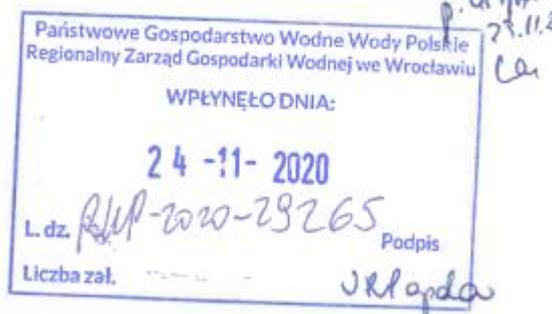




**REGIONAL DIRECTOR FOR
ENVIRONMENTAL PROTECTION
IN WROCLAW**

**AL. JANA MATEJKI 6
50-333 WROCLAW**



WOOS.420.10.2020.AP.22

Wrocław, 19 November 2020.

DECISION

Pursuant to Article 71(2)(2), Article 75(1)(1i), Article 82 and Article 85(1)(2)(1) of the Act of 3 October 2008 on access to information on the environment and its protection, public participation in environmental protection and environmental impact assessment (i.e. Journal of Laws of 2000, item 283, as amended), and also § 3(1)(67) and § 3(2)(2) in conjunction with Article 3(1)(69c) of the regulation of the Council of Ministers of 10 September 2019 on the investments that may significantly affect the environment (Journal of Laws of 2019, item 1839) and Article 104 and Article 108 § 1 of the Act of 14 June 1960, the Code of Administrative Procedure (i.e. Journal of Laws of 2000, item 256, as amended), after examination into the application submitted by the investor - the State Water Holding Polish Waters, acting through the intermediation of the State Water Holding Polish Waters Regional Water Management Authority in Wrocław, on behalf of which acts the representative, Ms Alicja Borowska, for issuing the decision on environmental conditions,

I establish

environmental conditions for the project entitled: "Task 2B.1/1 Flood Protection of the Nysa Kłodzka Valley - Długopole-Zdrój Facility" in scenario 1.

I. I determine:

1. The type and location of project implementation:

The planned project consists in the construction, reconstruction and reinstatement of regulatory structures together with the facilities connected with them technically and functionally. The planned project will be carried out within the Nysa Kłodzka riverbed. The sections covered by the project in question include the Nysa Kłodzka River from km approx. 156+970 to km approx. 158+100 and an estuary section of the Porębnik stream with a length of approx. 25 m. The Nysa Kłodzka River valley covered by the project is located in the town of Długopole-Zdrój, the commune of Bystrzyca Kłodzka, within the Długopole-Zdrój registration area, Kłodzko Powiat, Lower Silesia Province.

2. The significant conditions for land use at the stage of implementation, taking into special account the need to protect valuable environmental assets, natural resources and historical sites and to reduce nuisance to their neighbouring areas:

- 2.1 Machinery and vehicle parking areas must be adequately protected after the works are completed against the penetration of contamination into the soil and water (in the event of leakage, breakdown of vehicles and machinery), including appropriate sorbent stands.
- 2.2. In the case of emissions of petroleum-based pollutants into water, immediate action must be taken to prevent the spread of the pollutants and remove the pollutants from the water surface without delay.
- 2.3. The wastes generated during the implementation of works should be categorised and stored separately in tight containers or at places being enclosed and adapted for this purpose, under conditions which prevent dusting and dispelling light fractions, and their negative effects on the environment.
- 2.4 Segregation and storage of hazardous waste to be conducted in designated sealed containers set up on hardened, marked and secured against access by third parties, until they are handed over to entities authorised to further manage such waste.
- 2.5. The disposal and transport of wastes containing asbestos shall be carried out only by licensed operators.
- 2.6. Construction sites' operating backyards, process yards, construction material and humus storage areas should be located on hardened area on area provided with protective measures against spillage of oil derivatives to the soil and water environment. Store oils, greases and other hazardous substances in sealed containers, in a place protected from access by third parties.
- 2.7. Construction and regulatory works in riverbeds and on bank slopes shall be carried out in such a way that the front of the works moves with the river current (excluding works in the area of bridges and footbridge and construction of ramps).
- 2.8. Reduction of dust from construction sites and roads to be implemented through:
 - systematic cleaning of the construction site,

