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Climate resources as objects of natural resources legal relations

Maryna A. Deineha*

Full Doctor in Law, Associate Professor
National University of Life and Environmental Sciences of Ukraine
03041, 15 Heroiv Oborony Str., Kyiv, Ukraine

Volodymyr K. Marinich

Postgraduate Student
National University of Life and Environmental Sciences of Ukraine
03041, 15 Heroiv Oborony Str., Kyiv, Ukraine

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Abstract

This paper examines scientific approaches to the characterization of objects of natural resources legal relations. The paper covered the theoretical provisions of legal scientists regarding the definition of natural resources as objects of natural resource legal relations, distinguished their legal features. The authors of the study analysed the scientific approaches to the legal nature of climate resources and their place in the modern system of natural resource legal relations. Natural resources relations consist of the use and reproduction of natural resources or their properties (e.g., the potential energy of water, which is transformed into electrical energy, the surface of water for the needs of water transport, the properties of atmospheric air to contain and dissolve pollutants (reduce concentration), the property of the subsoil to contain own underground gas storage facilities, etc.). Climate resources are inexhaustible natural resources that include solar energy, moisture, wind energy, etc. and are determined by climate

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*Corresponding author

characteristics. The use of certain properties of climatic resources as primarily alternative sources of energy is extremely relevant. Climatic resources in most of the territory of Ukraine are favourable for the development of alternative energy. However, the current state of legal regulation of activities aimed at ensuring the rational and efficient use of climate resources requires improvement

Keywords: natural resources law, natural resources legal relations, natural resources, climatic resources, climate

Introduction

Natural resources relations can be defined as a set of complex social relations concerning the use and reproduction of individual natural resources in their inextricable connection with other elements of the environment. Currently, in legal doctrine, apart from the subject of legal regulation of natural resources law, the definition of the object of natural resources legal relations and, specifically, the definition of the legal nature of climate resources and their place in the modern system of natural resources legal relations, causes a lot of discussion. This is explained by the lack of a comprehensive study of the theoretical foundations of natural resources legal relations, the complexity of the subject of legal regulation, and the variety of scientific approaches to understanding the objects of natural resources law.

In the presence of numerous scientific opinions on this phenomenon, the problem of forming a unified approach to understanding the object of natural resources legal relations stays relevant. Since, as fairly noted by V.M. Yermolenko, an object in the structure of legal relations forms internal functional connections that are better amenable to legal regulation, and this undoubtedly contributes to the establishment of legal relations as a separate system [1, p. 11].

In this regard, Yu.O. Vovk once pointed out that the subject of natural resources law is united through the unity and inextricable connection of all natural resources that are objects of legal regulation. At the same time, it is quite multifaceted, as it is expressed in the diversity of the specified relations, caused by different types of natural objects, regarding which social relations exist [2, p. 10].

Scientific articles of such prominent representatives of domestic and foreign legal science as H.V. Anisimova, Yu.O. Vovk, V.M. Yermolenko, B.V. Yerofeiev, M.D. Kazantsev, I.B. Kalinin, I.I. Karakash, O.S. Kolbasov, M.V. Krasnova, V.V. Petrov, Yu.S. Shemshuchenko, and other scientists investigate the objects of natural resources and environmental legal relations, including the legal nature of climate resources. However, many aspects of the raised issues are not fully addressed, which determines the relevance of the specified subject under study.

The purpose of this paper was to investigate the scientific approaches to the characterization of objects of natural resources legal relations, to establish the legal nature of climate resources, and their place in the modern system of natural resources legal relations.

Results and Discussion

It is generally known that the object of legal relations is a material or immaterial good, to receive, transfer, or use which the subjects enter into legal relations. It is the need for an object that causes the emergence of a legal connection between subjects, causes the establishment and implementation of their rights and obligations. Objects of natural resources legal relations are those benefits for which natural resources legal relations arise, change, or terminate between subjects.

The object of natural resources legal relations is natural resources – a legally defined part of the natural environment that has signs of natural origin and is in an ecological relationship with natural objects, is used or can be used as a source of satisfaction of human needs.

