

To:
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Director, Environment and Sustainability

Ms Natalia Zhukova,
Director, Agribusiness

European Bank for Reconstruction and Development
London, UK

Cc: cs0@ebrd.com

December 6, 2023

Subject:

Report on October 2023 field visit to Vinnytsia region

Dear Mr Adonai and Ms Zhukova,

On behalf of the community advisors' team we wish to share information about the current situation in the communities regarding impacts from MHP operations following a recent trip to meet with the complainants. This information shall be also considered in light of last EBRD's investments into the company's developments, to address systematic negative impacts of MHP's operations.

In October 2023, Ecoaction made a field visit to the project site. The team spoke with complainants and heard the latest updates on the issues raised in the complaint. The trip also included visits to key project site locations and a water testing exercise.

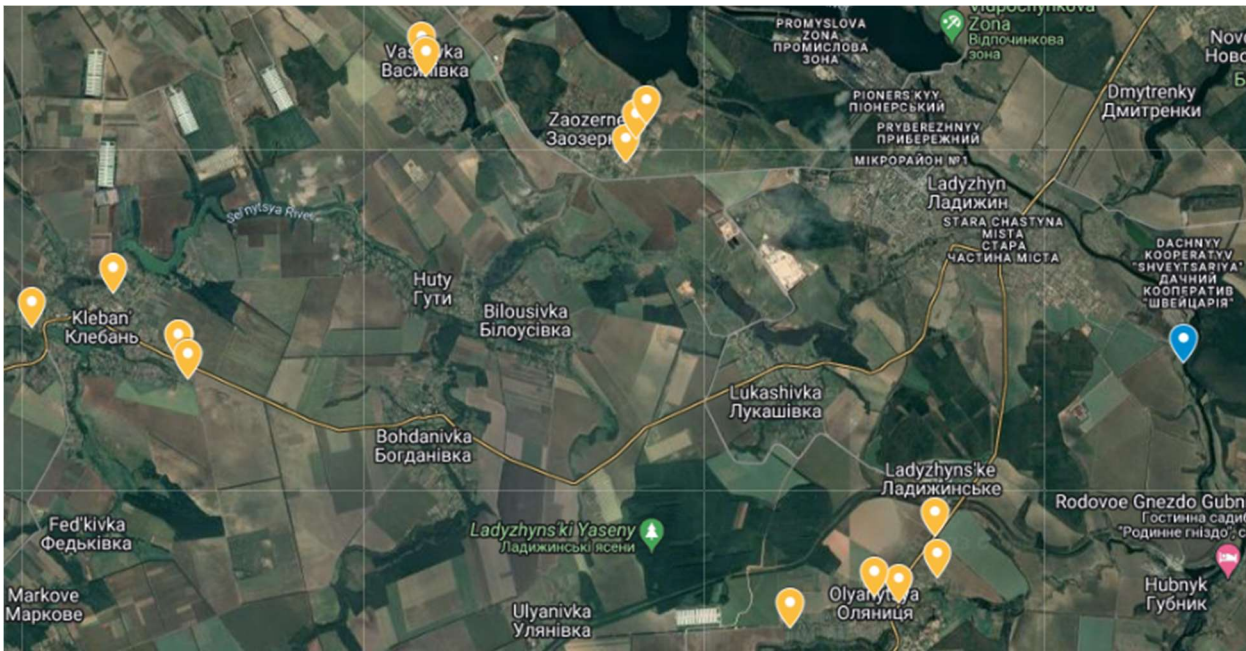
Access to water:

Access to clean water remains a concern for the complainants, particularly in the village of Zaozerne where some villagers continue to struggle to access piped-in water. Without piped-in water, villagers must rely on well water, which is polluted with unhealthy levels of nitrates. Complainants believe this pollution is due to MHP's operations. While the village of Zaozerne has installed a water main line, individual villagers are still unable to access the water unless they self-fund the connection between their residence and the water main. This arrangement effectively prevents some villagers from accessing the piped-in water, given the high cost and significant distance that must be covered by the connection. For some households in Zaozerne, the price of this connection would be over 20000 UAH (444 GBP). This can be compared to villagers in neighbouring Vasylivka, who reportedly paid as little as 1000 UAH (22 GBP) for this connection after MHP agreed to help pay for the project in exchange for the Zaozerne-Vasylivka Village Council's approval to build its biogas plant near Vasylivka.

Meanwhile, water levels in wells are getting lower and lower in all three villages where complainants live and the quality of that water is bad, in some cases well outside of Ukrainian parameters for safe drinking water. During the October field visit, Ecoaction and complainants' representatives repeated a water testing initiative that was

first carried out in 2021¹ to gather data on local water quality. While the 2021 initiative involved rapid water testing on site, this time water samples were analyzed solely in specialized laboratories. Locations tested included wells in and around the villages of Kleban, Olianytsia, Zaozerne and Vasylivka, plus one sample from the Olianytsia water pipe and one sample from the Southern Buh River, close to MHP's wastewater discharge. In total 16 water samples were collected, with most samples taken from the same water sources tested in 2021, to allow for comparison over time.

