCID 0000-0001-5098-2661
Gryshko V.V., Doctor of Economics, Professor
gvv45@ukr.net ORCID 0000-0001-9183-4008
Dubishev V.P., Doctor of Economics, Professor,
dubishev@pntu.edu.ua ORCID 0000-0001-8586-6142
Poltava National Technical Yuri Kondratyuk University

LAND RELATIONS IN THE CONSTRUCTION OF LINEAR FACILITIES IN UKRAINE

Abstract. *The given paper is dedicated to the determination of the possible ways to solve the problems of spatial development of extractive industries and power engineering in combination with sustainable use and protection of lands, as well as ensuring the institutionalization of various environmental, legal and economic aspects. Specific ways of improving servitude relations are determined by authors. Additionally, institutionalism is considered to be the methodological basis for the development of land relations at the state level.*

Keywords: *spatial development; extractive industries; institutional, ecological, legal, economic aspects; servitude payments.*

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Шарий Г.І., д.е.н.,
(shariy.grigoriy61@gmail.com ORCID 0000-0001-5098-2661),
Гришко В.В., д.е.н., проф.,
(gvv45@ukr.net ORCID 0000-0001-9183-4008),
Дубіщев В.П., д.е.н., проф.,
(dubishev@pntu.edu.ua ORCID 0000-0001-8586-6142)
Полтавський національний технічний університет імені Ю.Кондратюка

ЗЕМЕЛЬНІ ВІДНОСИНИ ПРИ БУДІВНИЦТВІ ЛІНІЙНИХ ОБ'ЄКТІВ В УКРАЇНІ

Анотація *Обґрунтовано шляхи вирішення проблем просторового розвитку добувних галузей промисловості та енергетики в поєднанні сталого використання та охорони земель при умові інституціоналізації екологічних, правових та економічних аспектів. Визначено шляхи вдосконалення сервітутних відносин. Визначено інституціоналізм, як методологічну основу розвитку земельних відносин.*

Ключові слова: *просторовий розвиток; добувні галузі; інституціональний, екологічний, правовий, економічний аспект; сервітутні платежі.*

Spatial development of extractive industries and the energy sector in connection with the privatization of land, the capitalization of land relations, and the land turnover introduction in Ukraine occurs in complex legal conditions. The current norms of land legislation in many cases do not take into account the spatial problems and production specificity with regard to the location of pipeline, energy infrastructure, oil and gas wells and production facilities associated with their operation [1].

One of the most important problems facing enterprises of extractive industries and the energy sector in Ukraine is the registration of rights to land plots, since the procedure for land allocation for mining industry objects (quarries, mines,

dumps, industrial wells, etc.) takes an average of two to ten years. For a long period of time it hinders the industrial development of the regions, disrupts the investment plans of enterprises and jeopardizes the implementation of state programs and the compliance of subsoil users with licensing conditions. In connection with the moratorium on the sale of land and a special procedure for changing the purpose of particularly valuable land granted for the conduct of commodity agricultural production, industrial enterprises do not have the opportunity to finalize the rights of use and ownership of land [2].

The location of the Dnieper-Donets Basin (which is considered to be the main oil and gas producing region of Ukraine) in the area of particularly valuable lands, a dense settlement network, a complex ecological condition and geological environment requires not only new innovative approaches of legal, economic and engineering nature, but also relatively new scientific innovations in many industries of the national economy. These problems go far beyond land management, cadastre issues, monitoring and land protection, gravitating mainly to the important environmental and economic issues, while demanding the appropriate institutional development of the legal, economic, financial and environmental regulatory state and public institutions.

Neglect of objective and subjective laws of development and reproduction of natural recreational potential caused a crisis state of the ecological environment in many regions of the country. The negative influence of the Kremenchug oil refinery with the existing 325-hectare evaporation pond (a peculiar reservoir of sulfur and phenols, which was built not as a storage facility but as a fenced part of a wetland in the lower reaches of the river Psel), for 50 years forms an environmental catastrophe on a local scale. It is polluting the area of 50 km². Therefore, further sustainable development of the metallurgical industrial region seems impossible.

Utilization of toxic, liquid industrial wastes through the earth's crust injection process has long been used in European countries, China, the United States and Canada.

