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PRESUMED THREAT TO EMERALD SITE “POLONINA BORZHAVA” (UA00000263) FROM WIND ENERGY DEVELOPMENT



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Bern Convention/Polonina Borzhava OSA, 2nd Meeting with civil society and other stakeholders took place on Tuesday 21st September.

Official position of EPL

1 Substantial adverse impact on the territory of the Emerald network “Polonina Borzhava” (UA0000263) from wind energy development.

The construction of wind farms on the territory of Polonina Borzhava will have a significant negative impact on the ecosystems of the Borzhava ridge and all components of nature (geological structure, soils, waters, vegetation, fauna, terrain, as well as rare species of flora and fauna and habitats protected in the territory of the Emerald network). During the construction of wind farms, the habitats of rare plant species and animal habitats located directly on the sites set aside for the construction of wind turbines, will be destroyed, as stated in the report of the developers. All these are grounds to declare the planned activity inadmissible.

Construction of wind farms should be carried out outside protected areas, protected habitats and outside the migration routes of bats, birds and their key habitats.

2 Violations of requirements as for preservation of flora and fauna species and their habitats when planning construction and development of territories that are violations of part 2 article 3 and part 2 article 4 of the Convention on the Conservation of European Wildlife and Natural Habitats.

Ukraine, as represented by the state authorities responsible for territorial planning and development allowed intentional splitting, fragmentation of territories that were allocated for a WPP construction (three districts in Zakarpattia oblast (region), more than 50 plots of up to 10 ares each), which resulted in biased and understated environmental impact assessment of the planned activities on the unique Polonina Borzhava species and habitats.

The activity planning procedure in Ukraine is designed in a way to guarantee the preservation of especially valuable territories and taking environmental considerations into account. In particular, Art. 12 of the Law of Ukraine "On Construction Regulation" envisages that a decision on construction planning in the mountainous areas of the Carpathians shall be taken at the level not lower than the respective oblast (regional) authorities. However, in the case of Borzhava WPP construction planning, the construction documentation was approved at the district administration level without assessment of the full-scale impacts on the affected territory.

Moreover, regardless of the fact that the EIA Protocol has been enacted in Ukraine since March 1, 2016, the state did not guarantee that there will be a proper assessment to address the issue of possibility or impossibility of construction of a facility such as a WPP on Borzhava subalpine meadow during the process of the construction law development and land use documents approval. The state must consider the planned activities impact in the planning documents. In this case, a considerable impact on valuable natural habitats was neglected.

3. Significant consequences for the territories of the Emerald Network have not been taken into account and no appropriate measures have been taken to preserve them during the environmental impact assessment.

The report provides incomplete data on the areas where the activities will be carried out and the vegetation and soil cover will be damaged, as in their calculations they take into account the area of only 34 construction sites, but do not take into account the areas for road construction, power lines and other infrastructural objects construction and use of which will have a negative impact on species and habitats on a much larger area. Such fragmentation of sites and the "salami approach"

do not allow to assess the overall cumulative effect of the construction of wind farms in Polonina Borzhava, as the impact has been studied only in some areas.

The report contains knowingly false information, there is evidence of inadequate and incomplete assessment of the impact of planned activities on the natural complexes of the Borzhava ridge, significant inaccuracies, inability to guarantee the preservation of particularly valuable plant and animal species, minimize the negative impact on the environment.

1. The report provides information on possible violations of the Law of Ukraine "On Nature Reserves". On p. 1581 of the report in the Appendix it is stated that during the construction of wind turbines through the territory of the reserve "Temnatek" it is planned to build a power line, strengthen and widen the road on the section up to 470 metres long.
2. The report contains information on the presence of relict and endangered species listed in the Red Book of Ukraine and international conservation lists on the territory of the planned activity. In the case of construction of wind farms, they are threatened with destruction, which is a violation of the Law of Ukraine "On the Red Book of Ukraine" and Ukraine's international obligations. At p. 1555-1558 of the report it is stated that more than 14 species of plants listed in the Red Book of Ukraine, as well as species protected by Resolution № 6 of the Bern Convention, grow in the areas allocated for the wind farms. At p. 1579 the results of a study of mammals on the Borzhava ridge are provided. The conclusion states that the habitats of the Alpine woodpecker, a species listed in the Red Book of Ukraine, have been identified on the territory of the projected wind farm, and the relict range of this species is under threat of anthropogenic impact. The habitats of the species were found directly on the construction sites of wind turbines № 4,5, 13, 14, 17, 20, 21, 24, 28, 34. During construction they will be destroyed, as stated in the report. The report also concludes that the study of burrow rodents on the Borzhava ridge was insufficient.
3. Inaccurate information is provided in the EIA report when assessing the impact on certain components of the environment. Namely, data copied from sources and documents that do not relate to the planned activity are used, but are related to other types of planned activity. This gives reasons to believe that the environmental impact of the planned activities has not been properly assessed, the relevant research on the impact of wind farms has not been conducted by scientists, and data have been taken from description of the impact on other facilities.

Page 932 contains information about a mink farm: "Determination of the category of reliability of power supply of the mink farm is performed in accordance with its nature and functional purpose on the basis of the relevant current norms and standards for construction design. According to the reliability of electricity supply, a mink farm belongs to the consumers of I, II, III categories".

Page 452 contains information about Skolivska wind farm: "In addition, the project of organization of construction works provides for the development of a number of environmental measures for land protection during construction and operation of Skolivska wind farm, namely: removal of topsoil during construction works, which will be subject to further restoration and reclamation". Pages 1776-1787 contain Table 6 - "Assessment of impacts of wind farms on the habitats and species of Polonina Borzhava - UA0000263) as an element of the" Emerald Network "and recommended measures to reduce them", which contains information copied from EIA report "Construction and operation of Syvash wind farm with a total installed capacity of 250 MW" - Table 16-1. Impact assessment and mitigation p. 240-262. The same table appears on pages 540-551 of the report in section 8.

Thus, without having complete information, the Department of Environment of the Transcarpathian Regional State Administration made a decision that may have a significant negative impact on the conservation of species of flora and fauna and their habitats.

The conclusion of the public authority on the admissibility of this activity is based on a low quality report and does not take into account significant information from scientists and the public on the impact on species of flora and fauna and habitats. Therefore, the implementation of these activities can lead to irreparable damage to the Emerald Network and species of flora and fauna.

Furthermore, we inform that the proceedings in the case No. 907/801/20 with the participation of local communities on the prosecution side on cancellation of decisions on land plot lease and cancellation of land plot lease agreements for Atlas Volovets Energy LLC are underway in the Economic Court of Zakarpattia oblast.

The case on EIA conclusion cancellation is being considered in cassation.

In view of the above, we believe that all decisions of the government of Ukraine regarding construction of a wind farm on Borzhava ridge should be reviewed.

We request the Bern Convention Secretariat to provide explicit recommendations to Ukraine on the following matters:

- cancellation and revision of all decisions taken by Ukraine in the process of spatial planning, allocation of land plots and providing them to a private investor for WPP construction on Borzhava subalpine meadow;
- recommendation of strict adherence to all legislative requirements of the land use spatial planning, with special consideration of the principle of prevention and mitigation of risks of natural disasters typical to Zakarpattia region due to its development peculiarities, and prevent violations during the land use spatial planning which may cause destruction of habitats and deterioration of flora and fauna.
- request to ensure compliance with requirements of the Convention on the Conservation of European Wildlife and Natural Habitats in this territory and stop implementation of any works related to wind farm construction.

International Charitable Organization "Environment-People-Law"