

**A legal decision  
made in the name of the Russian Federation**

January 17, 2005

In the city of Yuzhno-Sakhalinsk

The Yuzhno-Sakhalinsk Municipal Court,  
with court chairman Ms. E. V. Iool,  
and court secretary, Ms. E. A. Ognyanik,

has considered in an open court proceeding the civil case regarding the petition of Elena V. Rashupkina-Lopukhina, Svetlana G. Gridasova, Alexander T. Kuznetsov, Vladislav A. Lesnoy, Vasiliy A. Kazak, Alexander I. Zarchikov, and the Regional Community Organization "Sakhalin Environment Watch," on the recognition as illegal the orders of the Department of Natural Resources and Environmental Protection of the Ministry of Natural Resources of the Russian Federation of the Sakhalin Region No. 433 from July 10, 2003, "On the organization and completion of the state environmental impact assessment [tr.: expertiza] of the materials of the work project *Temporary construction for unloading materials in Aniva Bay*;" No. 459 from July 25, 2003, "On the assertion of the opinion of the expert commission of the state ecological impact assessment on the materials describing the work project *Temporary construction for unloading materials in Aniva Bay*;" and on the recognition as invalid the opinion of the expert commission of the state environmental impact assessment of the materials of the work project *Temporary construction for unloading materials in Aniva Bay*, /the Construction of the LNG Plant/, and the duty of the interested party to eliminate in full the violations committed against the rights of the petitioners by way of the revocation of the aforementioned orders from the moment of their issuance

THE COURT HAS DETERMINED:

that, on the 10<sup>th</sup> of July, 2003, the Department of Natural Resources and Environmental Protection of the Ministry of Natural Resources of the Russian Federation of the Sakhalin Region (tr.: hereafter - DNREP) did in fact, issue Order #433, and thereby set forth with the planning and performance of a government environmental assessment on "*Temporary construction for unloading materials in Aniva Bay*";

and

that, by order of the DNREP #459 dated 07/25/2003 for the Sakhalin Region, positive findings were accepted for the state environmental impact assessment on the heretofore-mentioned work project, and were thereby ratified for a period of 2 years.

Elena V. Rashupkina-Lopukhina, Svetlana G. Gridasova, Alexander T. Kuznetsov, Vladislav A. Lesnoy, Vasiliy A. Kazak, Alexander I. Zarchikov, and the Regional Community Organization "Sakhalin Environment Watch" applied to the court with petition on the recognition as illegal the orders of the Department of Natural Resources and Environmental Protection of the Ministry of Natural Resources of the Russian Federation of the Sakhalin Region No. 433 from July 10, 2003, "On the organization and completion of the state environmental impact assessment [tr.: expertiza] of the materials of the work project *Temporary construction for unloading materials in Aniva Bay*;" No. 459 from July 25, 2003, "On the assertion of the opinion of the expert commission of the state ecological impact assessment on the materials describing the work project *Temporary construction for unloading materials in Aniva Bay*;" and on the recognition as invalid the opinion of the expert commission of the state environmental impact assessment of the materials of the work project *Temporary construction for unloading materials in Aniva Bay*, /the Construction of the LNG Plant/, and the duty of the interested party to eliminate in full the violations committed against the rights of the petitioners by way of the revocation of the aforementioned orders from the moment of their issuance.

The basis of the plaintiffs' case was that the state environmental assessment [tr.: expertiza] had been performed in such a way that it violated the requirements of law, both on how environmental assessments should be conducted as well as on how the natural environment should be protected. These laws establish an order in which the assessments shall be carried out, and the plaintiffs claim that the present assessment did not follow this order. In addition, the project materials under review were incomplete, and the principles of openness and transparency not adhered to. There was no public discussion of the project during the assessment period either with local citizens or with public organizations. Nor was a positive conclusion set forth for the project by the relevant enforcement agency, the Federal Fishing Department of Sakhalin region. Also there were no experts either in biology or in ichthyology who would be able to assess the impact of the project on fisheries and other wildlife resources in the Aniva Bay region. As a consequence, the materials that went into the environmental assessment, as well as the final conclusions from the assessment, did not take into any account the special economic significance of the Aniva Bay and the possible impacts from the planned activity itself. Nor was there any evaluation or complete and true calculation of the possible ecological damage that could occur.