The development of special wells in areas where the formation of the low-pressure reservoirs is expected, as well as the use of wells that have already completed geological and recoverable programs, will allow the elimination of permanent pollution of territories with man-made waste from oil production.

Undoubtedly, the most important direction of soil, surface and groundwater protection is the creation of non-stop water supply mechanisms at industrial facilities.

In general, greater land consumption and economic hazard in the construction of exploration and production wells are formed by technologies associated with the construction of the land-based slag storage facilities.

Geophysical, geochemical and geothermochemical methods for assessing soil contamination indicate the presence of petroleum products in the soil far beyond the technogenic impact of the slag storage and confirm the transfer of contaminants over considerable distances by surface and groundwater.

Certainly, the cluster drilling of the inclined or directional wells and the construction of the slag storage for every 5-6 wells, partially solve this problem and improve the current situation. However, without deep processing and utilization of slag storages, these facilities become the biological mines of delayed action.

Temporary ways of solving issues related to the acquisition of the right to land for the needs of the oil and gas industry by concluding land servitude agreements have been found.

On the 17th of August 2010, the Law of Ukraine "On Lands for Energy Facilities and the Legal Regime of Special Areas for Energy Facilities", which was adopted by the Verkhovna Rada of Ukraine of the 9th of July, 2010, at least came into force. The main purpose of this law is to determine the main legal and organizational basis of the procedure of land allocation and the use of lands for energy facilities. Additionally, it is defined in the above-mentioned law that the land plots of all forms of ownership can be provided for electricity transmission facilities by establishing land servitudes without changing the purpose of the land parcels.

In addition, there has been a simplification of the procedure for agreeing issues related

to the withdrawal (redemption) of the land plots and the procedure for the development of draft projects for energy facilities, which, from the moment the law enters into force, are agreed exclusively with the landowners, land users and landlords.

According to the provisions of this Law, the establishment, at the legislative level, of servitude use of land plots for enterprises of the oil and gas complex, will provide real opportunities to solve the problem of acquiring land use rights and significantly shorten the time required for the necessary documentation, avoiding the procedure for alienation (redemption) of land plots, is short-term period and the transfer of which from one category of land to another is impractical.

In servitude use, the owner does not lose the right to own, use and dispose of the land, but only limited in such a right, therefore, the oil and gas complex enterprises will also be exempted from the obligation to compensate losses of agricultural and forestry production, and, on the contrary, send their funds for the rehabilitation of technical and biological partially disturbed lands.

It is not possible to develop a land allotment project in advance, 2-3 years before drilling wells, since each new well is drilled to correct the location of the next well and the well point is issued just before the drilling begins. The settlement of the above problems is possible only if the Articles 6, 27, 97, 122, 149, 150, 151, 168 of the Land Code of Ukraine are amended, and the new Article 100¹ is adopted. These articles provide for the necessity of changing the competence of the authorities and transferring the powers of the Verkhovna Rada of Ukraine in the regional councils for particularly valuable land. At the same time, the issues of approval of land allotment projects for the construction of wells must be transferred from the competence of the Cabinet of Ministers of Ukraine to the competence of the regional state administrations.

It is also necessary to improve the rules governing lease relations and servitude payments when providing land for temporary use in the reconstruction of facilities, repair and emergency works. Changes in the Article 97 of the Land Code with regard to the right of local administrations and local governments to provide promptly not only state, but also communal lands and the possibility of concluding agreements with land owners without registration of lease contracts and their state registration will reduce the time for conducting preparatory measures in 3-4 times, up to 1 – 2 months.

When receiving an industrial inflow of hydrocarbons in exploratory wells, they are transferred to the production category. As a result, the construction and connection of these wells to industrial and backbone networks is carried out. Consequently, it is necessary to develop a project for the allocation of land for use in accordance with industry standards and the Land Code of Ukraine with a change in the designation of land.

According to the current legislation, until the completion of the land allocation procedure and obtaining a title document for the land plot, it is necessary to stop the development of the productive well, having conserved it for the period of registration of the right to the land plot (at a hydrocarbon pressure of up to 500 atmospheres on the surface), which in turn leads to disruption of the terms construction of pipelines to wells, and putting them into operation, reducing revenues to budgets of all levels, reducing the amount of accrual and resource payments. This is practically impossible and inexpedient neither in the geological, nor in the economic sense.

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