

The mechanism of legal regulation of subsoil use in conditions of market economy

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Механизм правового регулирования недропользования

в условиях рыночной экономики

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Abstract: in the article the questions of regulation of subsoil use in conditions of market economy. According to the authors, the complexity of legal regulation, due to the optimal combination of market economy, on the one hand and the market on the other.

Аннотация: в статье рассматриваются вопросы регламентации недропользования в условиях рыночной экономики. По мнению авторов, сложность правового регулирования объясняется оптимальным сочетанием рыночной экономики – с одной стороны, и современной рыночной ситуации – с другой.

Keywords: public authorities, licence, mechanism of regulation, subsurface use, legal regulation of the regime for subsoil use, Rosnedra, economy development, market economy, ecology, economic crisis.

Ключевые слова: государственные органы, лицензия, механизм регулирования, недропользование, правовая регламентация, режим недропользования, Роснедра, развитие экономики, рыночная экономика, экология, экономический кризис.

The issue of regulation of mineral resources in market economy conditions is the formation of legal mechanism. It is important to understand the place in the mechanism of management and implementation of subsoil use is the laws, how they act, how it affects economic development and which regulations more effective [1].

The main elements of the state mechanism of rational use of bowels are:

- establishment of use of the subsurface, precluding unauthorized subsoil use;
- completeness of geological study and complex use;
- a reliable estimation of mineral reserves;
- ensuring the most complete extraction of the reserves of basic and associated minerals.

In case of violation of the compliance mechanism of subsoil use subsoil use shall be terminated or suspended by the special authorized state bodies.

Concerning the issues of subsoil use provisions of the RF Constitution enshrines the basic use and protection of natural resources form the basis of life and activity residing in the territory of our country peoples. The basic law establishes that the natural resources of the Russian Federation are located in private, state, municipal and other forms of ownership [2].

The subsoil use relations in all areas and on the continental shelf of the Russian Federation is enshrined in a special Federal law «On subsoil» [3]. The provisions of the sectoral framework law found prolongation in the number of General Federal laws. These include the Civil code, which enshrines the provision that the acreages classified as real property [4] and the Tax code of the Russian Federation, establishing a system of taxation of subsoil users [5].

Subsoil users may be subjects of entrepreneurial activities, i. e. the organization having separate property and they are responsible for its obligations, and on its own behalf acquires and performs civil law and have civil responsibilities. A legal entity must be registered in the unified state register of legal entities in one of the legal forms stipulated by the civil legislation.

The Federal Executive authorities and RF subjects within the limits of their authority to decide issues of subsoil use, protection of natural resources and environmental protection. In this regard there is a need to separate these powers and ensuring the stable and efficient legal impact on processes of subsoil use in order to optimize the combination of economic and environmental aspects. Economic interests due respect I mode saving and avoiding losses in the extraction and production process. Environmental - total exclusion of the possibility of harm to humans and the natural environment [6].

The rights and obligations of the subsoil user arise in accordance with Russian legislation on subsoil from the moment of state registration of the license. Licenses for subsoil use issued by the authorized Government of the

Russian Federation the Federal bodies of Executive power. State authority issuing the license for subsoil use (mining license) is the Federal Agency for subsoil use – Rosnedra.

The Agency is guided in its activities by the Constitution of the Russian Federation, Federal constitutional laws, Federal laws, acts of the President of the Russian Federation and the government of the Russian Federation, international treaties of the Russian Federation, normative legal acts of the Ministry of natural resources and ecology of the Russian Federation [7].

The complexity of legal regulation, due to the optimal combination of market economy, on the one hand and the market on the other. In a market economy the state has no right to dictate conditions to enterprises with non-state ownership. But then there is a paradox: on the one hand, the state is obliged to provide normal conditions of life for all its citizens, and with another - it loses the ability to control over production.

Another paradox is that all state-owned enterprises are at present so can't exist outside of the state. The state, in virtue of its public functions, performs activities to ensure economic security and has taken several legal measures designed to prevent the domination of monopolies and to create an enabling environment for producers. Where the state gets out of control this regulatory function, starts the breakdown of economic ties that, in turn, leads to crisis in the economy.

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