- spraying dusty road surfaces,
 - use of sealed tarpaulins on cars transporting materials that may cause dust during transport.
- 2.9. Works carried out in the vicinity of acoustically protected areas shall only be carried out between 6.00 a.m. and 8 p.m., any exceptions to this rule must be based solely on the technological specifics for the execution of the given type of works and must be related to ensuring the adequate quality of the works.
- 2.10. Works to be carried out under the current nature supervision of the following experts: phytosociologist/botanist (protected natural habitats and protected species of lichens and plants, including aphids), dendrologist (principles of care and protection of trees), entomologist (protected species of invertebrates, macrozoobenthos), ichthyologist (fish and lampreys), herpetologist (amphibians and reptiles), ornithologist (birds), chiropterologist (bats), theriologist (mammals other than bats).
- 2.11. Works shall be carried out with "from the land" technology. It is allowed to carry out works in the riverbed only if it is not possible to carry out works from the bank, in the case of e.g. existing infrastructure, buildings, trees, collisions with the sites of protected species and natural habitats and naturally valuable trees.
- 2.12. Natural morphological elements such as mid-bed and bank outwashes should be removed under the supervision of an expert ichthyologist and only where it is necessary for the technology and organisation of the works and where it is relevant to ensure appropriate floodwater flow conditions.
- 2.13. Water flow and migration conditions for aquatic organisms must be maintained. If it is necessary to temporarily restrict the free migration of aquatic organisms, the working conditions should be agreed with an expert ichthyologist each time.
- 2.14. Limit the duration of conducting the works within the riverbeds and the inflow of suspended matter into the waters.
- 2.15. It is advised to carry out works in riverbeds in the period from 1 June to 30 September (except for the period of spawning and incubation of stream trout eggs and spawning of other fish and lampreys).
- 2.16. It is permitted to carry out works in the beds of watercourses in the period from 1 October to the end of February after prior consultation with the ichthyologist expert responsible for nature supervision. If the ichthyologist identifies spawning grounds, egg incubation sites, shelters for larvae or fry of fish and/or lampreys - in sections of watercourses where ongoing works are planned - follow the ichthyologist's instructions. In the period from 1 March to 31 May, do not carry out works in watercourses.
- 2.17. If the water temperature of 18° is exceeded, it is recommended to stop working until the temperature is lowered. The water temperature should be measured in the sections covered by the works (one measurement point per 500 m of river section), at least once every 3 days, and during the period of high air temperatures (over 25°) - measurements

should be taken daily.

- 2.18. Measure the suspended solids concentration in water on a daily basis. Measurement points should be located approx. 200 m below the site of the earthworks in the riverbed or on the bank slopes. Measurements should be taken at least 3 hours after the start of works on the given day. If a concentration of suspended solids above 40 mg/l is found, works must be stopped. Works can be restarted 3 hours after the suspended solids have fallen below 40 mg/l. If a concentration of suspended solids above 60 mg/l is found, works must be stopped by the end of the day. They can only be restarted after remeasurement and when the suspended solids concentration is below 40 mg/l. It is recommended to use automated suspended solids measuring equipment to obtain readings directly during or after the measurement.
- 2.19 If dead fish or such showing the signs of hypoxia (movement impairments - swimming on the side) are observed in the river in the area of the works carried out, it is absolutely necessary to stop the works and immediately inform the expert ichthyologist about this fact.
- 2.20. In the sections intended for the construction of a temporary cofferdam in the watercourse beds, immediately after fencing off the work zone (before the water is pumped out), fish and lampreys should be caught under the supervision of an ichthyologist (by means of a three-fold follow-up electrofishing carried out at 1-hour intervals). The technology of performing works under the cofferdam cover is to ensure the flow of water in the part of the bed. During electrofishing, special attention should be paid to catching larvae of European Brook Lamprey *Lampetra planeri* from the outwashes of silt and detritus inhabited by them and specimens of European Bullhead *Cottus gobio* and Alpine Bullhead *Cottus poecilopus*, which use hiding places under rocks and in the patches of dense water vegetation. If foreign species are found, listed in the Regulation of the Minister of the Environment of 9 September 2011 on the list of plants and animals of foreign species which, if released to the environment, may threaten native species or natural habitats, Journal of Laws of 2011, No. 210, item 1260 - e.g. Prussian Carp *Carassius gibelio*, Topmouth Gudgeon *Pseudorasbora parva* - they must not be reintroduced into the river (they should be humanely killed). Collect also the larger invertebrates observed during catching. The caught organisms shall be transferred to another part of the bed, outside the area of works in the river's upstream region. The transport should take place as soon as possible (after each of the repeated electrofishing), in suitable containers with aerated water or foil sleeves with water and oxygen and at the lowest possible temperature. The same catching of fish and lampreys should be made immediately prior to the start of works on the sections where the removal of mud and gravel outwashes is foreseen.
- 2.21. Fish and lampreys should be caught (by means of a three-fold follow-up electrofishing method carried out at intervals of 1 hour) immediately before the start of works within the riverbed in the area up to 50 m above and below the planned works consisting in the conversion of weirs into ramps.