The main legal features of natural resources are as follows:

a) natural origin;

b) ecological relationship with the surrounding natural environment and with each other;

c) quantitative and qualitative limitations in the natural environment;

d) limited possibility or impossibility of reproducing certain types of natural resources;

e) the main natural resources are physically immovable and cannot be moved in natural space;

f) lack of real value and in the economic sense, natural resources are not a commodity;

g) special legal regime for their use, containing a considerable number of mandatory requirements;

h) the purpose of use is to meet various human needs, etc.

Considering the provisions of special branch literature [3; 4; 5], natural resources as objects of natural resources legal relations can be divided into exhaustive and inexhaustible. Exhaustive natural resources are divided into non-renewable and renewable. Non-renewable resources include those that do not recover at all or recover much more slowly than they are used (e.g., subsoil, minerals). Renewable natural resources include land resources, forest resources, flora and fauna, etc. These resources are renewed as they are used.

Renewable natural resources are resources that are capable of full or partial self-renewal through reproduction or other natural recovery cycles. Such resources can be renewed in natural processes or reproduced under anthropogenic activity [3, p. 7]. Renewal generalizes not new processes of creating natural resources, but the return of their previous qualitative and quantitative characteristics [6, p. 23]. Renewal of natural resources is considered as a specific area of activity of social production, aimed at preserving the quality and quantity of renewable natural resources based on purposeful

management of natural processes; artificial maintenance of natural resources at a certain level through proper resource-renewal measures to achieve their productive state [7, p. 16]. For instance, forest resources are renewed both naturally and through afforestation. Possible areas of reproduction of natural resources can also be reclamation, agroforestry, artificial breeding of hunting animals and birds, etc.

Certain natural conditions are required to preserve the ability of natural resources to self-renew. Violation of these conditions delays or stops the self-renewal process altogether, which should be considered when using them. The rate of use of natural resources should correspond to the rate of their self-renewal. Violation of this conformity inevitably leads to the depletion of natural resources and the need to take measures to reproduce them. Otherwise, renewable natural resources may become non-renewable.

Inexhaustible natural resources include water, climate, and space resources. Water resources are massive. Water exists in all possible states for it. Its total resources stay unaltered and inexhaustible. However, with a variety of human activities, water reserves can change dramatically and lose their consumer properties. Fresh water supplies are depleted and have declined considerably in many places. Its deficiency in meeting the various needs of humanity and society began to be felt.

Specialists in the problems of applied climatology define climate resources as inexhaustible natural resources in the climate system (primarily in the atmosphere), which determine the functioning, development, productivity of various branches of the national economy [8], and can be used to solve a particular issue in industry, agriculture, forestry, fisheries, social sphere,

According to other scientists, the issue of using climate resources is generally excluded from the sphere of environmental and legal regulation. According to T.H. Puchinina, the climate in itself cannot be considered as a component of the natural environment, and climatic resources stay outside the scope of legal regulation due to their undefined nature [13, p. 9, 46]. Kuznetsova N. V. points out that the use of solar energy or climatic resources is not sufficiently controlled and regulated by humans [14, p. 4].

Therewith, some scientists in the field of environmental and legal science have repeatedly drawn attention to the fact that along with the so-called classical objects of environmental law, new ones are also included in the sphere of legal regulation – climate, ozone layer, airspace, etc. [15]. M.V. Krasnova notes that the number of objects of environmental law are currently expanding by attributing (including acts of international environmental law) to their number and climate, which reflects certain characteristics of nature itself (or the environment) [16].

In the branch scientific literature, climatic resources are distinguished as follows: energy (solar radiation, wind energy); thermal (air and soil temperature); moisture

resources in the atmosphere and soil (cloud cover, precipitation, snow cover, moisture in the soil); light (illumination); gas (ozone and gases in the atmosphere) [8, p. 103].