Moreover, the applicants (plaintiffs) presented in their case that, during the conduct of the assessment, the principle of independency of experts had been violated. They cited that Mr. E. G. Zolotukhin, a member of the state environmental assessment group, also is in the employ of the Sakhalin UGMS. This consultant group has been doing research for the "Sakhalin Energy Company", the very company whose materials are under review with the environmental assessment. The Sakhalin Energy Company's issued its own "Environmental Impact Assessment" and refers to 17 different reports made by the Sakhalin UGMS after 1997. Most of these reports were made under the guidance and participation of Mr. E. G. Zolotukhin. The applicants state their belief that these circumstances point to possible partnership relations between the Sakhalin UGMS and the Sakhalin Energy Co, and therefore they call the objectivity of this independent expert into question.

On March 26, 2003 the plaintiffs submitted supplementary claims. They pointed out that, from the very beginning of the state environmental assessment process, no information was made public either for local people or for non-governmental organizations. So the rights of citizens, as well as of the plaintiffs and "Sakhalin Environment Watch", were violated. They had not been given any opportunity to submit their well-reasoned suggestions on the environmental issues related to the proposed industrial activity. Nor were they able to enjoy their right to conduct any public environmental reviews of their own, or to carry out any public monitoring over the course of the state environmental review process.

Thus, the plaintiffs call into question the very validity of the decisions made by the DNREP of Sakhalin Region in accordance with Order No 433 dated July 10, 2003 and Order No 459 dated July 25, 2003 respectively, and consider them to be invalid and in need of abolishment. The positive findings from the State Environmental Assessment on the "*Temporary construction for unloading materials in Aniva Bay*" should be considered to be invalid, too.

During the time when our court was in session, Mr. D. V. Lisitsin, a representative of the NGO "Sakhalin Environment Watch", supported and explicated their case about how it was obligatory in the first place to conduct a separate state-run environmental assessment on the "*Temporary construction for unloading materials in Aniva Bay*". The project at hand should be considered independent of technical-economic feasibility study of complex development project of the Piltun-Astohskoe and Lunsokoe deposits [tr.: TEO], which had approved at a Federal level and which has a different destination.

The plaintiff also went on to explain that there were several gross violations of law concerning the environmental assessment and the proper involvement of the public during the conduct of the environmental assessment. He mentioned that the Minutes of the Public Hearing on the preliminary draft of materials for the environmental impact assessment of the "Sakhalin 2" project, dated 12/10/2001, does

not show any public discussions on the working project known as “*Temporary construction for unloading materials in Aniva Bay*”. The reason for this was that, at that time, this project had not been worked out by the client. As neither citizens nor public organizations were informed about this work project or of any proposed environmental assessment, there was no proper way for them to respond with remarks or proposals from the community that could be taken into account by the expert commission.

He also pointed out that there were other violations of the “Regulations for performing an environmental impact assessment”, where the DNREP of the Sakhalin region was supposed to take less than a 7 day period after the materials were received (from the project developer) to inform the developer that these materials were, in fact, incomplete. The DNREP did not do this. He also explained that the DNREP of the Sakhalin region decided to limit the period for conducting the assessment to only 14 days, while according to law an assessment period for such projects shall be 120 days. All this, according to Sakhalin Environmental Watch bears witness to the perfunctory nature of how the environmental assessment was performed.

What is more, he explained that the project developer did not present any complete calculation of all the impacts on biological resources, insofar as the documents they presented included calculation of damage only for food resources, which would result from the dredging and the compacting of soil. But other components of the ecological system in Aniva Bay would be known to suffer as well.

Ms. I. B. Bogdan, a legal representative for the plaintiff-applicants E. V. Raschupkina-Lopuhina, S. G. Gridasova, A. T. Kuznetsovas, V. A. Lesnoj, V. A. Kazak, A. I. Zarchikov, states that the applicants learned about the decision made by the DNREP of the Sakhalin Region only on the 29<sup>th</sup> of January, 2004. At that time she received an answer to an oral request posed to the DNREP of the Sakhalin Region, about how the rights of citizens for a favourable environment were being broken by the decisions of the DNREP.

