

## ARBITRATION COURT OF THE SAKHALIN AREA

Name Russian Federation

## DECISION

Yuzhno-Sakhalinsk

On October 14, 2002

Arbitration Court of the Sakhalin Area:  
Judges Ivanova V.V.

Conducting the report of the judicial session

Having considered in this session the request of Sakhalin Energy Investment Co., LTD. to the Respondent federal entity Sakhalinrybvod

To void the decision dated June 21, 2002.

Participating:

For the Claimant – Chugaev A.V. – by proxy beginning 06/21/2002

For the Respondent – Stenina N.V. – by proxy beginning 10/08/2002,  
Safiulia J.R. – by proxy beginning 10/07/2002,  
and Korotkov E.V. – by proxy beginning 10/07/2002.

Has established:

The Company Sakhalin Energy Investment Company LTD. (further – the Company) has addressed in Arbitration Court the claim to the federal entity Sakhalinrybvod (further – Sakhalinrybvod) regarding the request to void Decisions №4 dated June 21, 2002 according to which a penalty of 100,000 rubles is imposed on the Company refusal to provide timely, complete, credible information about environmental conditions.

In substantiation of the requirements the Claimant asserts, that the Respondent violated the general rules and terms for imposing official penalties, that the grounds for infringement were wrongfully established, and that the character of the unadmitted evidence was not taken into account. The Claimant asserts these claims with the following statements. In reply to an inquiry dated 04/25/2000 the Company gave Sakhalinrybvod a copy of the Ecological Monitoring Reports for 1998 and 1999, including all required information. All fact sheets were included in the report, including schedules and charts, with submission of preliminary data and statistics.

On December 20, 2001, Sakhalinrybvod has directed to the offices of the Claimant a request to provide appendices to the reports. Said appendices represent the same primary information prepared in a special format and do not contain any data not already included in the report. The Company's letter №02-499 dated May 22, 2002 does not contain a refusal to grant appendices and only specifies that the data in the reports and in the appendices are equal.

In the opinion of the Claimant, infringement of limitation periods of the Company's connection to administrative responsibility is relevant. According to the report, the infringement took place on May 23, 2002, while the letter №02-499 of the Company dated May 22, 2002 does not contain a refusal to provide appendices. The Claimant considers the failure to provide appendices to have occurred on 05/05/2000—the date that a letter detailing ecological monitoring without appendices was sent to the Respondent. The report on noting the violation is dated June 19, 2002, more than two years after the failure to provide the information.

Failure to provide the report appendices does not cause damage to the surrounding natural environment or fish stocks. On June 21, 2002, as a display of good will, the Company presented Sakhalinrybvod with all appendices to the reports. In opinion of the Claimant, this evidence was not taken into account at the time that Decision №4 was taken on June 21, 2002.

The Claimant supported its demands in judicial session.

The Respondent did not acknowledge the demands of the Claimant for the following reasons.

On December 20, 2001 and on April 25, 2001, the Respondent directed inquiries to the Claimant requesting missing

materials—the appendices to the reports submitted earlier. On May 23, 2002, the Respondent received a response to both request, directly denying the demand for the requested information. The Company's reference in that response to reports 1998-1999 represents the formal reply.

The Respondent affirms that the collection period for payment of the fine, according to terms stipulated by the legislation, should begin on May 23, 2002—the day the administrative offense was committed by receipt of the letter containing a refusal to grant the information requested.

That fact, that after delivery of letter №17-3459 dated June, 21 2002 to the Company's representative regarding administrative culpability and imposition of the penalty, the Company's representative provided the information demanded by Sakhalinrybvod in letter №02-633 dated June 21, 2002, can not form the basis for clearing the Company of the administrative responsibility for an already committed offense. However, this fact has been taken into account when defining the size of the penalty.

The Respondent also considers that the legitimacy of Sakhalin Energy Investment Company LTD. culpability is testified to in Glavrybvod (State Fisheries Committee of the Russian Federation)'s response №12-04-08/602 dated July 24, 2002 to the Company's complaint №02-697 dated June 28, 2002 requesting that Decision №4 from 06/21/2002 be overturned.

Having studied materials of an affair, listened to representatives of the Claimant and the Respondent, the Court finds the claim requirements not subject to satisfaction on the following bases.

According to federal legislation the federal entity Sakhalinrybvod bears responsibility for the condition, preservation, and maintenance of the rational use of water resources of in the region and also carries out supervision and monitoring of the activities of legal entities and citizens who conducting oil and gas recovery, including shipment and transportation.

As follows from case materials, on April 25, 2000, Sakhalinrybvod sent Sakhalin Energy Investment Company LTD. an inquiry requesting reports on ecological ship monitoring and regarding the results of marine research. These reports were submitted by the Company to Sakhalinrybvod on May 5, 2000 (№05-65) without appendices.

As the unsubmitted data were necessary for the Respondent to conduct analysis of the negative impacts of pollution on water bioresources and surrounding environment as well as for other purposes, the reports appendices were requested twice. In letter №02-499 dated 05/22/2002 the Company's representative responded that, in opinion of the Company, all necessary information was included in the text of the reports and all conclusions reached during research are confirmed with materials inserted into the text of reports as tables and schedules. Required appendices do not contain any new data. Thus, the Claimant avoided the request to provide additional information as demanded by the regulatory agency.

That fact, that on June 21, 2002 the Claimant nevertheless provided the information, on demand by Sakhalinrybvod, does not form a basis for clearing the Company of administrative responsibility as the administrative offense had already been accomplished is documented in the 6/19/2002 report.

The Court finds that the reasoning of the Claimant that the Respondent violated the general rules and terms of imposing official penalty is not judged valid based on the following. According to Item 4.5, the decision on the case of administrative offense for infringement of Russian Federation legislation regarding protection of the environment cannot be rendered after a lapse of one year from the date that the administrative offense occurred. This bringing to account for administrative responsibility is estimated from the date the administrative offense occurred. In this case, the fulfillment period for the administrative offense should begin May 23, 2002, the date on which federal entity Sakhalinrybvod (letter №02-499) acted in response to the refusal by Sakhalin Energy Investment Company LTD. to provide the requested information. Thus, Decision №4 from 06/21/2002 was rendered by Sakhalinrybvod according to the terms stipulated by legislation.

Taking into account the aforementioned, the Court denies Sakhalin Energy Investment Company LTD.'s claim to the federal entity Sakhalinrybvod.

According to Item 110 of the Agrarian and Industrial Code of the Russian Federation, the court costs are apportioned to the persons participating in the case by the size of the satisfied claim requirements. Being guided by Articles 167-170, 176 of the Agrarian and Industrial Code of the Russian Federation, the Court

HAS DECIDED:

In the claim of Sakhalin Energy Investment Company LTD. vs. Sakhalinrybvod, managing the Sakhalin basin for the protection and reproduction of fish stocks and fisheries regulation, regarding the request to overturn the decisions dated June 21, 2002.

The decision can be appealed in Arbitration Court of the Sakhalin Area up to one month from the date of its acceptance.

The decision is made in full

On October 18, 2002

Judge V.V.Ivanov