

### **NECU/Bankwatch Comments on the MHP's Stakeholder Engagement**

These written comments on MHP's Stakeholder Engagement follow a meeting between Bankwatch/NECU and MHP on 7 April 2017.

Bankwatch and NECU welcome the opportunity to meet MHP, as well as the company's stated intention to improve the way it conducts impact assessments and engages with its stakeholders. However, the meeting on 7 April confirmed that within the company, both at local and at Kyiv level, the approach to impact assessment and public consultations is flawed, and there are significant misconceptions about these processes.

For example, while the company acknowledges Ukrainian standards are outdated and, as an industry leader, it needs to follow EU standards, at the same time it continues to defend the way 'preliminary' consultations with 'democratic' voting are carried out. In essence there is a clear lack of understanding in MHP, at the highest level, that meaningful consultations should be based on inclusive identification of stakeholders, participatory scoping stage, public access to planning documents and informed participation of impacted communities and interested stakeholders, where both benefits and negative impacts of the planned activity are presented and discussed before decisions are made and operational permits are granted.

Bankwatch and NECU also welcome the fact that MHP hired consultants to upgrade its Stakeholder Engagement Plan and recommends that these consultants should meet not only with Bankwatch and NECU, but with local stakeholders. Like with environmental and social impact assessments, at an early stage stakeholder engagement planning should take an inclusive view of the needs and capacities of stakeholders, and especially of communities impacted, directly or indirectly, by MHP's operations.

#### ***General comments to SEP 2016***

The Principles<sup>1</sup> of the SEP 2016 state the company's commitment to respect local transitions and to "two-side dialogue", however, we know examples where these principles were not followed.

For example, community from Zaozerne village Tulchyn rayon only after a call to the office received from the company's lawyer in Ladyzhyn a response that they will receive the documents for the brigade #47 near Vasylivka village in 15 days (after the personal meeting with the Director of Vinnytsya Broiler). However, the eventual response arrived in 4 weeks and it consisted 4 pages of description and explanations why the disclosure and access to the EIA and related documents will not be granted. This is not according the MHP's SEP that states the response to any appeal should be received within 48 hours and contradicts company's stated openness.

---

<sup>1</sup> <http://www.mhp.com.ua/library/file/plan-vzajemodii-ukr.PDF>, p.9

The Stakeholder Engagement Plans are hard to find on the MHP's web-page. They should be at the very first main web-page, or there should be a link to them<sup>2</sup>.

We would like to emphasize several issues in relation to the stakeholder engagement that we see are problematic: 1. Transparency; 2. Consultations; 3. Environmental and Social Impact Assessment; and 4. Accountability.

### 1) Transparency.

The documents for the planned new facilities are hard to get. They cannot be accessed in the public space, such as the premises of local authorities or online on the company's or permitting agencies' web sites. As well, once approved, the documents for the existing facilities are almost impossible to get anywhere from the authorities, as well as from the company. For example, in August 2016 Bankwatch/NECU field mission team could review only one EIA for the Lukishivka Brigade #13, even though a list of documents and EIAs was requested officially prior to the meeting from the Vinnytsya Broiler Director.

There is no information accessible to impacted local communities about the pollution and emissions, and water use and discharges from the operational facilities. There is no information on which operations are carried out by MHP and its branches, and which are carried out by MHP's subcontractors.

In Kaniv region the communities are worried about the impacts of all brigades on the ground water levels. Currently the water tables dropped significantly and local people cannot find a reason for that other than the existence of poultry brigades nearby, as these appeared exactly during the recent years when this tendency with water started. There have been articles in local newspapers related to MHP's social project for water supply in selected villages, while the company has not provided any information to the public on its water use or evidence that the water level drop was not related to chicken production. The villagers still remember that Myronivska Poultry Farm (subsidiary of MHP in Kaniv rayon) should have found alternative to deep artesian water sources since 2016, mainly from the Dnipro River, but this did not materialise. Local activist called for responses in media, which was left without response.

Moreover, MHP in Kaniv has not provided a response to the question about coloured water discharges witnessed on September 8th 2016 by NECU representatives after the water treatment plant outflowed into the river Rosava.

Future water use and discharge problems were crucial questions from Chyhyryn community – both related to the deep artesian waters use for potential poultry facilities as well as the impact on water supply. These questions were left without proper answers by MHP. Water issues were raised by local people in November-December 2016 during the commenting period on the 'preliminary EIA' for the parent stock flock facilities potential expansion of 'Peremoha Nova' (MHP subsidiary in Cherkasy

---

<sup>2</sup> Stakeholder Engagement Plan of Myronivsky Hliboproduct grievance form (<http://www.mhp.com.ua/library/file/plan-vzajemodii-ukr.PDF>) (<http://www.mhp.com.ua/library/file/forma-svjazi.pdf>) can be hardly found on the web-site (<http://www.mhp.com.ua/uk/responsibility/stalij-rozvitok>).

rayon). Moreover, NECU came to know from the Chyhyryn rayon administration response that till mid-January 2017 the company had not come to receive the collected comments, more than a month after the consultations finished.