The results of water testing of wells confirmed nearly universally the problem of nitrogen pollution in the area. The levels of nitrates (NO₃) are consistent with those found in 2021: out of samples from 14 wells, 10 exceeded a safe level of nitrogen content (per Ukrainian safety standard <50 mg/l), while 6 out of these 10 had more than 2-folds higher concentration of nitrates than the standard, with the highest showing 190 mg/l (the same well had very similar results back in 2021). The other 4 wells tested, though within the norm of 50 mg/l, have rather high content of NO₃, close to the upper safety norm (~35-45 mg/l).



The locations of the tested water sources can be seen here. Yellow flags are well samples; blue is river

The sample collected from the water pipe in Olianytsia (the one providing water supply to numerous households in the village) this time showed rather high levels of nitrates - 42,6 mg/l. Back in 2021 the same water source was tested and had somewhat lower results (35-40 mg/l, rapid water test). The current result looks very disturbing, as nitrates concentration is nearly at the maximum safety norm. This is surprising given that the waterpipe takes water from deeper groundwater sources compared to regular wells. This finding begs further investigation. Possible explanations could be either contamination of the deeper groundwater source, or issues with water pipes allowing contaminated groundwater to seep in, e.g. from the first water table (the one supplying water into wells).

A water sample collected from the Southern Buh River, next to the discharge pipe for MHP's wastewater treatment plant (WWTP), showed a very high level of chemical oxygen demand (COD): 52 mgO₂/l (norm 15 mgO₂/l). Such a parameter can be an indication of the water ecosystem overcoming nutrient pollution. Other related parameters include rather high concentrations of phosphates, 1,9 mg/l, and ammonia, 1,03 mg/l, which

¹ See Annex 1

is at least two times higher than the water sample from the very same location in October 2021, which contained 0,36 mg/l of phosphates and ammonia at a level of 0,46 mg/l. Due to time and access limits, only one water sample was collected from the river in October 2023. Also, for comparison it would be useful to have at least 2 samples in the future: upstream and downstream. This comparison was done in 2021 and the results showed acceptable upstream water quality and its deterioration when tested downstream near the MHP's WWTP pipe discharge.

Villagers suspect that this poor water quality is caused in part by MHP's local operations, particularly its practices like application of liquid byproduct from the biogas plant on fields or storing manure without adequate ground cover (and historical practices like spreading manure and poultry house cleaning water on fields). MHP may argue that the nitrate pollution was a pre-existing issue when they came to the area, but even if this were the case, this should have been included in a cumulative impact assessment to evaluate the likelihood that MHP's intensive farming operations would exacerbate the problem. Effective mitigation measures should have been proposed, up to and including avoiding intensive farming operations where necessary, to avoid making this serious problem any worse. Due to the Banks' failure to take into account the cumulative impacts of MHP's local operations, these impacts were not given adequate consideration or assessment during the due diligence process. MHP has benefitted from lenders' lax approach, using the repeated financial support of EBRD and IFC to expand its operations in the local area, even while important questions about its role in contributing to water pollution remain unresolved.

Lenders should require independent monitoring to assess the company's role in causing or contributing to pollution of groundwater and river water. The results of this study should be released publicly. If MHP is found to have caused or contributed to pollution in local groundwater and/or river water, MHP should also pay for water hook ups in Zaozerne in addition to remediating the pollution. There should also be an assessment of the safety of the piped in water supply that has been offered to villagers in Olianytsia as a solution to high nitrate content in well water.

Road impacts:

While MHP has paid to install some new, high-quality roads between certain company facilities, the condition of public roadways through the villages has only gotten worse. These roads have been and continue to be heavily used by MHP, including for large farm equipment and agricultural transport vehicles, which have an outsized impact on the corrosion of public road infrastructure. Unfortunately, a state road reconstruction project in the local area has been on hold since 2022 due to the Russian War and is expected to remain on hold until martial law orders are lifted. In the meantime, problems related to MHP's extensive use of public roadways are only amplified by the preexisting poor state of the roads.

Over the years, MHP's heavy vehicle road use, and the road corrosion it has caused, have led to unusually high road vibrations that have caused structural damage (cracks in walls and foundations) to residences along the road. These issues remain unchanged, and many residents continue to live in constant fear of the precarious structural state of their homes. Once again, due to the Banks' failure to take into account the cumulative impacts of MHP's local operations, these impacts were not given adequate consideration or assessment during the due diligence process.

MHP's and its contractors' use of public roads also impacts the safety of drivers and pedestrians. Many of the public roads used by MHP do not include pedestrian walkways, including some roads that go through residential areas and are frequently used by pedestrians. In recent years there have been a number of safety incidents on

the roads, up to and including deaths from traffic accidents. While MHP is one of many public road users, the sheer size of their operations and workforce, and the location of their facilities on sites between and around local villages, give them significant influence on local road safety and other road-related impacts.