2.22. Back-up facilities of construction sites, roads and technological yards shall be located:

- outside the areas covered with high greenery (trees, bushes) intended to be preserved in the construction design;
- outside the area of identified natural habitats and outside the area of habitats and places of occurrence of protected species intended to be preserved in the construction design.

The access roads to the work sites shall first be designated on the basis of existing roads.

2.23. In zone "A" of the spa protection, felling of forest and park trees is forbidden with the exception of tending cuttings, and in zone "B" of the spa protection, felling of forest and park trees is forbidden with the exception of tending cuttings and felling specified in the forest management plan.

2.24. Trees and bushes felling in the period of 1 March to 31 August to be performed under the supervision of the ornithologist expert, who, directly before performing it, will inspect trees and bushes for presence of birds, and if such are found - will indicate the permitted felling performance time. In the remaining period (from 1 September to the end of February), the above-mentioned supervision is not required.

2.25. Trees with a breast height of more than 40 cm should only be felled if they have been inspected in advance by ornithologist, entomologist and chiropterologist experts to ensure that they are not a habitat of protected species of animals - birds, saprophytic beetles, bats. The inspection should be carried out no more than 7 days before the scheduled felling date.

If protected animal species are found to be present, the date and conditions of felling should be agreed with the above experts. The felling should be carried out under the supervision of the above-mentioned experts.

- 2.26. The scope of felling should include only trees and bushes growing in the areas directly colliding with the project implementation. Do not cut down trees and bushes which do not threaten the construction of regulatory walls and occur outside the boundaries of facilities planned for construction and renovation and outside the areas necessary for occupation due to the performance and technology of works (e.g. necessary technological roads, exits from bank slopes to work sites). In any case, the possibility of removing tall vegetation on one bank only should be considered (ideally on the north-eastern, northern or north-western bank, while trees growing on the south-eastern, south and south-western bank should not be removed as far as possible by land and technology). In addition, the possibility of cutting the tree or removing parts of it instead of the whole tree should be considered each time.
- 2.27. Technological roads and yards, stopping and parking places for machinery and equipment and storage of earth masses (including humus) and building materials shall be located at a distance of not less than 2 m from the boundary of the crown projection of trees and bushes not intended for felling to protect areas under tree and bush crowns.
- 2.28. The works conducted within the root systems of trees and bushes perform manually only, according to the following conditions: do not cut the coarse roots, excavations should be carried out not closer than 1.5-2 m from the trunk, minimise the time of exposure of roots to drying.
- 2.29. During the performance of works, ongoing supervision by an expert dendrologist must be ensured, who will determine the detailed handling and protection of trees not intended for felling, whose root system may be exposed to damage as a result of the works carried out.
- 2.30. Prior to commencement of any construction works, the stumps of the trees exposed to mechanical damage should be protected with wooden boards to a height of 2-3 m from the ground level (bottom of the boards is to be based on the substrate). Between the boards and the surface of the tree trunk, place the flexible material (e.g. thick straw mats), protecting the stump against abrasion by boards. Boards must be attached to the stump (e.g. with the bands of wire or steel tape), in a manner that does not damage the tree. During the period of works performance, the condition of the safety measures should be systematically checked and any damage should be removed. If valuable species of bryophytes and/or lichens are found on the trunk, the trees shall be protected in a way that does not endanger the protected species under the supervision of an appropriate nature supervision expert.
- 2.31. Boughs and branches not intended for felling - exposed to damage in connection with the performance of works should be cut off prophylactically or trimmed under the supervision of and as recommended by an expert-dendrologist, but if possible, those boughs which form shaded zones in the riverbed should be left.

