



**“Green Borderland”**, non-profit association  
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*Member of the LNU - “State Association for Nature Conservation and the Environment in North Rhine-Westphalia” (Germany)  
and the MNF - “Limburg Nature and Environmental Federation” (The Netherlands)*

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Mrs. Annesley Wallace  
President & Chief Executive Officer  
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Niederkrüchten, 3rd of March, 2026

**Greenwashing and threat to European nature protection areas “Natura 2000”:  
HOOPP's investment in Verdion’s Javelin Park Lower Rhine -  
Violation of environmental, social and governance principles and nature conservation**

Dear Mrs. Wallace,

“Green Borderland” is a non-profit, cross-border association for the promotion of nature in the Dutch-German border region of the Lower Rhine and the Maas Valley (cf. <https://www.gruenes-grenzland.net>). As such we are writing to you with some serious concerns about HOOPP's involvement as a capital provider for Verdion’s Javelin Park project in this region.

In our opinion, this project is wrongly presented as an ecologically correct and climate neutral landmark project, when – so our view on this - in reality it seriously threatens a European nature protection site (Natura 2000 site), undermines climate targets and relies on misleading environmental, social and governance claims (ESG). As you are undoubtedly aware of, ESG is the framework used by investors such as HOOPP to assess whether a project is sustainable and ethically responsible, whether, in the end, a project is compatible with the company’s investment decisions and the image it wants to present to its investors, to the general public and to all other stakeholders.

By this letter we would therefore first and foremost like to ask you to provide full transparency on how HOOPP has so far assessed the environmental, legal and reputational risks of this project in light of your own ESG policy as well as in light of the laws that apply in Europe, in Germany, in the Netherlands, and in North Rhine Westphalia. We would furthermore wish to convince you to reconsider your financial commitment in the Lower Rhine and the Maas Valley region. And – to be completely honest with you – we would finally want to urge you to cease further capital investment in this border region we are not only living and working in for all our lives, but also cherish tremendously for its so far well-preserved natural qualities.



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## I. Greenwashing: False claims about 'staying green' and 'climate neutrality'

For years, the project has been marketed under the publicity slogan 'Green stays Green' and as a climate-neutral logistics park. Nothing could be further from the truth:

- Large-scale destruction of nature and landscape without significant compensation is planned and has already been carried out partially. The total project involves the conversion into a logistics and industrial complex of 150–200 hectares on the edge of several nature and bird preserve areas on both sides of the Dutch-German border, protected under European Union Law, i.e. the Natura 2000 areas Schwalm Marshlands of Elmpt (DE-4702-301), Schwalm Nette Plate and Border Forest (DE-4603-401), Meinweg (NL 2003045), Swalm Valley (NL2000003). These areas are core areas for endangered bird species and are home to unique heath, forest and marsh ecosystems. Once destroyed, the damage to these eco-systems is irreversible.



Javelin Park East, October 2024 (before tree fellings)    Javelin Park East, April 2025 (after tree fellings)

- The claim that the project would be 'climate neutral' is completely implausible:
  - Huge increase in traffic: more than 20,000 extra vehicles per day on the A52 and N280 highways, right next to protected nature reserves, causing additional NO<sub>x</sub>, particulate matter and CO<sub>2</sub> emissions;
  - 24/7 logistics activities meaning permanent nitrogen emissions, light pollution and noise pollution, exacerbating habitat fragmentation;
  - Additional energy infrastructure (for data centres and logistics) leading to increased energy consumption and a corresponding increase in the aforementioned emissions;
  - The planned solar panels on roofs and a few wind turbines cannot compensate for the massive ecological damage. Moreover, the wind turbines are planned in a bird protection area, which is completely contrary to sustainability.
- No serious alternative study, although compulsory by European law in a cross-border context, has been carried out to demonstrate that this location – directly adjacent to a Natura 2000 site – was the only option and serves predominantly the public interest.
- Legal proceedings at the Supreme Administrative Court of North Rhine Westphalia show that the environmental impact has not been sufficiently investigated.



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## II. Threat to Natura 2000 areas and Court decision

The project is located directly adjacent to and partly within the sphere of influence of Natura 2000 areas that enjoy special protection under European legislation (Birds Directive and Habitats Directive).