In this regard, the term "climate resource" should be used to refer primarily to the quantitative and qualitative effect of using the properties of climate components: solar radiation, wind energy, air temperature, atmospheric humidity, soil, etc., which are withdrawn from the environment to meet environmental, economic, social, and other human needs.

According to this approach, the concept of climate resources partially falls under the definition of renewable (alternative) energy sources prescribed by the Laws of Ukraine "On Energy Efficiency" [17] and "On Alternative Energy Sources" [18]. According to these regulations, renewable energy sources are sources that constantly exist or periodically appear in the natural environment. In this regard, L.O. Bondar notes that alternative energy sources (solar radiation, wind energy, sea waves, tides, heat of geothermal waters, land, river flow strength, biomass energy, earthquakes, and other non-conventional energy sources) are special natural resources, and the legal norms governing their use are a legal institution as part of natural resources law [19, p. 340]. Therewith, V.M. Komarnitskyi draws attention to the fact that a considerable part of renewable (alternative) energy sources is a manifestation of certain properties of certain natural resources [20, p. 142], namely climatic natural resources.

Renewable energy sources (solar, wind, hydropower, etc.) are indeed subject to legal regulation of natural resources law, but they cannot be considered natural resources, they are properties of natural resources that are used for energy supply. And it is the properties of natural resources (manifestation of the resource's inherent quality, distinctive feature, inherent feature) that determine the limits of their use [21, p. 140] and determine the specific features of legal regulation.

Conclusions

Thus, natural resources relations consist of the use and reproduction of natural resources or their properties (e.g., the potential energy of water, which is transformed into electrical energy, the surface of water for the needs of water transport, the properties of atmospheric air to contain and dissolve pollutants (reduce concentration), the property of the subsoil to contain own underground gas storage facilities, etc.).

Climate resources are inexhaustible natural resources that include solar energy, moisture, wind energy, etc. and are determined by climate characteristics. The use of certain properties of climatic resources as primarily alternative sources of energy is extremely relevant. Climatic resources in most of the territory of Ukraine are favourable for the development of alternative energy. However, the current state of legal regulation of activities aimed at ensuring the rational and efficient use of climate resources requires improvement.

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Кліматичні ресурси як об'єкти природоресурсних правовідносин

Марина Андріївна Дейнега
Доктор юридичних наук, доцент
Національний університет біоресурсів і природокористування України
03041, вул. Героїв Оборони, 15, м. Київ, Україна
Володимир Костянтинович Марініч
Аспірант
Національний університет біоресурсів і природокористування України
03041, вул. Героїв Оборони, 15, м. Київ, Україна

Анотація

Стаття присвячена дослідженню наукових підходів до характеристики об'єктів природоресурсних правовідносин. Розкрито теоретичні положення представників юридичної науки щодо визначення поняття природних ресурсів як об'єктів природоресурсних правовідносин, виокремлення їх юридичних ознак. Проаналізовано наукові підходи до правової природи кліматичних ресурсів та їх місця у сучасній системі природоресурсних правовідносин. Природоресурсні відносини складаються з приводу використання та відтворення природних ресурсів або їх властивостей (наприклад, потенційна енергія вод, яка перетворюється на електричну енергію, поверхня води для потреб водного транспорту, властивості атмосферного повітря вміщувати та розчиняти (зменшувати концентрацію) забруднюючі речовини, властивість надр містити в собі підземні сховища газу тощо). Кліматичними ресурсами називають невичерпні природні ресурси, що включають в себе сонячну енергію, вологу, енергію вітру тощо і визначаються особливостями клімату. Використання визначених властивостей кліматичних ресурсів в якості, насамперед, альтернативних джерел енергії є вкрай актуальним. Кліматичні ресурси на більшій частині території України сприятливі для розвитку альтернативної енергетики. Однак, сучасний стан правового регулювання діяльності, спрямованої на забезпечення раціонального й ефективного використання саме кліматичних ресурсів, потребує удосконалення

Ключові слова: природоресурсне право, природоресурсні правовідносини, природні ресурси, кліматичні ресурси, клімат