- 2.32. Should any aerial parts of trees or bushes become damaged during the performance of works, appropriate care measures must be taken immediately under the supervision of and as recommended by an expert dendrologist.
- 2.33. The patches of natural habitats in the area adjacent to work areas, but not intended to be removed (in accordance with the design documentation) should be visibly marked and effectively protected against damage under the supervision of an expert phytosociologist (before the commencement of works).
- 2.34. Immediately before starting works within the existing retaining walls, footbridges and bridges, these facilities should be inspected for bird nests and bat shelters. In case of finding bird nests and bat shelters within the objects to be covered by the works, the works should be carried out according to the recommendations and under the current supervision of an expert ornithologist and/or chiropterologist.
- 2.35. If new amphibian migration sites are identified during the period of performing the works, such areas should be adequately protected to reduce the mortality of amphibians that may result from the works. Safeguards shall include the installation of herpetological hurdles, regular inspection of amphibian trapping containers to be installed along the hurdles and the movement of individuals of amphibians out of work sites into areas with suitable habitat conditions. The works shall be carried out under the supervision of an expert herpetologist.
- 2.36. Prior to the commencement of the works, an inventory should be made of protected species of vascular plants, red algae and aphids in the bed of the Nysa Kłodzka and other watercourses, in the sections where the works are planned. Next, plants/stones inhabited by the above-mentioned species should be moved from the areas at risk of destruction, where the presence of the above-mentioned species was found, under the supervision of an expert botanist, and then deposited in other sections, not covered by the works, in places suitable for the habitat, upstream of the river above the works implementation site.
- 2.37. In the area where the works are being carried out, the identified specimens of invasive plant species should be removed during the works. The works should be carried out under the ongoing supervision of an expert phytosociologist who will indicate the most effective method of control for each plant species in a given location.
- 2.38. Prior to the commencement of the works on the watercourses, protect against damage, by appropriate marking, the patches of the natural habitat 3260 Lowland and foothill rivers with white water-crowfoot communities (*Ranunculion fluitantisa*) and in case of incipient destruction - after obtaining the relevant permit, transfer the plants forming the above habitat to a section of the watercourse which will not be covered by the works. The works shall be carried out under the supervision of an expert phytosociologist.

3. Requirements concerning the environmental protection required to be considered in the documentation requirements to issue a decision, specified in article 72, clause 1 of the act on provision of information on the environment and its protection, public participation in environmental protection and environmental impact assessments:

- 3.1. In reconstructed, renovated and new retaining walls leave horizontal niches with square-shaped inlet dimensions of 11x11 cm and a depth of up to 25 cm, at a height of about 1-2 m above the average water level (depending on the wall height), not less than 0.3 m from the upper edge of the wall. Execute not less than 40 such niches over the entire section of works, and the niches should be distributed fairly evenly over the entire section of works. The works to be performed under the supervision of an expert ornithologist.
- 3.2. To strengthen slopes and the bottom of the watercourse, use only natural materials, as the main building block, i.e. fascine, fascine hurdle, rip-rap. Other materials should be used only to secure bridges and to make elements of the ramps. Use rip-rap of the stone of different sizes for bottom revetment. On the other hand, for structures which are concrete structures (control walls, lying walls), their finish on the visible surface should be made of natural stone.
- 3.3. Do not use gabion mattresses or baskets.

- 3.4. Do not remove boulders or stones from the watercourse bed. In the regulated, homogeneous parts of the Nysa Kłodzka, solutions should be introduced to increase the diversity of habitats, e.g. introduce boulders and large stones with a diameter of 30-50 cm in groups of 3-5 pcs, serving as shelters for fish.
- 3.5. The technical designs of ramps planned for the conversion of the existing sills should be developed in consultation with a specialist ichthyologist in order to ensure free migration of fish and lampreys occurring in the Nysa Kłodzka. The ramp design should consider a moderate inclination (ideally 1:25), the use of wedge stone of different grain sizes without the use of concrete (for the top layer only) and the execution of a hollow in the central part of the ramp to ensure the possibility of migration in low water flow conditions. The proposed structure should be based on larger boulders (dimensions approx. 0.8-1.2 m), founded in semi-circular rows (convex arch in the upstream direction), which together with the bottom layer of stones filling the gaps (0.4-0.6 m fraction) should be founded in concrete in order to better stabilise the structure and increase its resistance to extreme surge flows. The bottom concrete layer, impermeable for water, will also limit water infiltration into the ramp structure, which will provide sufficient depth for the migration of fish in the low water conditions. However, the top layer of the ramp should be made of rip-rap (0.2-0.5 m), wedged between the larger fraction and the boulders embedded in the concrete. This will ensure that smaller fish species (e.g. Bullhead, Brook Lamprey, Stone Loach, Common Minnow) or invertebrates can use the space between the stones as hiding places and migration routes.
- 3.6. Abandon the works on the right-bank section of the Nysa Kłodzka at km 157+720- 157+811