Representatives of the Department of Federal Service for Inspection Related to Nature-Use (Rosprirodnadzor) for Sakhalin Region, notably Ms. O. A. Ermakova and Z. V. Revyakina, on the other hand, testified that they were not satisfied that the plaintiff’s claims were fully acceptable. They explained that the work described in the “Temporary construction for unloading materials in the Aniva Bay” did not represent a real and separate project requiring separate documentation in and of itself. The proposed work in this project was described in the materials presented in the feasibility study that had already been approved for the now-licensed development of the Piltun-Astohskoe and Lunscoe deposits (which are part of the second stage of the Sakhalin-2 Project). According to the opinion of these representatives, there was no necessity for performing a separate environmental impact assessment on the “Temporary construction for unloading materials in the Aniva Bay”.

These Rosprirodnadzor's representatives went on to mention that, according to Order #600, as issued by the Russian Ministry of Natural Resources (and dated 15 July, 2003), there already had been a positive conclusion to the environmental impact assessment of the materials under consideration, and these findings had been approved for the entire process for the overall development of the Piltun-Astohskoe and Lunscoe deposits. These representatives also thought there was no need for the Sakhalin regional Fishing Department to conduct an assessment at Aniva Bay, because this department is a regional body under the control of the Russian Federal Agency on Fishing, and is not empowered to make decisions for water objects such as Aniva Bay. They further explained that the Federal Agency on Fishing (and its “Division of Fisheries Economics, Environmental Assessments and the Maintenance of Standards for Fish Reproduction and Acclimatisation”), had issued a letter dated 04.06.2003 #02-2-322, and in it had already expressed their agreement for the overall implementation of the “Sakhalin 2” project within the framework of the overall development of the Piltun-Astohskoe and Lunscoe deposits.

As for the expert Mr. Zolotukhin, they explained in court that this very person was involved as a non-staff member, and did not represent the Sakhalin UGMS while participating in the environmental impact assessment, nor was he involved in any negotiations with the project developer.

The representatives of the litigant/defendant company, the “Sakhalin Energy Investment Company Ltd.” notably, Mr. E. V. Shubin, and Mr. A. V. Barnashov, testified that they did not accept the plaintiff’s claims, and pointed out that the claims were presented after the allowable period for applying to court for relief.

The representative for the defendant-litigants with the Federal Department on Fishing in Sakhalin Region was not present at the court session. He was informed about the date and the place of the session in a proper way. The court registered his position on the case in his absence. He expressed his opinion in reference to the environmental assessment of the “Temporary construction for unloading materials in the Aniva Bay”, and admitted there had been violations in the legal order in which the assessment should have been conducted. The assessment had been conducted in contradiction to the principles written in Article #3FL “On environmental assessments” where overall environment impact should be considered and where the objectivity of the findings are in question for the environmental assessment.

The plaintiff-applicants E. V. Raschupkina-Lapuhina, S. G. Gridasova, A. T. Kuznetsov, V. A. Lesnoj, V. A. Kazak, A. I. Zarchikov also did not come to the court session, even though they were informed about the date and the place of the session in a proper way, They asked that the application be considered in their absence.

The court, in accordance with Article 257 of the Russian Civil Procedural Code has deemed it acceptable to consider the case in the absence of these people.

THEREFORE, having listened to the applicants and their representatives, and to the defendants, and having examined materials of the case, the court finds the case presented by the plaintiffs to be satisfactory and of substance.

According to Article 42 of the Constitution of the Russian Federation every person has the right to a favorable environment.

According to Article 3 of the Federal Law of the Russian Federation “On environmental protection” dated from 10 January, 2002, any economic or any other activity performed by Russian government agencies, or by any regional government agencies, or any local administrative agencies, or by any persons or other legal entities, where there is any impact on the environment, this activity should be conducted in such a way that it shall be based on certain principles. One of these principals is that it is obligatory to perform environmental impact assessments on projects and other documentation that involve any economic or any other activity which may have an impact on the environment, or do harm to life, or to the health and wealth of our citizens.