### 1. Specific nature of the planning

The Elm-131 zoning plan for Javelin Park Ost was provisionally suspended by the Supreme Administrative Court of North Rhine Westphalia its decision of 28 April 2025 (case no. 10 B 336/25 NE). According to established case law of the Federal Administrative Court of Germany, the threshold for such a provisional suspension of a zoning plan is very high and is only reached in cases of a very specific nature; the fact that this threshold has been reached in this case shows that the court considers the situation to be very serious in legal and factual terms.

In its reasoning, the Supreme Court also made clear that the project does not fulfill the strict criteria for “imperative reasons of overriding public interest” (“IROPI”) under Article 6(4) of the Habitats Directive<sup>1</sup>: the asserted economic and development objectives are of a general commercial nature, are not linked to any specific public service obligation, and therefore cannot outweigh the protection of the affected Natura 2000 sites.

The Supreme Court thus has confirmed that, on the base of the current planning and environmental assessment, Javelin Park Ost cannot be justified as an “IROPI” project and that the municipality and competent authorities remain strictly bound by the precautionary and protective requirements of Articles 6(2)–(3) of the Habitats Directive.

A full working translation of this German judgment is attached as Appendix 1 to this letter.

### 2. Violation of Natura 2000 protection

According to available public documentation provided within the framework of the court proceedings, the boundary of the Bird Protection Area has been shifted and limited without any ecological justification, under mere political pressure in order to enable the project, which is an approach that is completely contrary to the precautionary principle underlying both the Habitats Directive and the Birds Directive<sup>2</sup>. Besides, this inadmissible approach might in the future become part of a separate criminal lawsuit (cf. infra).

In addition, cross-border effects on Dutch Natura 2000 areas (in particular Meinweg and Swalm Valley) have not been or have insufficiently been assessed, while nitrogen pollution in these areas is already critical. Even where a designation is formally valid, competent authorities must base their assessment on the ecological reality of the site and its qualifying habitats and species, not on an artificially narrow cartographic delimitation tailored to accommodate the needs of a particular private development.

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<sup>1</sup> Council Directive 92/43/EC (Habitats Directive), Art. 6(3)–(4).  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>

<sup>2</sup> Directive 2009/147/EC (Directive on the conservation of wild birds)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0147>



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Where, in ecological terms, qualifying bird habitats clearly extend beyond the formally drawn special protection area (“SPA”) boundary, those areas must nevertheless be treated as part of the functional bird protection area, and deterioration or significant disturbance of such de facto SPA habitat cannot be justified by economic or planning considerations.

Where the de facto bird protection area is covered by the development plan, the grounds for exceptions are even stricter. In this area, a strict prohibition on deterioration and disturbance applies, and exceptions are recognised only in favour of overriding public-interest objectives, such as the protection of human life and health or the protection of public safety<sup>34</sup>.

HOOPP’s use of and financial reliance on such an evidently unlawful situation are manifestly unlawful and, insofar as they contribute to the deterioration of habitats within protected sites, fall within the type of conduct that the new EU Environmental Crime Directive requires Member States to treat as a criminal offence<sup>5</sup>.

### **3. European system (Article 6 of the Habitats Directive)**

Under the Habitats Directive, a plan that may have significant effects on Natura 2000 sites may only be approved on the base of Article 6(3) if, after appropriate assessment, there is no reasonable scientific doubt as to the absence of adverse effects on the integrity of the site. With other words: A plan may only be approved in cases where the competent authority can be reasonably certain that site integrity will not be affected in an adverse way.

Only in exceptional cases may a plan with a negative assessment still be implemented on the base of Article 6(4), and then only if (i) there are no realistic, less harmful alternatives, (ii) there are imperative reasons of overriding public interest (IROPI) and (iii) full compensatory measures are taken to ensure the overall coherence of Natura 2000.