II. I state it necessary:

1. To perform natural compensation consisting of the following measures:

- 1.1. If it is necessary to carry out works in the period from October to the end of February, which will result in losses of stream trout eggs in the spawning grounds below the site of the works performance, stocking with stream trout should be carried out annually during the works performance period in cooperation with an expert ichthyologist. For stocking, stocking material from the Nysa Kłodzka catchment area must be used and the size of the stocking density must be based on an assessment of the real losses in the species population and the amount of stocking material introduced by the fishing user. In addition, the expert ichthyologist, in consultation with the fishing user of the waters, may indicate the need for additional stocking in the year following the completion of the works, in order to maintain the species abundance until the spawning conditions in the section covered by the works are restored.
- 1.2. In the area of the town of Długopole-Zdrój and/or within 500 m from its administrative borders - under the supervision of an expert ornithologist - hang 5 nesting boxes for White-Throated Dipper *Cinclus cinclus* and 5 nesting boxes for Grey Wagtail *Motacila cinerea* under bridges. If there are no suitable places for hanging the boxes under bridges, boxes should be installed on retaining walls, at a height of not less than 0.3 m from the upper edge of the wall.

Individual boxes should be hung from each other at a distance of not less than approx. 100 m. The type of nesting boxes should be agreed with an expert ornithologist.

- 1.3. In the area of the town of Długopole-Zdrój and/or within 500 m from its administrative borders - hang 5 nesting boxes for Goosander *Mergus merganser*. The boxes should be hung on trees growing on the banks of the riverbed. The type of nesting boxes and the place and method of suspension should be agreed with an expert ornithologist.

2. Monitoring the impact of the project onto the environment:

- 2.1. For at least 3 years after the completion of the works, carry out with participation of an expert phytosociologist (in accordance with the methodology of the State Environmental Monitoring of the Chief Inspectorate of Environmental Protection) annual monitoring of habitat patches of 3260 Lowland and foothill rivers with white water-crowfoot communities (*Ranunculion fluitantis*) for the quality of the parameter "structure and functions of the habitat".
- 2.2. In the first and third year after the completion of the works - with the participation of an expert ichthyologist, the occurrence of fish and lampreys as well as macro-vertebrates should be monitored by means of fishing on 4 sites located in the Nysa Kłodzka, in the section covered by the project.
- 2.3. In the case of replanting at the stage of implementation of the work of specimens of protected plant species, in the first and third year after the completion of the works with the participation of an expert botanist, carry out monitoring of the success of replanting of protected plant species.

- 2.4. In the first, third and fifth year after the completion of the works - with the participation of an expert ichthyologist - carry out the monitoring of the functioning of ramps in the context of migration of aquatic organisms. Monitoring studies should, among other things, take into consideration the catching of fish in the ramps, during spring and autumn migration.
- 2.5. The results of the monitoring referred to in clause II sec. 2.1 to 2.3 shall be submitted to the local authority issuing the decision within 30 days of the completion of the given monitoring stage in the year concerned. If it is found that the planting is unsuccessful and the condition of the habitat 3260 is deteriorated, plan and implement (after agreement with the above-mentioned authority), at the investor's expense, appropriate measures to eliminate or minimise the factors influencing these irregularities.
- 2.6. For each stage (year) of the monitoring carried out, submit a written report to the issuing authority of this decision, referred to in clause II section 2.4 containing photographic documentation and an assessment of the functioning of ramps as a fish migration facility, within one month of the completion of the given monitoring stage in the year concerned. If irregularities are found in the functioning of the above-mentioned facilities, plan and implement (after agreement with the above authority), at the investor's expense, appropriate measures aimed at eliminating or minimising the factors influencing these irregularities.

III. I do not impose an obligation to conduct an environmental impact assessment for the project and the proceedings in the scope of the cross-border impact on the environment under the proceedings on issuing the decision as specified in Article 72, clause 1 of the act on the environment and its protection, public participation in environmental protection and environmental impact assessments.

IV. An Appendix 1 - Project description - forms integral part of the decision.

V. The decision is made immediately enforceable,

Reasons

With the application of 13 February 2020 (date of receipt: 14 February 2020) the investor - the State Water Holding Polish Waters, acting through the intermediation of the State Water Holding Polish Waters the Regional Water Management Authority in Wrocław, on behalf of which the representative, Ms Alicja Borowska, acts, applied to the Regional Director for Environmental Protection in Wrocław for issuing a decision on environmental conditions for the above-mentioned project and for making it immediately enforceable.

The planned project is classified as a project likely to have significant impact on the environment, as specified in § 3(1)(67), and § 3(2)(2) in conjunction with § 3(1)(69)(c) of the regulation of the Council of Ministers of 10 September 2019 on the types of projects which can significantly affect the environment, for which an environmental impact report may be required (Journal of Laws of 2019, item 1839).

The investment will be implemented pursuant to the act of 8 July 2010 on special rules on

preparing to investment implementation within the scope of flood control structures (*i.e. Journal of Laws of 2019, item 933, as amended*).

