BACKGROUND

„Net Zero Valley Lausitz“ – How trees and participation rights are to be cut down in the name of climate protection

Inhalt

Lusatia threatened with a legal vacuum
Net Zero wonder bag: from copper mining to cannons
Lusatia - too big for a blank cheque
Fossil projects under the cloak of climate protection
Massive additional landscape destruction
Good jobs for whom?
LEAGs GigaWattFactory
Reduction of participation rights and environmental standards planned
Unclear procedure - unclear subject matter of the procedure
Scope and depth of the strategic environmental assessment

Inducement

On November 6, 2024, representatives of Lusatian municipalities submitted an 84-page “Strategy and Application” to decision-makers in European and federal politics, which has also been published online.[1]
On 21 March 2025, the Brandenburg Ministry of Economic Affairs, Labour, Energy and Climate Protection (MWAEK) wrote to the state's recognized nature conservation associations to involve them in the scoping of the strategic environmental assessment for the “Net Zero Valley Lusatia”. This provided them for the first time with documents that would allow them to assess the project, which has already been widely quoted in the media. This assessment should also be communicated outside of the scoping process, as there is still a lack of independent contributions to the public debate on the topic.

1 Net Zero Valley Lausitz, Europes Clean Power Circle, Strategie und Bewerbung, 6.11.2024, 84 S.

Lusatia threatened with a legal vacuum

The communist east german state GDR already sacrificed Lusatia to its hunger for energy: it would have dug up and burned large parts of its “coal and energy district” of Cottbus if it had not collapsed in 1989/90. With the “Net Zero Valley Lusatia” in 2025, the focus is once again on land for energy hunger and on eliminating concerns as effectively as possible.

The initiative is based on the EU's Net Zero Industry Act of June 2024[2]. The establishment of “Net Zero Valleys” and their effect are regulated in Articles 17 and 18:

Net Zero Valleys are designated by the relevant EU Member State by resolution. (Art. 17 para. 1) An action plan must exist for this purpose (Art. 17, para. 3). The designation of such an “acceleration valley” is subject to a strategic environmental assessment.

The environmental assessment carried out for the entire “valley” is then intended to facilitate the approval of individual projects. A decisive legal consequence of the designation of such a valley is concealed in Article 18(4): the individual projects are then deemed to be in the “overriding public interest” and even “conducive to public health and safety” when it comes to exemptions from the objectives of the Water Framework Directive (2000/60/EC), the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).

What appears to be an avoidance of cumbersome duplicate assessments threatens to create a legal vacuum in practice. This is because an environmental assessment for the designation of the whole of Lusatia as a “Net Zero Valley” threatens to be so crude that the actual environmental impact of the individual projects cannot even be recorded, let alone properly assessed.

For example, the plan contains no information at all on the water consumption of the individual projects. Once declared a “valley”, even the most unrestrained and superfluous degradation of groundwater bodies, the Spree or other bodies of water would officially “serve the common good”. Those affected by water (over)use as far away as Berlin can no longer question this with their objections if they only find out about the consequences of a project during the actual approval process. Even road construction projects that nobody needs and that are diametrically opposed to Climate-friendly transportation, such as the so-called “Spree road” (measure 1.3.6.) could be declared necessary without being examined and as a side effect - and all in the name of climate protection!

Net Zero wonder bag: from copper mining to cannons

And it would hardly stay that way: The action plan refers to the “eventuality of a later expansion of the Valley areas”[3]. In the case of new and additional projects, a new environmental assessment would actually have to be carried out for this change. Would it really take place and would it be open-ended? Doesn't the “Net Zero Valley” threaten to serve as a door opener for highly controversial projects, which can then be slipped in unobtrusively? It is striking that the “application” submitted to federal politicians was not part of the documents submitted for scoping. Concealed in the “action plan”, the “application” clearly advocates copper mining near Spremberg, for example:

2 REGULATION (EU) 2024/1735 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 June 2024 on establishing a framework of measures for strengthening Europe’s net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724, Official Journal of the European Union 2024/1735