According to Articles 1 and 3 of Russian Federal Law, in section #174-FL “On environmental assessments”, these assessments are designed to determine how any economic or any other activity might adhere to the legal environmental requirements, and they shall be used to determine the permissibility of conducting this activity so as to prevent possibly unfavorable impacts on the environment from this activity as well as determine any social, economic or any other impacts from this activity..

The environmental impact assessment is to be based on principles such as:  
-the presumption of potential ecological danger from any proposed economic project or any other activity;

- the obligation to perform an environmental impact assessment before accepting a decision concerning the implementation of a project;
- the obligation to take into account all possible environmental safeguards while performing an environmental impact assessment;
- all information shall be true and complete when it is presented for environmental impact assessment;
- the experts involved in the environmental impact assessment shall be independent while performing these environmental impact assessments;
- the findings of environmental impact assessments shall reflect scientific validity, objectivity and legality;
- there should be full transparency in the process, and public organizations should be allowed to participate, and public opinion taken into account;
- it is the responsibility of those who compose the environmental impact assessment to ensure the quality of the environmental impact assessment.

In Article 12 of the this law there is described the kind of projects where environmental impact assessments are obligatory at the regional level in Russia. Besides this, there are mentioned the kinds of documents which are needed to substantiate economic and other activity and the impact they may have on the environment, directly or indirectly, within Russia.

The case materials at hand lead the court to determine says that Order #433 dated 10 July, 2003 requires that a separate environmental impact assessment be performed on the “Temporary construction for unloading materials in Aniva Bay”. The Order also requires that a separate environmental impact assessment would have to be organized on the present project during a period up to 3 November, 2003, and the findings of the expert group would then be presented. The same Order says that the expert group should include 5 persons.

Order #459 dated 25 July 2003 states that the positive findings had been accepted for the state environmental assessment on the heretofore-mentioned work project, and that these findings were ratified for a period of 2 years. The work of “Sakhalin Energy Investments Company LTD” was the object of this assessment.

The court hereby judges that these findings are invalid for the following reasons:

While performing the environmental impact assessment on the materials provided for the project known as the “Temporary construction for unloading materials in the Aniva Bay” the following principles, as written in Article 3 of the federal law “On environmental assessments”, were broken:

The presumption of potential ecological danger from any proposed economic project or other activity,  
The principle that overall impact on the environment from any economic or any other activity shall be taken into account;

The principle that there should be full transparency in the process, and public organizations should be allowed to participate, and public opinion taken into account.

According to Article 14 of the law in question, an environmental assessment, including any repeated assessment, may be performed where the format and content of the materials presented by a developer for assessment are in accordance with the requirements of the present law on environmental impact assessments. The materials to be presented include:

- documents prepared especially for the environmental impact assessment, which, according to Articles 11 and 12 of the present Federal law, shall be complete and in order, and shall include estimates as to the impact on the environment and will describe any activity which might be subject to an environmental impact assessment;

-positive findings and/or documents showing the agreement given by the relevant federal agency and the local administrative agencies that oversee the activity in question, which shall be received in an order established by law of the Russian Federation;

-findings made by any other executive agencies at a federal level on the projects under environmental review, or any findings that are reached during any public-interest environmental impact assessment, if one has been undertaken;

-materials that portray discussions on possible environmental impacts from the project, discussions that involve citizens and other public organizations, as organized by local administration agencies.

The court has determined, and the evidence of this case show, that the materials that were presented to assess the impact on the environment from the economic and any other activity of this project were not sufficient for the assessment to be performed. All this contradicts Regulation #698 “Concerning the Performance of an Environmental Impact Assessment”, as set forth by resolution of the Russian government on 11 June 1996. This regulation makes it a necessary condition for accepting the materials intended for an EIA that they include factual estimates of the actual impact on the environment from the proposed economic or any other activity, and that they include environmental justifications for implementing the project. It also contradicts Article 14 of Russian Federal Law “On environmental assessments”, and Article 3 “On environmental protection”, as well as the regulation entitled “Concerning estimates as to the impact of any proposed economic or any other activity in the Russian Federation” (a regulation passed by the Ministry of Justice on 4 July 2000).