Pursuant to Article 75(1)(1i) of the Act of 3 October 2008 on access to information on the environment and its protection, public participation in environmental protection and environmental impact assessment (*i.e. Journal of Laws of 2020, item 283, as amended*), hereinafter the EIA Act, the Regional Director for Environmental Protection in Wrocław is the competent body responsible for issuing a decision on environmental conditions for this project.

The application was formally completed on 19 March 2020, in accordance with the scope indicated by the local authority in the letter dated 18 February 2020, ref.: WOOS.420.10.2020.AP.

Data on the application for issuing a decision on environmental conditions are included in the publicly available list of data on documents containing information on the environment and its protection (<http://www.ekoportal.gov.pl/>) under the number: 90/2020.

Due to the fact that the number of parties to the proceedings exceeds 10, acting on the basis of Article 74(3) of the EIA Act, in conjunction with Article 49 of the Act of 14 June 1960 on the Code of Administrative Procedure (*i.e. Journal of Laws of 2020, item 256 as amended*), hereinafter referred to as CAP, the local authority notified the parties to the proceedings of all actions taken in the case by way of a notice published in the Public Information Bulletin on the website of the Regional Directorate for Environmental Protection in Wrocław.

The Regional Director for Environmental Protection in Wrocław, by the notice of 23 March 2020, ref.: WOOS.420.10.2020.AP.3, informed the parties to the proceedings, among others: on initiating the administrative procedure on issue of the decision on environmental conditions for the above-mentioned investment, the authority competent to issue the decision and the authorities competent to issue an opinion on the necessity to conduct an environmental impact assessment, the possibility to familiarise oneself with the case files and submission of comments and applications at each stage of the procedure, the place where the case files are kept and the possible form of submission of comments and applications, the authority competent to examine those comments and applications.

In the course of the proceedings, the Regional Director for Environmental Protection in Wrocław, in a letter of 23 March 2020, requested an opinion on the necessity to assess the impact of the planned project on the environment, and if such a need is identified, on the scope of the environmental impact report to:

- the Minister of Maritime Economy and Inland Navigation, in accordance with Article 64(1)(4) of the EIA Act,
- the State Poviats Sanitary Inspector in Kłodzko, in accordance with Article 64(1)(2) of the EIA Act.

The State Poviats Sanitary Inspector in Kłodzko in a decision of 08 April 2020 (date of receipt: 17 April 2020), ref.: NS-ZNS-72-18/AZ/20, expressed an opinion on the lack of need to conduct an environmental impact assessment.

The Minister of Maritime Economy and Inland Navigation, in a letter dated 9 April 2020 (date of receipt: 14 April 2020), ref.: DOK.DOK2.9750.1.19.2020.SK, stated the substantive deficiencies in the

submitted Project Information Sheet entitled: "Task 2B.1/1 Flood Protection of the Nysa Kłodzka Valley - Nysa Kłodzka - Długopole-Zdrój Facility", prepared under the direction of Mr Wojciech Lewandowski, February 2020, hereinafter referred to as PIS, and requested the local authority to call the applicant to supplement the evidence. In view of the above, the local authority by letter of 17 April 2020, ref.: WOOŚ.420.10.2020.AP.8, called the investor's representative to supplement the PIS to the extent indicated by the Minister of Maritime Economy and Inland Navigation. With the letter of 12 May 2020 (date of receipt: 15 May 2020), the representative submitted the supplementation of the documentation.

In connection with supplementation of the documentation, the Regional Director for Environmental Protection in Wrocław, with the letter of 18 May 2020, ref.: WOOŚ.420.10.2020.AP.9, furnished the supplementation of the above-mentioned evidence to the Minister of Maritime Economy and Inland Navigation. With the letter of 18 May 2020, ref.: WOOŚ.420.10.2020.AP.10, the local authority also applied for a new opinion on the necessity to conduct the environmental impact assessment of the planned project, and in case of finding such a need, on the scope of the environmental impact report, or to maintain the above-mentioned position to the State Poviats Sanitary Inspector in Kłodzko.