3 Maßnahmenplan S. 12

“A strategy for the Net Zero Valley Lusatia could also be strengthened by potentials such as the copper mining in Lusatia, which is currently in the pipeline and is set to begin in the 2030s.”[4]

The regional planning procedure for this ended in 2023 with a rejection of mining - due to unmanageable consequences, for example for the water balance![5]

It seems that new projects to be accelerated appear in every new publication. For example, “Lausitz Magazin”, which is officially involved in the initiative, in its spring 2025 issue:

“Even if this initially has nothing to do with green energy and industry in the sense of Net Zero Valley, parallels and interesting references emerge at second glance. The defense industry is also about speed, rapid approval and planning, industrial areas and industrial clusters in the surrounding area”[6]

Lusatia is in the best logistical position for this “further promise of prosperity” “with a view to Ukraine and the Baltic States”.

Lusatia - too big for a blank cheque

The Net Zero Industry Act does not contain any plans for the size or number of Net Zero Valleys that can be designated by the member states. However, this is unlikely to mean that the EU countries will simply end up designating themselves completely as “acceleration valleys” and that the actual EU law will no longer be applicable anywhere.

But where is the limit for the sensible size of a Net Zero Valley? The directive obviously assumes much smaller areas than the whole of Lusatia when it says:

„Valleys should (...) be used (...) in particular in coal regions in transition“ (Recital 29)

However, with the designation of six districts and one independent city (around 11,000 square kilometers from Zittau to Schönefeld and Herzberg), the Net Zero Valley would not be located in a coal region, but rather the coal region in the Net Zero Valley! The area is therefore oversized. Only if the locations, industries and projects are manageable is there any chance of properly considering the consequences in a strategic environmental assessment.

Fossil projects under the cloak of climate protection

The proposal from Lusatia has a fundamental credibility problem if “net zero” activities are to be combined with coal-fired power generation until 2038. This is obviously the case: in any case, the protagonists are the same (Lausitzrunde, LEAG, PR agency „Zwei Helden“, …) who are calling for German politicians to stick to coal-fired power generation until 2038. This means that LEAG wants to emit more than three times the amount of greenhouse gases that would just be compatible with the 1.5 degree target of the Paris Agreement.[7]

The road projects that have been incorporated as sub-projects also date back to the fossil age. Some of them are ideas from the 1990s that have survived the decades as unfulfilled wishes of local mayors and are now being marketed anew under the guise of “Net Zero Valley”.

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4 Net Zero Valley Lausitz, Europes Clean Power Circle, Strategie und Bewerbung, 6.11.2024, S. 45

5 https://mil.brandenburg.de/mil/de/presse/detail/~18-09-2023-raumordnungsverfahren-kupferbergwerk-spremberg

6 Drei Zutaten für die Zukunft: Net Zero Valley Lausitz, Zeitenwende & Decarbon Days, Lausitz Magazin Frühjahr 2025, S. 84

7 700 million tons instead of 205 million tons from January 2022: Klimaschutz in der Lausitz zur Einhaltung der 1,5°-Grenze, Europa-Universität Flensburg, April 2023

For example, there is no need for the expansion of the “Spreestraße” including an additional Spree bridge in the protected area[8] that has ever been documented in traffic counts. The claim that more car traffic would be needed to connect the Boxberg and Schwarze Pumpe power plant sites during the structural change than before during lignite-fired power generation is a claim that has never been substantiated. Especially as LEAG's coal railroad connects both sites and will no longer be needed for coal in the future. It is much easier to handle “net zero” freight traffic here than on the road. The “Spreestraße” transport project, which makes no sense at all, is now to be awarded the “overriding public interest” as part of the “Net Zero Valley” without any examination.

Similarly, there is no discernible link between the establishment and support of green technologies and the expansion of the A4 federal highway.

Massive additional landscape destruction

The Net Zero Industry Act aims to limit landscape consumption by building the Valleys primarily on “artificial and built surfaces, industrial sites and brownfield sites”.[9] The application from Lusatia does not meet this requirement.