In the case of Verdion’s Javelin Park project, none of these conditions are met. Articles 6(2)–(4) of the Habitats Directive establish a strict and precautionary regime: EU Member States must prevent deterioration and disturbance, and may only authorise plans or projects in the absence of reasonable scientific doubt about adverse effects on site integrity. They may only rely on Article 6(4) in cases of “IROPI” and where it has been proven preliminarily that less damaging alternatives are absent. In addition, the requirement to assess cumulative effects and to examine less damaging alternatives is an inherent element of the Article 6(3) and 6(4) assessment and cannot be set aside by invoking national cut-off criteria or by segmenting traffic, industrial emissions and wind turbine impacts into separate procedures.

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<sup>3</sup> ECJ, judgment of 28 February 1991, Case C-57/89, Commission v Germany, ECLI:EU:C:1991:80, paras 22 et seq. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61989CJ0057>

<sup>4</sup> ECJ, judgment of 2 August 1993, Case C-355/90, Commission v Spain, ECLI:EU:C:1993:331, paras 18 f. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61990CJ0355dejure>

<sup>5</sup> European Commission, “Environmental Crime Directive – Protection of the environment through criminal law”, 2024. [https://environment.ec.europa.eu/law-and-governance/environmental-compliance-assurance/environmental-crime-directive\\_en](https://environment.ec.europa.eu/law-and-governance/environmental-compliance-assurance/environmental-crime-directive_en)



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### **III. HOOPP's role via Troy XIII, Verdion and contractual structure**

Verdion’s Javelin Park project is not just a chimeric plan on a piece of paper, an hypothetical proposal for a student case study; it is a very tangible financed venture by real companies and investors. The development and operation are carried out through, among others, Troy XIII Investment Holding S.à r.l., based in Luxembourg (“Troy XIII”), and Verdion entities acting as a development and management platform for logistics real estate in Germany. In practice, these companies act as vehicles for capital from institutional investors, including HOOPP, which means that the legal, environmental and reputational risks of Verdion’s Javelin Park project are borne not only by the local developers, but also by HOOPP itself.

We are not aware of the exact contractual arrangements, but our comments are based on the transactions and structural documentation currently available to us. In the current development structure, resolute conditions and time limits appear to have been agreed in the event that the zoning plan Elm-131 is suspended or repealed and does not come into effect within a certain period of time.

In light of the provisional suspension by the Supreme Court of North Rhine Westphalia, it is reasonable for HOOPP, as the capital provider behind Troy XIII and Verdion, to have these resolute conditions and the associated timeline carefully examined without delay in its own documentation. To assess whether, in light of the environmental, economic and reputational risks, continuation of the project remains compatible with HOOPP’s own ESG and risk framework and with its fiduciary responsibilities towards its members.



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#### IV. Fiduciary duty, ESG policy and Canadian greenwashing rules

HOOPP presents itself as a pension fund that integrates ESG factors into its investment decisions. In its own policy, HOOPP states that it “*integrates ESG considerations into investment analysis and decision-making processes in order to better manage risk and generate sustainable, long-term returns*”<sup>6</sup>. In the international pension debate, it is recognised that directors must take material climate and ESG risks into account in their investment decisions; ignoring such risks is explicitly linked to a possible breach of fiduciary duty. In this context, the litigation, stranded-asset and reputational risks associated with Javelin Park Ost are not “non-financial” side issues, but material ESG-related risks that fall squarely within prudent risk management duties for pension trustees, as underlined in recent C.D. Howe Institute guidance on ESG and climate for pension funds<sup>7</sup>.

Recent Canadian measures against misleading sustainability claims have also significantly increased the legal and reputational risks surrounding ESG communication for pension funds. The amendment of the Competition Act and updated guidelines for ESG-related fund documentation mean that pension funds’ environmental and climate claims must be better substantiated and verifiable from a legal perspective.<sup>89</sup>

In practice, this has led large Canadian pension funds to review or scale back their climate and sustainability targets for fear of greenwashing lawsuits; these rules “*have significantly raised the legal and reputational stakes for pension funds making ESG and climate claims, prompting some institutions to review or even roll back previous commitments*”<sup>10</sup>.

Against this backdrop, HOOPP’s continued participation in Verdion’s Javelin Park project — despite its legally and ecologically controversial character and its association with damage to Natura 2000 areas — directly exposes HOOPP to accusations of greenwashing: both because maintaining this investment is difficult to reconcile with credible climate and biodiversity targets, and because Canadian regulators and stakeholders are increasingly scrutinising the gap between pension funds’ ESG claims and their actual investment practices.

