

UDC 349:622

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Legal Framework duties of subjects subsoil

The modern period of development of the Republic of Kazakhstan is characterized by increased state control and supervision in the field of environmental protection and natural resources, the creation of an optimal system of government, management of environmental and natural resource use with maximum efficiency.

Keywords: environmental security, subjects subsoil, protection of the environment, the principles of environmental protection, environmental management.

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Правовые основы обязанностей субъектов недропользования

Современный период развития Республики Казахстан характеризуется усилением функций государственного контроля и надзора в сфере охраны окружающей среды и природопользования, созданием оптимальной системы государственных органов, управляющих охраной окружающей среды и природопользованием с максимальной эффективностью.

Ключевые слова: экологическая безопасность, субъекты недропользования, правовая охрана окружающей среды, принципы охраны окружающей среды, рациональное природопользование.

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Жер қойнауын пайдаланушы субъектілер міндеттірінің құқықтық негіздері

Мемлекет тарапынан экологиялық қатынастарды жетілдіру мақсатында кешенді шаралар енгізілді, алайда осыған қарамастан, экологиялық талаптардың бұзылуына немесе мүлдем орындалмауына себепші болып отырған қазіргі таңдағы Қазақстан Республикасының экологиялық заңнамасының жағдайының мүшкіл екендігін ұғынуымыз қажет. Сондықтан мемлекеттің заң шығарушы органдарының негізгі проблемасы экологиялық заңнаманы жүйелендіру мен оны кодификациялаудың басымдығы болып табылады.

Түйін сөздер: экологиялық қауіпсіздік, жер қойнауын пайдалану субъектілері, қоршаған ортаны құқықтық қорғау, қоршаған ортаны қорғау қағидалары, табиғатты ұтымды пайдалану.

Problem of ecological security of Kazakhstan is one of the first places. Since then industrialized society highly appeared, dangerous human interference with nature has sharply intensified, expanded the scope of this intervention, it has become more diverse and now threatens to become a global threat to mankind.

The concept of environmental safety of the Republic of Kazakhstan up to the year 2016 notes that for many decades in Kazakhstan was mostly raw material management system with extremely high man-made stresses on the environment. So the fundamental improvement of the ecological situation has not occurred yet and it continues to be marked

by the degradation of natural systems, leading to a destabilization of the biosphere, the loss of its ability to maintain the quality of the environment that is required for the life of the society.

Multidimensional cause harm subjects subsurface waste. Real threat of serious environmental safety in Kazakhstan of the radioactive contamination, sources which are divided into four main groups: non-performing businesses, waste uranium mining and processing industry (dumps of uranium mines, flowing wells, tailing, dismantled equipment production lines), the territory contaminated by the nuclear test weapons-Waste oil industry and oil equipment, waste generated as a result of the operation of nuclear reactors and radioisotope production (waste sources of ionizing radiation). In Kazakhstan, there are six major uranium-bearing geological provinces, many small deposits and occurrences of uranium, which cause elevated levels of natural radioactivity, waste accumulated on the uranium mining companies and locations of nuclear explosions.

In Kazakhstan has accumulated more than 20 billion tons of waste production and consumption, including 6.7 billion tons of toxic, with a tendency to increase. This is due to the use of outdated technology, poor quality of raw materials and fuel, the reluctance of companies to invest in the recycling and reclamation of waste.

Industrial waste, including toxic, so far stockpiled and stored in different storage devices, often without proper environmental standards and requirements. As a result, soil, groundwater and surface water in many regions are subject to intense pollution. Ever-increasing volumes of stored waste form new technological landscapes. As the height of heaps, they are becoming more intense sources of dust.

The bulk of solid waste without separation into components transported and stored in open dumps, 97% of which do not comply with environmental and health legislation of the Republic of Kazakhstan. Their placement and arrangement made without projects and assess the impact on the environment. Only about 5% of solid waste in the country is subjected to disposal or incineration.