The Minister of Maritime Economy and Inland Navigation, in his opinion of 15 June 2020 (date of receipt: 22 June 2020), ref.: DOK.DOK2.9750.1.19.2020.SK, stated that there is no need to prepare an environmental impact assessment for the above-mentioned project, indicating at the same time the necessity to include the following conditions and requirements in the decision on environmental conditions:

- 1) Works should be carried out in short sections, in an alternating manner, due to the scope and location of conducting the works.
- 2) The works interfering with the riverbeds should be carried out only within the designated sections where the project implementation is planned.
- 3) During the execution of the works in the riverbed, the flow of water and conditions for the migration of organisms must be ensured by means of an appropriate method of work.
- 4) When carrying earthworks and works within the bed, the surface run-off and sediment turbidity resulting in the inflow of suspended matter to waters must be kept to a minimum.
- 5) The removal of natural morphological elements, such as mid-bed and bank outwashes, is only acceptable if it is necessary from the point of view of technology and organisation of works.
- 6) In order to ensure proper protection of water against pollution, the equipment used during construction should be fully technically operational and meet the requirements for its use.
- 7) The works planned for implementation should be carried out under the current supervision of an expert ichthyologist.
- 8) Waste generated during construction may be stored only at designated sites.
- 9) Operating backyards of the construction site must be located at a suitable location away from the riverbed so that any pollution from the site does not enter the soil and water.
- 10) If harmful substances penetrate into the aquatic environment, in particular as a result of equipment failure due to leakage of fuels, greases and oils, it is necessary to use appropriate sorbents for

capturing these contaminants, and the used materials after neutralisation should be handed over to authorised recipients.

- 11) Occupation of land for the location of technological roads, construction facilities and technological sites should be limited to the necessary minimum.

After analysing the conditions of using the environment in the phase of implementation and operation of the project in question, imposed by the body competent to issue a legal water assessment, the Regional Director for Environmental Protection in Wrocław considered it justified to take into consideration in the conclusion of this decision the condition no. 3-4 and 7-10 (prescribed, successively, in the conditions of cl. I sec. 2.13-2.14, cl. I sec. 2.18, cl. I sec. 2.10, cl. I sec. 2.4, cl. I sec. 2.6 and cl. I sec. 2.2 of this Decision). At the same time, the local authority considered that the provisions of condition no. 1-2, no. 5-6 and no. 11 refer to the characteristic features of the investment and technology of carrying out the works, which were included in the justification of this decision and are an element of the characteristics of the project in question or were formulated in a too general way or result from separate legal regulations which the investor is obliged to comply with in the case of undertaking the execution of the investment in question.

The State Poviát Sanitary Inspector in Kłodzko in a letter of 09 June 2020 (date of receipt: 16 June 2020), ref.: NS-ZNS-72-33/AZ/20, maintained the position expressed in its decision of 08 April 2020 (date of receipt: 17 April 2020), ref.: NS-ZNS-72-18/AZ/20, on the lack of the need to conduct an environmental impact assessment.

The Regional Director for Environmental Protection in Wrocław has analysed the collected documentation in the context of the provisions of Article 63 Clause 1 of the cited act. In consideration of the information included in the PIS, the local authority has found that the said investment project may have a significant environmental impact and it is therefore required to carry out an environmental impact assessment. In connection with the above, on 3 July 2020, the local authority issued the decision ref. WOOŚ.420.10.2020.AP.11 on the obligation to conduct the environmental impact assessment and determined the scope of the environmental assessment report for the project. The parties had the right to lodge a complaint with the General Director for Environmental Protection through the authority that issued it within 7 days of service. The authority informed the parties to the proceedings of the above-mentioned fact by the notice of 03 July 2020, ref.: WOOŚ.420.10.2020.AP.12. Moreover, the data about the above-mentioned decision were included in the publicly available list of data about the documents containing information about the environment and its protection under the sheet number: 188/2020, of which the authority informed in the above-mentioned announcement.

No complaint has been filed against the above-mentioned decision of the Regional Director for Environmental Protection in Wrocław.

While fulfilling the statutory disposition of Article 63(5) of *the EIA Act*, the Regional Director for Environmental Protection in Wrocław by the decision of 12 August 2020, ref.: WOOŚ.420.10.2020.AP.13, suspended the proceedings on issuance of the decision on environmental conditions until submission by the applicant of the environmental impact report for the project. The parties are not entitled to appeal against this decision.

With the letter of 17 August 2020 (date of receipt: 17 August 2020), the investor's representative submitted the Environmental impact report for the project "Task 2B.1/1 Flood protection of the valleys of the Nysa Kłodzka River and the - Długopole-Zdrój Facility" (hereinafter Report) prepared under the direction of Mr Wojciech Lewandowski [SWECO Consulting Sp. z o. o., Wrocław, August 2020]. In consideration of the above, the Regional Director for Environmental Protection in Wrocław by the decision of 18 August 2020, ref.: WOOŚ.420.10.2020.AP.15, initiated the proceedings to examine the application. The data about the above-mentioned Report were included in the publicly available list of data about the documents containing information about the environment and its protection under the sheet number: 237/2020.