Given the information currently available about Verdion’s Javelin Park project (suspension by the Supreme court of North Rhine Westphalia, Natura 2000 risks, stricter EU environmental crime rules and the Canadian anti-greenwashing context), HOOPP can no longer seriously argue that these risks are unforeseeable or immaterial to its fiduciary duties<sup>11</sup>.

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<sup>6</sup> HOOPP, “Responsible/Sustainable Investing Policy”, 2023. <https://www.hoopp.com/investments/responsible-investing>

<sup>7</sup> C.D. Howe Institute, “ESG and Climate Change: Pension Fund Dos and Don’ts”, 2024.

<https://www.cdhowe.org/public-policy-research/esg-and-climate-change-pension-fund-dos-and-donts>

<sup>8</sup> Top1000funds.com, “Canada’s anti-greenwashing rule sparks far-reaching impact for pensions”, 26 June 2025.

<https://www.top1000funds.com/2025/06/canadas-anti-greenwashing-rule-sparks-far-reaching-impact-for-pensions/>

<sup>9</sup> Canadian Securities Regulators, “Canadian securities regulators publish updated guidance on ESG-related investment fund disclosure”, 6 March 2024.

<https://www.osc.ca/en/news-events/news/canadian-securities-regulators-publish-updated-guidance-esg-related-investment-fund-disclosure>

<sup>10</sup> HOOPP, “Sustainable Investing – HOOPP”.

<https://www.hoopp.com/investments/sustainable-investing>

<sup>11</sup> See also European Commission, “Environmental Crime Directive – Protection of the environment through criminal law”, 2024. <https://environment.ec.europa.eu/law-and-governance/environmental-compliance-assurance/>



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## V. Our requests to HOOPP

In light of the above, we would like to ask you that HOOPP:

- Immediately ceases further capital investments in the Javelin Park project, at least until:
  - the Supreme Court of Northrhine Westphalia has issued a final ruling on the Elm-131 zoning plan;
  - an independent, critical ecological and legal investigation has been executed, taking into account recent European case law on Natura 2000 protection and nitrogen.
- Provides full transparency on:
  - the base on which independent environmental assessments were used to evaluate the cross-border effects on Natura 2000 areas;
  - why no convincing alternative study has been carried out to identify less harmful locations (in light of Article 6(4) of the Habitats Directive);
  - how HOOPP considers this investment to be compatible with its own ESG policy and fiduciary responsibility, its Responsible/Sustainable Investing Policy, and its public “Sustainable Investing” commitments;
- Reorientates capital towards projects that do contribute to nature and climate goals, such as:
  - redevelopment of brownfield industrial sites;
  - energy efficiency projects with demonstrable CO<sub>2</sub> reduction;
  - nature restoration and climate adaptation initiatives in the border region.



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## Conclusion

The Verdion Javelin Park Niederrhein project cannot be considered a genuine 'green investment', but must be seen as an ecological disaster in the making. The claims about 'climate neutrality' and 'preserving green spaces' are completely misleading and inaccurate. As a nature conservation organisation, we reject this project and call on HOOPP to take responsibility, in line with its own ESG policy and fiduciary duty.

We are prepared to share legal documents, ecological reports and maps with you and discuss this matter confidentially with your ESG and investment teams.

Please, consider if you want to:

- continue with a project that affects Natura 2000 and is subject to serious greenwashing criticism; or
- opt for transparency, genuine sustainability and protection of nature as well as your good reputation.

We kindly would ask you to provide a written response within fourteen days of receipt of this email. We are looking forward to receiving your reaction.

Kind regards,

Groen Grensland – Grünes Grenzland e.V.  
(Green Borderland – Association for the promotion of nature in the border region)

For the board,

Dr. Nina Ungerechts, Board Member

Dr. Andreas Fink, Board Member

Ir. Hans Heijnen, Board Member

**Appendix.** English working translation of the decision of the Higher Administrative Court of North Rhine-Westphalia of the 28th of April, 2025 (Ref. 10 B 336/25 NE).