Several meetings with local facilities of MHP can be mentioned as successful in terms of access to environmental information. For example, the meeting with the Director of Peremoha Nova in April 2016. However, later on promised Detailed Spatial Plan on our written request for access to information was denied and not disclosed. The August 2016 meeting with the Director of Vinnytsya Broiler was only partially productive – apart from the EIA for Lukashivka which was already in construction, no documents we requested to review were provided, neither at the meeting, not later. Still we should note that the Vinnytsya Broiler Director allowed us access and a site tour to the Water treatment Facilities which was informative. At that time our requests to visit the poultry brigades and slaughter house were not granted.

With regards to written requests for environmental information, if any response from MHP came, it was a rejection of access to the requested information. The first time we received environmental information from MHP's Community Relations Director was on 31 March 2017.

During field mission visit on March 21-25 2017 to Tulchyn and Trostyanets rayons, Vinnytsya oblast, we observed that MHP's grain-producing subsidiary 'Zernoproduct', Olyanytsya's local branch was going to apply pesticides in the fields in close proximity to the village houses without informing local population on this. We as well received complaints from bee-keepers contributing on that problematic aspect in the area.

#### **Recommendations:**

**MHP should apply at a minimum EU and creditors' transparency standards, as well as best industry practice and should disclose project documents proactively and upon request from the public:**

- disclose on-line and at village councils Environmental and Social Impact Assessments (ESIA) with Non-technical summaries and management plans, independent cumulative impact studies, Environmental and social action plans, Stakeholder engagement plan, ESIA decisions and permits on water extraction, emission limits, discharges in the env. etc.;
- publish on-line and leave in public spaces at village councils self monitoring data on environmental impacts / discharges;
- inform in a timely manner about the field application of chemicals – pesticides, manure spreading, etc.

#### **2) Consultations.**

Currently consultations on MHP operations are being organized with a number of violations, namely:

- public meetings are not properly announced, sometimes excluding interested stakeholders (like neighbouring villages and even villages from same communities that belong to the same village council territory) and materials for hearings/consultations are not easily accessible by the public.

The announced consultations on the 'preliminary' EIA in Chyhyryn region over the expansion of the poultry farm in Ratseve village have not provided the materials at 2 out of 3 mentioned sites for 2 weeks out of 30 days given for the consultations.

In Zaozerne village, Tulchyn region, the community found out after the fact from newspapers that there were 'public hearings' held on the new biogas power plant on 19<sup>th</sup> January 2017 during the opening of the water supply system in village Vasylivka. There has been no announcement of the hearings, materials or any documentation, except for advertisement articles in the Media on the plant in general.

A post on MHP's facebook page from April 5<sup>th</sup> states the biogas plant is already in construction.

Recently the company introduced a practice of "preliminary EIA" and conducted public consultations (Ratseve village) and even hearings (Zaozerne village) on it, sometimes jointly with the approval of the Detailed Spatial Plan. However, in general, the consultations for the Detailed Spatial Plan and the EIA should be divided in time - with Detailed Spatial Plan should be consulted first and the EIA to follow. The notion of a Preliminary EIA is questionable and not defined by national or international law.

The Vinnytsya Poultry Farm (MHP subsidiary in Vinnytsya oblast) shared a "27 Steps Procedure" to Construction that consists of several stages of consultations. During the first stage MHP presents the expected benefits and social projects for communities in exchange for their agreement build on the territory of the village. At this stage no information about the facilities' negative environmental and social impacts is discussed. The document states that the hearings for the Detailed Spatial Plan development and the hearings for the Environmental Impact Assessment should preferably be conducted at once, practically in violation to national legislation.

It was highlighted many times that MHP should develop and consult a comprehensive Land Acquisition Framework. Land issues have been of the highest concern for local communities and the way how the company has secured its lease agreements has raised questions and led to many local conflicts.

Currently MHP Individual often agrees deals and perpetual lease contracts (emphitevisis) for 49 years with each land owner before consultations with the whole community take place, and well before permits for the constructions and expansions obtained. The recommendations of the EBRD's consultants Monitoring Assessment Report from February 2016 are still not in place in relation to the formal Land Acquisition Framework and meaningful stakeholder consultations and engagement.

Communities are being trapped in silent agreements by the company with selected land-owners. However, the impacts from the constructions affect all.

Consultations are being conducted in a restrictive way – critics or other opinions are not welcomed to question the plans or the reliability of the information of the project promoter.

In Olyanytsya on September 21 2016 NECU representatives were not allowed to enter the building where the meeting was held until the police arrived. Only one critical speaker was

allowed to make a statement and the calculations of the votes were done improperly – without special counting commission.

Sometimes, even access to the place is being restricted – either because of the physical border of the unknown men, or due to the selected place to the hearings.

In Ladyzhyn in autumn 2016 it was impossible to access the place of hearings because it was a small city hall which was filled with the local company workers only.

We have been assured at the recent meeting with MHP that the company is concerned about the escalations of community protests and criticism and is working on improving community relations. In order to do this it needs to introduce a completely new approach to consultations.