Since the independence of Kazakhstan as a result of the emergency situation in the country lost about 40 thousand people and affecting more than 250 thousand. According to expert estimates, the direct

and indirect damage from emergencies annually is around 25 billion kzt.

Legislative regulation of obligations of subjects of legal relations in the mineral resources should be based on the prediction capability for sustainable development of the society, based on balancing the economic, social and environmental dimension of these activities.

Turning to the question of legislative regulation of legal relations duties of subjects related to the ownership of the subsoil and subsoil use, it should be noted that it is derived from a more general regulation of property relations. In Kazakhstan, the bases of this regulation are defined at the constitutional level and actually establish the social responsibility of the owner. Property entails, its use must simultaneously serve the public good. [1]

Article 76 of the Law "On Subsoil and Subsoil Use" relating to the duties of the subsoil user, establishes a number of "special" duties that are directly due to specific subsurface as an activity, and the more "general" duty to ensure the regime of law and the development of law.

First, the user of mineral resources in the course of business, shall ensure compliance with the law, and duly approved standards (norms, rules) on the technology of work related to the use of natural resources, and primary processing of mineral raw materials. By law on mineral resources must first include: the Constitution of the Republic of Kazakhstan in the Division of Jurisdiction Kazakhstan and its subjects; rules establishing that the land and other natural resources are used and protected in the Republic of Kazakhstan as the basis of life and activity of the people living in the area concerned, may be in private, state, and other forms of property, a provision according to which the possession, use and disposal of land and other natural resources shall be exercised by the owners freely, if it does not harm the environment and does not violate the rights and lawful interests of other persons.

The law also provides that the subsoil user must "conduct operations on subsoil use in accordance with the contract and the laws of the Republic of Kazakhstan, to comply with the requirements established by the legislation of the Republic of Kazakhstan to the subsoil use operations" [2].

This provision is aimed at implementing the universal principle of law, that "in some areas of the law society and the state is specified in different

ways, taking into account the specifics of the legal status of the subjects of law," and in the right is manifested in actions and deeds the subjects of legal relations, carried out under the given or powers to ensure proper performance of the duties prescribed by law, other regulations or contract. At the same time, seems to be achieved and the implementation of the constitutional principle of justice, which is manifested in the opinion of the Constitutional Court of the Republic of Kazakhstan (RK COP) of the need to balance the rights and responsibilities of all participants in the market interaction. COP RK indicates that freedom, recognized for persons engaged in business and other activities not prohibited by the laws of economic activity, and guaranteed them protection must be balanced to access these individuals demanding a responsible attitude to the rights and freedoms of those affected by their business activities.

Secondly, the Law "On Subsoil and Subsoil Use" contains a number of provisions aimed at ensuring the rational and the gentlest regime of subsoil use, and preservation of the environment.

Law of the Republic of Kazakhstan establishes in this context, the following obligations of the subsoil user: security environment in subsoil use operations, the use of contract territory only for the purposes stipulated by the contract, the use of the most effective methods and technologies of subsoil operations, based on the good practices of subsoil use, compliance with agreed in accordance with the laws of the Republic of Kazakhstan, the provisions of the project documents and process flow diagrams of subsoil operations to ensure the rational and comprehensive utilization of mineral resources and the environment, providing the necessary documents and information and provide easy access to the workplace officials supervising bodies of the Republic of Kazakhstan in the performance their duties, the timely removal of the identified violations, restoration of land and other natural objects that have been violated as a result of subsoil operations to a condition suitable for further use in accordance with the laws of the Republic of Kazakhstan; prediction of environmental consequences of their activities at the design stage, conclusion agreement on mandatory environmental insurance, the obligation on the balance sheet of all the previously drilled wells located in the contract area, conducting monitoring on them, ensuring the

organization of the monitoring of the subsurface and control the development of the deposit.