There is also no evidence in the materials presented of any discussions of the project, or any mention of the environmental impact assessment, with citizens and public organizations, discussions which should have been organized by local administrative agencies for the assessment itself.

What’s more, the materials presented in court prove that the Sakhalin Department on Fishing didn’t formulate any findings on this project entitled “Temporary construction for unloading materials in the Aniva Bay” at any time before the 10<sup>th</sup> of July, 2003.

It is evident from the letter coming from the Sakhalin Department on Fishing (letter #17-4255 from 4<sup>th</sup> of August 2003) that the Department reviewed this project on the 28<sup>th</sup> of April 2003, but did not approve the project plans, and returned them to be improved upon.

Under such circumstances, in the absence of a true EIA, and in the absence of material discussions on the project for the assessment with citizens and public organizations, and given the findings of the Sakhalin Department on Fishing on the environmental impact assessment, the court finds that, in accordance with Point 2.4 regarding “The Required Steps for Conducting an Environmental Impact Assessment” (as issued by the Ministry of Justice on the 28<sup>th</sup> July 1997), the DNREP in the Sakhalin Region should NOT have approved the decision of the expert commission, and instead should have let the developers know that they had 7 days to send in the complete materials for assessment.

The parties concerned did not carry out these actions, and this fact proves that there was a violation of Russian Federation laws on environmental impact assessment when they made the decision to accept the assessment as is.

What is more, it is evident from the assessment of the project entitled “Temporary construction for unloading materials in the Aniva Bay” that was completed by the experts’ commission, that the papers and other materials submitted for expert analysis included a previous assessment of the overall development of the Piltun-Astohskoe and Lunscoe licensed deposits (which were part of the 2<sup>nd</sup> stage of the project Sakhalin-2). But this could not take place, because the Order in question were approved by the Natural Resource Ministry’s on July 15, 2003. This means that under Article 18 of the Russian

Federal Law “On environmental assessment” this document could only come into force on that date or later. But the Order of the Sakhalin Regional Department of Natural Resources and Environment Protection (Order No 433 “The planning and performance of a government environmental assessment on the temporary construction for unloading materials in the Aniva Bay”) was issued on July 10, 2003 when the approved assessment had not come into force yet.

The plaintiffs’ argument in regards to any violation of the principle of expert independence, however, is not confirmed by this court.

Under Article 16 of the Russian Federal Law “On environmental assessments”, the experts of the commission cannot be a representative of any of the clients who have submitted documents which may be subject to the EIA; or a representative of the developer of the project under environmental review; or a citizen who has any labor or any other agreement or contract with the client or the developer; or a representative of any organization, which has entered into any agreement with the client or the developer.

According to these standards prescribed above, the plaintiffs did not produce any evidence to confirm that Mr. E. G. Zolotukhin could not serve as an expert participant for the environmental assessment on the materials from the project entitled “Temporary construction for unloading materials in the Aniva Bay”.

According to Article 249 of the Russian Federation’s Civil Procedural Code, it is up to the state agencies and persons who made any disputed decisions to prove that the circumstances underlying those decisions were lawful.

Representatives of Sakhalin Regional DNREP, which is part of the Russian Federation’s Natural Resource Ministry, did not produce any evidence that local administrative agencies held any discussions with citizens or non-governmental organizations about the project entitled “The temporary construction for unloading materials in the Aniva Bay”.

The court considers the arguments of the representatives of the concerned defendant parties to be ungrounded (that is, it was ungrounded for the Sakhalin Regional DNREP of the Russian Federation’s Natural Resource Ministry to think it unreasonable to hold public hearings after they had held hearings when developing the first technical-economic plans for developing the Piltun-Astohskoe and Lunscoe licensed deposits).

According to section 2 of Article 19 of the Russian Federal Law “On environmental assessments”, all citizens and non-governmental organizations enjoy the following rights: when a commission of experts is preparing an environmental assessment, and when the decision for approving the project is being made, the persons who are involved in this decision must consider the materials sent to the commission which reveal the general public’s opinion.