#### **Recommendations:**

**In order to ensure informed and meaningful participation of affected land owners, communities and interested civil society MHP should:**

- develop a comprehensive Land Acquisition Framework to replace the 27-step procedure, in line with Ukrainian, EU and international standards;
- plan public consultations as part of the decision-making process, not after operations permits are granted;
- disclose full planning documentation and non-technical summaries to local communities and interested stakeholders prior to and during the consultations;
- announce widely the consultations, their timing and location, as well as the availability of planning documentation,
- conduct consultations in respectful and open manner, at a time and place that are accessible and convenient to local communities;
- ensure that both positive and negative impacts of the planned facilities are adequately studied and presented, and that there is sufficient space in the agenda of the consultation to respond to questions about negative impacts;
- allow for and record critical public feedback and take it into consideration during decision-making and the preparation of mitigation strategies.

### **3) Environmental and Social Impact Assessments**

Ukrainian legislation on Environmental Impact assessment is outdated and needs to be harmonised with the EU's EIA Directive. Additionally, as recipient of hundreds of millions of investments from several public financial institutions, MHP needs to comply with international standards and these institutions's policies, which include additional requirements for conducting Social Impact Assessment of projects.

While MHP's representatives stated on April 7th the company's commitment to apply higher standards as an industry leader in Ukraine and, on the recommendation of its creditors, the company recently hired consultants to assist this transition, changes are yet far from sight.

In reality what the company applies currently, as it is rushing to implementing its planned expansions, with a 'preliminary EIA' which is hard to understand even as part of the Ukrainian legal requirements. Several EIAs disclosed by MHP's investors demonstrate significant deficiencies, for example:

- lack of proper and consultative scoping to define the area of impact and affected communities;
- lack of adequate baseline studies;
- lack of social impact assessment, for example economic displacement of small and medium producers, or the impacts on rural development and employment in agriculture locally;
- lack of cumulative impact assessment;
- problematic timing of assessments and EIA consultations after major decisions have been made and contracts have been agreed;
- lack of transparency and flawed approach to consultations as described above.

**Recommendation:**

**MHP should introduce EU and IFIs' standards for ESIA.**

**4) Accountability**

People are not aware that there is a company grievance mechanism, which is a major barrier to accessing it. Additionally, people may be sceptical about the impartiality of dealing with their grievances, especially in case of serious conflicts between the company and the community, or in case where intimidation has been used to silence critical voices in communities.

Moreover, local communities often formally write to MHP with various positions, questions, petitions and requests. It would appear that MHP, both at the branch level and centrally, does not systematically register this type of correspondence and does not have a clear procedure for dealing with it and responding effectively. For example, if a community is complaining that it has not been consulted and is requesting information about MHP's plans and operations, not through the formal grievance channel, but through officially registered correspondence, this complaint and request should be regarded as a form of grievance and the company should respond to it.

Local communities also often write to local authorities with similar requests, and while MHP should not do the job of state institutions, there should be a way for these requests to be communicated to MHP by local institutions on behalf of citizens, with a clear and fair approach for seeking resolution for the complainants.

Finally, grievances of local communities are often raised as complaints in media and MHP has a selective approach to responding to these. For example there are numerous cases of people recording illegal discharges of MHP waste, or institutions announcing their action in such cases. Recently MHP responded in media that it is not the company, but its subcontractors which are responsible for such incidents, without, however, naming the subcontractor or giving additional details about the problem and its solution. On the other hand, as mentioned above, media reports and complaints about dropping water levels in local villages' wells go unanswered, although the company could regard these as grievances and respond to them accordingly by disclosing information on water use or potentially commissioning studies to examine the problem in more depth.

**Recommendation:**

MHP should respond adequately, in a timely and respectful manner, to official correspondence from affected local communities or from the public. Affected community or individual requests, petitions or complaints should not have to be formulated or submitted as grievances through the grievance mechanism channels, in order to receive MHP's attention and reply. Correspondence

with communities should be registered both centrally and locally, with clear information on both the response and the follow-up and resolution.

MHP should announce more widely the existence of its grievance mechanism, to make it more accessible.

MHP should develop and publish the rules for setting up and operation of its grievance mechanism, which should demonstrate the mechanism's impartiality and independence within the company, avoiding conflict of interest of the various functions, in order to ensure the legitimacy of its mechanism.

Additionally, MHP should publish the detailed rules for dealing with complaints and requests, in order to ensure greater trust in its mechanism's ability to fairly address grievances. In this regard, MHP should also develop and publish rules that ensure the safety of complainants, such as the possibility to complain anonymously or through an official representative.

MHP should publish its grievance mechanism's register on-line (centrally) and physically (at local councils), so potential complainants can see how similar grievances were handled previously and thus what to expect about the handling of their own grievance.

MHP's grievance mechanism should be able to initiate its own cases based on media reports.

Pls see <https://www.cao-grm.org/> for more information on grievance mechanisms.

Contact information:

Fidanka Bacheva-McGrath, CEE Bankwatch Network

Vladlena Martsynkevych, CEE Bankwatch Network/NECU