Given these ongoing issues, there is a need for an independent assessment of road impacts linked to MHP's operations. We understand that an assessment of road impacts is included in the Environmental and Social Action Plans for lenders' latest round of financing to MHP. This assessment should be conducted by an independent consultant, so that affected people can trust the results. The Terms of Reference for the assessment should be consulted with the complainants and should include road safety issues as well as building damage caused by road vibrations. If the assessment finds that MHP operations caused or contributed to building damages, MHP should pay for the repairs.

MHP social support for village councils:

MHP has provided money to local village council budgets, and more recently to the territorial hromadas (a larger administrative unit established in Ukraine in 2020). However, most of the time the funds have been earmarked for purposes that prioritize MHP's positive brand image in the local community ("social support" used for "decorative" purposes like flowerbeds, gazebos, sport playgrounds etc). These projects were not a good fit for the actual priorities of local residents. A project to provide piped-in water to residents in Olyanystya was a rare exception that was desired by many residents, although the project suffered setbacks including funding challenges as MHP only offered to fund part of it and residents struggled to find money to hook up their houses to the water main pipe.

Since 2020 when the territorial hromadas were formed, the affected communities have even less influence on how the social funds are distributed because the larger hromadas cover a joint territory, with multiple towns and villages in each hromada, thus pushing the affected communities even further from decision-making on those funds. Instead, complainants feel the company should find ways to engage with the local community of people directly affected by their operations to understand their priorities and needs.

Attempts to raise concerns and questions with MHP at the local level:

Some complainants have continued to reach out to MHP's Corporate Social Responsibility representative when they have an issue to raise (e.g. when MHP's bypass road to re-route traffic around the village of Olyanytsya shuts down, which happens approximately twice a year for reasons unknown to the complainants). Complainants have been frustrated that MHP is not able to resolve their concerns at the local level.

Other complainants have tried calling MHP's "hotline" with questions about the company's local operations (for example, residents who either do not believe it is safe or do not trust the information they will receive from local representatives have tried this method to gain information about new constructions they see being built in their local area). The hotline number connects to MHP's Kyiv office. Unfortunately, complainants have found that this is not an effective way to answer their questions as those answering the phone are not well-informed about the company's local operations in the Vinnytsia region.

The EBRD should require MHP to strengthen its local mechanisms for recording and responding to stakeholder questions and grievances. Complainants' experiences with MHP's CSR representative and hotline show that these communication methods are not enough to promptly and effectively resolve even the most basic questions or requests. Lack of trust is still a major barrier for many complainants to approach local MHP representatives

for assistance, yet MHP has not provided a true alternative.

While not a full solution, additional information disclosure about MHP operations by the Banks would be helpful to start to fill the information gap. As discussed in the complaint, the Banks' loans to MHP should have been assigned to risk category A. Accordingly, the Bank should have disclosed much more information about these projects. Now, at minimum, the EBRD should disclose information on project risks and impacts, Environmental and Social Action Plans, applicable management plans and regular reports on environmental and social performance for the loans that are the subject of the complaint and all current and future investments in MHP.

New developments with MHP operations:

Complainants have noticed a number of new constructions and other developments at MHP's local operations. Although they have tried to learn about these new developments from MHP, they have been unsuccessful in gathering information about what is being planned. If lenders have any information about these new developments, the complainants would be very happy to learn about them.

In August, complainants noticed a stronger odor around Zaozerne and Vasylivka. Later they found a large rubber hose (~30cm in diameter) connecting to the processing plant, where new lagoons appear to be under construction. The hose runs over a great distance, in the direction of the biogas plant.



The rubber hose is visible stretching into the distance

Rubber hose from close up



At the site where brigade 44 (a set of MHP poultry houses) was meant to be built, completely new objects are being constructed. Now there are 5 (and 6th under development) lagoons (basins covered with something that looks plastic) and next to them dry manure is stored openair & on the bare ground, possibly manure that has already been processed in the biogas plant.



A new lagoon visible at the site of brigade 44



Satellite image from spring 2023, showing site of new lagoons on the far left

Location - 48.583384, 29.129419

Conclusion

As this latest information from complainants shows, the harms discussed in the complaint are ongoing and there are practical steps that MHP and lenders can and must take to address them. MHP's operations and lenders' support to MHP have also continued until the present day. While the original loans that are the subject of the

complaint are 6+ years old and either in repayment or closed, EBRD has since provided 3 new investments to the same company.²

This scenario creates a particular responsibility for the Bank to ensure that all of its investments in MHP - and any planned future investments - fully comply with the Bank's social and environmental requirements. The new loans are an opportunity for the bank to leverage its longstanding financial support for this company to effectuate remedy for those who have experienced harm due to any non-compliance. Any lessons from the investigation must be incorporated into all of the Bank's outstanding and future loans to MHP. The Management Action Plan should reflect this.

On behalf of the community advisors' team:

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² MHP EUR 24 million agri loan under RLF, <https://www.ebrd.com/work-with-us/projects/psd/53698.html>; MHP Sunflower, <https://www.ebrd.com/work-with-us/projects/psd/54136.html>; MHP Bond Refinancing, <https://www.ebrd.com/work-with-us/projects/psd/54642.html>.