The presentation of the eleven “focus areas” attached to the action plan, each on one page, shows that more than half of the areas represent new land consumption. In the case of those focus areas that include both brownfield sites and new land use, the proportion had to be estimated because it is not presented transparently. As a result, **at least 55% of the areas represent new encroachments on the landscape**, although “priority use of existing industrial, brownfield and former opencast mining areas as well as already sealed areas” is claimed.[10]

Focus area	**Area size**	**industrial, brownfield and already sealed areas**	**New landscape consumption**
1 Schwarze Pumpe	316 ha	Max. 116 ha	Min. 200 ha
2 Forst	50,0 ha	Max. 10 ha	Min. 40 ha
3 Jänschwalde	105 ha	Max. 105 ha	Percentage unclear
4 Guben	15,5 ha	-	15,5 ha
5 Massen	45,0 ha	-	45,0 ha
6 Lübbenau	48,5 ha	-	48,5 ha
7 Rietschen	50,0 ha	-	50,0 ha
8 Horka	39,2 ha	-	39,2 ha
9 Weißwasser	40,0 ha	-	40,0 ha
10 Rothenburg	130,0 ha	Max. 130 ha	Percentage unclear
11 Ostritz / Leuba	20,0 ha	Max. 20,0 ha	Percentage unclear
Sum	**859,2 ha**	**Max. 381 ha**	**Min. 478,2 ha**

The area of Lusatia cannot be increased, it can only be repurposed. The question arises as to why Lusatia, which was long considered a disadvantaged region precisely because of its deindustrialization in the 1990s, is unable to offer a higher proportion of previously industrially used land for renewed industrial development.

8 FFH area Spreetal und Heiden zwischen Uhyst und Spremberg
9 Article 17, para. 2 b, Official Journal of the European Union 2024/1735
10 Maßnahmenplan S. 3

This may seem more cumbersome to the stakeholders than taking up new land. But in doing so, they are failing to meet the sustainability requirements that the EU directive rightly formulates. Presumably, many of the old industrial areas are currently solar parks. However, this cannot be a reason to clear forests on a massive scale to protect the climate.

Additional landscape consumption is hidden behind sub-projects such as

- Connecting road B 178, Zittau-Niederorderwitz (measure 1.3.6.)
- New construction of the so-called Spreestraße, K 9281, construction phase 2 (sub-measure 1.3.7.)
- Multi-lane expansion of the BAB4 between Nossen - AD Dresden - Görlitz (partial measure 1.3.8.)

Good jobs for whom?

According to a study for the Brandenburg State Chancellery, there is a shortage of 55,000 workers in the Brandenburg part of Lusatia alone to fill the existing jobs and those created by structural change projects that have already been approved.[11] Whether these workers can be recruited in competition with other regions remains to be seen. The Net Zero Valley now promises even more jobs. The new industry to be established then threatens to take (more) workers away from the regional SMEs.

Commuters and those looking for work in Berlin cannot simply be added together as a potential workforce for Lusatia: Those who no longer commute to Berlin must be replaced there.

Schon die DDR hat massiv Arbeitskräfte in der Lausitz angesiedelt, um hier ihre Energiewirtschaft aufzubauen. Städte wie Hoyerswerda hatten erst die jüngste Bevölkerung der Republik und wurden dann ab 1990 zu den europaweit am stärksten schrumpfenden. Ist es wirklich gesunde Regionalentwicklung, diesen Zyklus praktisch von vorn beginnen zu wollen? Wäre etwas mehr Behutsamkeit nicht im besten Sinne des Wortes nachhaltiger?
Also GDR relocated a massive workforce to Lusatia in order to build up its energy industry here. Cities like Hoyerswerda had the youngest population in the republic, but then became the most shrinking in Europe from 1990 onwards. Is it really healthy regional development to want to start this cycle practically again? Wouldn't a little more caution be more sustainable in the best sense of the word?

The strategy assumes a “traditional openness of the population to industrial sites in the vicinity of their own living space” (p. 16). This generalization is already inaccurate, as the citizens' initiatives against the “substitute fuel plant” at the Jänschwalde site, which has since been abandoned by LEAG, or against the copper mining in the Spremberg area prove. It is even less likely to be true for people moving in from other regions of Germany that are no less attractive.