Point 3 of Article 8 of this same law states that it is the duty of local state agencies who are authorized to oversee environmental assessments that they follow the required procedures for conducting these assessments. They must do this in accordance with Federal Law and with other legal acts of the Russian Federation, as well as in accordance with the requirements of any legal acts issued by the regions and provinces within Russia. These requirements state that, while an environmental assessment is being conducted, any and all well-reasoned suggestions on the environmental aspects of the industrial or any other activity in question should be considered, whether they come from the local administrative authorities, or from non-governmental organizations or private citizens.

As to the claims made by the representatives of the defendant parties concerned about the assessment of the expert commission on the technical-economic materials for the overall development of the Piltun-

Astohskoe and Lunscoe licensed deposits (which had been approved under of the Sakhalin-2 project by decree No 600 of the Russian Federation's Natural Resource Ministry, dated June 26), the court considers them ungrounded, because the documents submitted do not meet the requirements that would make them valid.

Point 2 of Article 7.1 of the Russian Federation's Civil Procedural Code states that written evidence must be submitted only in its original form, or in an appropriately attested copy.

Violating this requirement, the parties concerned submitted an unattested copy of the document (see volume 2 file 316-350). Moreover, there was no petition to the court for requesting and obtaining evidence.

Also, in assessing the claim of the defendant that the plaintiffs omitted to appeal to the court in a timely manner, the court comes to the following conclusions:

According to Articles 254-256 of the Russia's Civil Procedural Code, a citizen or an organization has the right to dispute a decision, or any action (or inaction) of a state agency, or of any local administrative authority, or of an official party, such as a state or municipal worker, and can deliver this dispute in court, if it can be considered that his or her rights or freedoms have been violated.

Decisions, actions (or inactions) of a state agency, or any local administrative authority, or an official party, such as a state or municipal worker, when disputed in court, can be considered to be within the legal framework of a civil procedure. There may be joint or individual decisions and/or actions (or inactions) that belong to the same category, but only in cases where they result in the following. Either there were:

- violations of citizen's rights and freedoms; or
- obstacles were created to prevent a citizen from enjoying these rights or freedoms; or
- some kind of liability or other responsible duty was illegally imposed upon a citizen.

A citizen has the right to apply to the court with his or her claim within a three month period after the day, when he or she has first learnt about the possible violations of his/her rights and/or freedoms.

The court finds no basis however to reject a citizen's claim out of hand, even when these three months have passed. The reasons for possible delay should be ascertained through a preliminary hearing of the court, at which time some basis for rejection of the claim may be found.

As is evident from the explanations given by the representatives of the plaintiffs, on January 29, 2004 there was a talk between Mr. L. A. Kiviisild, the head of the EIA department of DNREP of Sakhalin Region at the Russian Federation's Natural Resource Ministry, and a representative of "Sakhalin Environmental Watch". At that time it was learnt that the environmental impact assessment on the materials of the project entitled "Temporary construction for unloading materials in the Aniva Bay" had already been completed. The other plaintiffs, i.e. the citizens, learnt about this after a meeting that was held at Sakhalin Environmental Watch's initiative in the town of Korsakov. It is the court's opinion that the plaintiffs' argument, as cited above, has NOT been disproved by the representatives of the defendant parties concerned. Moreover, the present argument given by the plaintiff is confirmed within the case materials themselves (see volume 1 file 33, volume 3 file 60).

Based on this evidence the court judges that the plaintiffs applied to the court with their claim that their rights had been violated in due time, as is established by law---that is, they applied within the 3 months that is allowed.

According to Article 18 of the Russia's Federal Law "On environmental assessments" the positive assessment given from the government review should come into force only after its approval by a state environmental agency which has been specially designated for that purpose. The resulting decree should confirm that the procedure of conducting the environmental assessment has met the legal requirements regarding environmental protection or any other laws of the Russian Federation or any laws of the subject regions and provinces of Russia. The court finds that neither the procedure nor the project materials that were submitted have met the legal requirements as set forth in the present laws; moreover, the conclusions of the experts' committee do not correspond to the content of the assessment, nor to any real circumstances, and are found to be based on incomplete and doubtful data.