The presence of these norms in the legislation of Kazakhstan on subsoil is primarily aimed at the effective implementation of the constitutional due ecological function of the state. The significance of this function has been repeatedly emphasized in several studies [3, p.154, 155]. Currently, however, it acquires greater importance due to the need for the economic interests of the state and the collision with the environmental and "technocratic" consciousness of the subject of legal relations. In this regard, the present period of the Republic of Kazakhstan is characterized by increased state control and supervision in the field of environmental protection and natural resources, the creation of an optimal system of government, managing the environment and natural resource use with maximum efficiency.

Dominion over environmental justice environmental nihilism and consumerism in environmental legislation is characterized by more stringent environmental requirements, strengthening of state environmental control and centralization of state power in the field of environmental protection and natural resources. In turn, the dominance of economic interests of the state leads to the "decentralization" of the state government in the area of environmental protection and natural resources and the weakening of the state environmental control.

Thus, it is the economy and politics, being linked and the driving forces of social development are often simultaneously destructive to human environmental factor. However, the economy can not be considered only as a destructive force, and how to save the environment: the economy must not only economic but also environmental, and this is possible only if the subject of public relations reject opposition laws of social development of the law of natural development. This approach demonstrates the need for add-on economic policy priorities in the field of ownership of subsoil and subsoil use priorities of environmental policy. At the same time, an important role in the organization of legal regulation, matching the interests of environmental safety and economic development, given to institutions of state coercion to fulfill environmental requirements, including the first effective environmental monitoring and application of legal liability for environmental offenses. In general, the state is the main subject of environmental security.

Legal protection of the environment is a system enshrined in the law of measures undertaken by subsoil use and specially authorized State bodies and to prevent the negative impacts of mining on the environment and restoring its damaged condition.

The basic principles of environmental protection enshrined in separate legal acts of various hierarchical levels and sector. State took certain measures to improve the ecological relations, but still it must be said that the state of the modern environmental legislation currently cumbersome and often contradictory, which creates certain conditions for its violation, and often a complete failure. Therefore, the main problem of the legislature is to systematize environmental law and its codification priority.

Rules on the protection of the environment from the harmful effects of land use are an integral part of the environmental law Institute, which should be understood set of rules governing the activities undertaken by the entities of subsoil use and specially authorized State bodies and to prevent the negative impacts of mining on the environment and restoring its damaged condition. Legal Environment Institute has good prospects for development, the emerging regulatory framework, therefore, it is – an independent legal institution that has the right to exist.

Ecological and industrial safety is twofold task of the modern period, so that proposes the creation of a perspective of the Law "On Environmental Protection in Industry", which have been restated, in particular, aims and objectives, the principles of environmental protection in the workplace, the legal status companies in the field of environmental protection, their tasks, rights and obligations, environmental requirements to the stages of economic activity, environmental service, its structure, objectives and functions, the economic mechanism and the legal responsibility.

Due to the fact that in the regulations, that establishing the legal status of industrial enterprises (Laws of the Republic of Kazakhstan "On State Enterprise" on June 19, 1995, "On the production cooperative" on October 5, 1995, "On Limited and additional liability "of 22 April 1998" On Joint Stock Companies "dated May 13, 2003," On Business Associations "on May 2, 1995), there are no environmental requirements for business enterprises, their neobhodimodopolnit new regulations that establish the legal status of environmental legal entity, environmental rights and obligations of employees of enterprises, how to create and perpetuate the conditions of the environmental service company (Environmental Protection Department in the company, to the protection of the environment at the company.) You should also set out the conditions that the environmental requirements must necessarily be reflected in the Charter of the legal entity.

Based on the foregoing, as a strategic goal of the state policy in the field of ecology is considered the preservation of natural systems, maintain their integrity and vital functions for the sustainable development of society and quality of life, public health and demography, environmental security of the country. Achieving this goal is only possible through environmental management and equitable access to natural resources of present and future generations, as well as a favorable environment as a prerequisite for improving the quality of life and health.

This suggests that the legislative regulation of obligations of subjects of legal relations in the mineral resources should be based on the prediction capability for sustainable development of the society, based on balancing the economic, social and environmental dimension of these activities.

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