LEAGs GigaWattFactory

On p. 13 of the “Application”, the “LEAG GigaFactory EUR 10 billion by 2030 (7 GW)” is highlighted as one of the “20 top investments by the private sector in Lusatia”.

> *„The energy company LEAG has already begun construction of its GigawattFactory and will build Germany's largest contiguous center of renewable energy generation in Lusatia by 2030. It will have a capacity of 7 GW and involves an investment of around 10 billion euros.”* (S. 14)

This is presented as the “base load-capable green electricity” for the industrial processes to be relocated. As LEAG was directly involved in the editing of the text according to the imprint, this statement has

11 https://www.rbb24.de/wirtschaft/beitrag/2024/02/brandenburg-cottbus-btu-fachkraefte-fuer-strukturwandel-lausitz-untersuchung.html

obviously not been checked or independently assessed. It is therefore necessary to take a closer look at LEAG's announcement.

LEAG's prestige project, whose name is inspired by Elon Musk's GigaFactory, has not worked with realistic figures from the outset. As early as September 2023, LEAG had to admit to the Lignite Committee that it had simply used the “forest areas still to be reforested” on the opencast mine dumps as photovoltaic potential.[12] The company apparently wanted to postpone the creation of the forest areas specified in the lignite plans indefinitely. This was not accepted by the mining authorities or the surrounding municipalities, but the claimed “7 gigawatts by 2030” was not revised downwards accordingly. According to the lignite plans, the forest areas on opencast mine dumps are to replace the forest destroyed by the opencast mines. The forest area is already being reduced in favor of the post mining lakes.

The “investment of around 10 billion euros” - the figure cannot currently be verified - is at least not a purely private investment. Public funding is already flowing into several GigaWattFactory projects without Net Zero Valley (e.g. Big Battery). The €1.75 billion in compensation from the federal government for the coal phase-out, which is still controversial under state aid law, is apparently also being invested in GigaWattFactory projects (via the corresponding special purpose vehicles).

Reduction of participation rights and environmental standards planned

The existing contaminated sites, the experience gained from the overuse of natural ecosystems by the coal industry to date and the expected consequences of climate change should be a reason to examine further economic development very carefully in terms of its impact on nature and the environment. Acceleration processes such as the Net-Zero-Valley are aimed at the exact opposite and want to repeat the focus on economic development at the expense of the natural ecosystems that sustain us. The attractiveness of Lusatia cannot be increased in this way.

On p. 50 and in Annex 6, “shortened publication period” are proposed for public participation. The intention here is clearly to deliberately make it more difficult for those affected to make legitimate objections. In fact, the length of the Publication periods is practically never the cause of excessively long planning and approval procedures. This is almost always due to the revision of inadequate applications and/or a lack of staff at the authorities. The public concerned are citizens who have to gain an overview of the projects and submit objections in their free time rather than at work. Even with the current deadlines, the time available for this is often too short. The proposal would therefore lead to a reduction in participation rights and, as a result, to a further increase in disenchantment with politics.

The other proposals for simplifying and accelerating the procedure listed in Annex 6 of the “Application” are not evaluated in this background paper. This must be left to later statements by the environmental associations. However, some of the proposals contain drastic weakening of nature conservation and environmental protection. The paper claims that its proposals would unite “all Lusatians” (p. 83). But at no point were environmental and nature conservation associations involved in the discussion of the proposals.

12 LEAG presentation as Annex 4 to the minutes of the 101st meeting of the Brandenburg Lignite Committee

Unclear procedure - unclear subject matter of the procedure

The documents submitted do not indicate in which procedure, under the leadership of which authority, a decision is to be made on the designation of a Net Zero Valley Lusatia. Article 17 (1) of the EU Directive only mentions the “Member States” as actors. There is no mention in the documents of a national law or regulation governing a specific procedure for this.

However, this also means that there is no basis for scoping, as it is not clear who is to decide on the content, scope and level of detail of the information in the environmental report and to whom any comments in this regard are to be addressed. It is also not clear who is to prepare this environmental report and on whose behalf.