In accordance with Article 36 of the Russia's Federal law "On environmental protection", and Article 18 of the Russia's Federal Law "On environmental assessment", any project that was subjected to a state environmental assessment can only be set into motion if and when there is a positive assessment coming from the EIA process. Thus, if the court considers an EIA assessment to be invalid, the project under review can not be set into motion

Any non-observance of the legal requirements concerning the procedures in which an EIA can be conducted, and concerning the actual content of the assessment brought forward by the experts' commission, shall be deemed a violation of citizens' rights to a favorable environment, as specified by Article 42 of the Russian Constitution.

Taking into account all of the evidence given above, the court states that the plaintiffs' claims to consider *both* Order No 433, dated July 10, 2003, concerning "The planning and performance of a government environmental assessment on the temporary construction for unloading materials in the Aniva Bay", as issued by the Sakhalin Regional DNREP within the Russian Federation's Natural Resource Ministry, *and* Order No 459, dated July 25, 2003 "Concerning the acceptance of government findings from an expert commission assigned to perform an environmental assessment on the temporary construction for unloading materials in the Aniva Bay" to be invalid and legally unsatisfactory. The environmental assessment on the materials concerning the project entitled "Temporary Construction for unloading materials in the Aniva Bay" also is deemed to be invalid.

The plaintiffs' petition to require the parties concerned to completely remedy or overturn any violations of the plaintiffs' rights by revoking the Orders mentioned above retroactively to the time of their issue cannot be legally satisfied, because in this case the court can state that disputed decrees are invalid only once these decrees lose their legal force, i.e., only as soon as the court's decision comes into legal force.

Taking into consideration articles 194, 199, 258 of Russia's Civil Procedural Code, therefore,

#### THE COURT STATES:

"To partially grant the petition of E.V. Rashupkina-Lopukhina, S.G. Gridasova, A.L. Kuznetsov, V.A. Lesnoy, V.A. Kazak, A.I. Zarchikov, and the Regional Community Organization 'Sakhalin Environment Watch.'

"To recognize as invalid the orders of the Department of Natural Resources and Environmental Protection of the Ministry of Natural Resources of the Russian Federation for Sakhalin Region No. 433 from July 10, 2003, 'On the organization and completion of the state environmental impact assessment of the materials of the work project *Temporary construction for unloading materials in Aniva Bay*;' No. 459 from July 25, 2003, 'On the assertion of the opinion of the expert commission of the state ecological impact assessment on the materials describing the work project *Temporary construction for unloading materials in Aniva Bay*.'

"To recognize as invalid the opinion of the expert commission of the state environmental impact assessment of the materials of the work project *Temporary construction for unloading*

*materials in Aniva Bay, /the Construction of the LNG Plant/,* No. 132-03/04 from July 24, 2003, from the moment of its assertion.

“To impose a penalty on the Department of Federal Service for Inspection Related to Nature-Use (Rosprirodnadzor) for Sakhalin Region of paying the court costs of E.V. Rashupkina-Lopukhina (the sum of 15 rubles).

“In granting of the demands of E.V. Rashupkina-Lopukhina, S.G. Gridasova, A.L. Kuznetsov, V.A. Lesnoy, V.A. Kazak, A.I. Zarchikov, and the Regional Community Organization ‘Sakhalin Environment Watch’ on the duty of the Department of Federal Service for Inspection Related to Nature-Use (Rosprirodnadzor) for Sakhalin Region **to eliminate** the violations committed against the rights of the petitioners by way of the revocation of the orders of the Department of Natural Resources and Environmental Protection of the Ministry of Natural Resources of the Russian Federation of the Sakhalin Region No. 433 from July 10, 2003, ‘On the organization and completion of the state environmental impact assessment of the materials of the work project *Temporary construction for unloading materials in Aniva Bay;*’ No. 459 from July 25, 2003, ‘On the assertion of the opinion of the expert commission of the state ecological impact assessment on the materials describing the work project *Temporary construction for unloading materials in Aniva Bay*’ to dismiss from the moment of issuance.”

This decision can be appealed to the Sakhalin Regional Court through the Yuzhno-Sakhalinsk City Court within a period of 10 days after this court decision is issued.

This final decision was reached by the court on February 11th, 2005.

Signed by the chairman of the court

Ms. E. V. Iool