Insofar as the Brandenburg Ministry for Economic Affairs, Labor, Energy and Climate Protection (MWAEK) and the Saxon State Ministry for Economic Affairs, Labor, Energy and Climate Protection (SMWA) declare themselves responsible, there is no legal basis for this.

The “Document to determine the probable scope of the investigation” does not reveal an author. Scoping documents are usually prepared by a planning office commissioned by the project sponsor. It is doubtful that Ms. Antje Klose and Dr. Markus Niggemann, as coordinators of Net Zero Valley Lusatia, are also the authors of this text.

Page 5 of the scoping document states: “The Federal Network Agency will carry out a written scoping to determine the scope of the SEA”. This is obviously incorrect, as the Brandenburg nature conservation associations were asked to comment by a state ministry, but not by the Federal Network Agency.

It is also unclear for which projects or specifications the environmental impacts are to be examined. It states:

> *“The sole content of the plan and thus the object of the environmental assessment are the specifications of Valley areas intended for industrial use to increase their attractiveness and further establishment.”* (Scoping document p. 16)

In this context

> *“An in-depth environmental assessment (...) can only take place at the municipal planning level with the specific project intention of a project developer.”* (Scoping document p. 15)

The examination of the energy and transport infrastructure was not the subject of the SEA.

Both contradict the serious legal consequences of Art. 18 (4) of the EU Directive.

The document communicated publicly as an “application ”[13] does not limit the project to eleven focus areas:

> *“Net Zero Valley Lusatia is defined geographically as a cross-state valley, with the districts of Elbe-Elster, Oberspreewald-Lausitz, Spree-Neisse and Dahme-Spreewald as well as the independent city of Cottbus/Chóśebuz in the Brandenburg part and the districts of Bautzen and Görlitz in the Saxon part of Lusatia. This is a district-specific demarcation...”* (Application, p. 28)

The application also refers to

“an SEA in the part of the valley delimited for each of the selected net zero technologies. This delimitation is derived from the principles of this strategy (…)” (p. 48)

However, in the “Basic principles” chapter on pages 27 to 32 of this “application”, there is no limitation to or even presentation of eleven focus areas to which the environmental assessment is to be limited according to the scoping document.

13 Net zero valley Lausitz, Europes Clean Power Circle, Strategie und Bewerbung, 6.11.2024, 84 S.

Against this backdrop, a binding and consistent clarification must first be made before a scoping process as to which subject matter of the application is to be examined for its environmental impact. The strategy of “assess one thing and do another” is obviously not compatible with EU law.

Scope and depth of the strategic environmental assessment

The SEA must be extended to all projects that would experience an acceleration of approval or facilitation of the approval requirements in connection with the designation of a “Net Zero Valley”. This applies in particular to all projects for which an “overriding public interest” pursuant to Art. 18 (4) of the Directive could be claimed from the designation.

Changes in groundwater recharge must be estimated as a plant-related project impact. The consumption of groundwater or surface water by the respective facility must be quantified as an operation-related project impact. Greenhouse gas emissions must be presented not only during the construction phase, but also during operation, for example in the case of gas-fired power plants or roads.

Consideration should be given to avoiding the construction or expansion of roads by shifting the planned traffic to rail. The Boxberg and Schwarze Pumpe power plant sites are already connected by the plant's own rail network without the construction of the “Spree road”.

Former industrial sites should be examined as alternative locations for industrial settlements, even if they are currently overbuilt with solar parks, for example.

The impacts of planned activities on water as a protected resource must be modeled and presented using the Lusatia groundwater model and the WbalMo management model. Climate change must be taken into account in scenarios with different trends in groundwater recharge (GWN), in particular a significant reduction in GWN of at least 25 % compared to the period 1981-2010.

On p. 28, the scoping document claims to be able to base its assessment on the **overriding public interest in the projects**. In doing so, it seriously misjudges the regulatory content of Article 18 (4) of the Directive. This regulates “authorizations in valleys” and can therefore only be applied as a consequence of the designation of a Net Zero Valley subject to SEA. Here, the scoping document attempts an inadmissible and unlawful circular argument.

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May 2025
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