After analysing the Report and the submitted documentation, the Regional Director for Environmental Protection in Wrocław with the letter of 31 August 2020, ref.: WOOŚ.420.10.2020.AP.17, summoned the applicant to supplement its content. The documentation submitted in the case, including the Report, was finally supplemented on 18 September 2020.

In accordance with Article 79 of the *EIA Act*, before this decision is issued, the local authority provided the opportunity for public participation in the proceedings as part of the environmental impact assessment. In accordance with Article 33 of the cited act, the Regional Director for Environmental Protection in Wrocław, with the announcement of 23 September 2020, ref.: WOOŚ.420.10.2020.AP.19, made information about the planned project publicly available, i.e. about:

- commencement of the proceedings;
- commencement of the environmental impact assessment for the project;
- the subject of the decision to be issued in the case;
- an authority competent to issue the decision and the authorities competent to issue the opinion;
- the possibility of familiarising oneself with the necessary case documentation and about the place in which it is made available for reading;
- possibility of submitting comments and applications;
- the method and place of submitting comments and applications, indicating at the same time the period of 30 days for their submission;
- an authority competent for consideration of comments and applications.

The notice was made public from 24 September 2020 to 26 October 2020 (inclusive). The documents were made available for viewing in the registered office of the Regional Directorate for Environmental Protection in Wrocław. Comments and applications regarding the planned project could be submitted in writing at the above-mentioned address, verbally for the record or in the electronic version without having to provide a safe electronic signature from 25 September 2020 until 26 October 2020 (inclusive). An authority competent for consideration of comments and applications was the Regional Director for Environmental Protection in Wrocław. The authority informed the society in the announcement that comments and applications filed after the established time limit will not be considered. No one has filed any obligations in the established time limit.

Pursuant to Article 3 Clause 1 point 11 of the *EIA Act*, information about the planned project was

made publicly available by:

- announcing on the notice board in the office of the authority competent in the case, i.e. on the notice board of the Regional Directorate for Environmental Protection in Wrocław;
- publishing the information on the website of the Public Information Bulletin of the Regional Director for Environmental Protection in Wrocław (rdos.wroclaw.gov.pl);
- announcing the information in the place of investment execution, i.e.: on the notice board of the Bystrzyca Kłodzka Town and Commune Office and on the notice board located in Długopole Dolne, near the Nysa Kłodzka riverbed, on the notice board at Wolna Street in the town of Długopole-Zdrój near the Nysa Kłodzka riverbed, on the notice board at Zdrojowa Street in the town of Długopole-Zdrój near the Nysa Kłodzka riverbed and on the notice board at the crossing of Wolna Street and Zdrojowa Street in the town of Długopole-Zdrój near the Nysa Kłodzka riverbed,
- announcing the information about the planned project by means of a notice in the manner customary in the town competent for the subject matter of the proceedings by displaying the notice on a notice board in the Bystrzyca Kłodzka Town and Commune Office,

No comments or applications from the society were received by the local authority within the deadline set for the conducted public participation. No comments were received after the deadline for submitting comments and requests, either.

The Regional Director for Environmental Protection in Wrocław, fulfilling the statutory disposition of art. 10 § 1 of the CAP, informed the parties to the proceedings by way of a notice dated 25 September 2020, ref.: WOOŚ.420.10.2020.AP.21, about collecting the entire evidence and about the possibility to familiarise oneself with the case files and to comment on the collected evidence and materials and submitted claims before this decision is issued. None of the parties have commented on the evidence assembled in the case.

Pursuant to the statutory provisions of Article 59 (1)(2) and Article 3(1)(8) of *the EIA Act*, the local authority verified the Report, applied to the State Poviast Sanitary Inspector in Kłodzko and the Minister of Maritime Economy and Inland Navigation for the required statutory opinions and provided the opportunity for public participation in the proceedings.

The Regional Director for Environmental Protection in Wrocław has evaluated impacts and potential environmental hazards connected with project implementation and operation by analysing the collected evidence. The analyses presented in the Report have allowed to define conditions of land use in the implementation and operation phase, and environmental protection requirements which need to be considered in the documentation required for issuing the decision, mentioned in Article 72(1) of the EIA Act.

The planned project consists in the construction, reconstruction and reinstatement of regulatory structures together with the facilities connected with them technically and functionally. The investment will comprise a section of the Nysa Kłodzka River from km approx. 156+970 to km approx. 158+100 and an estuary section of the Porębnik stream approx. 25 m long.

As per Article 66 of the *EIA Act*, the investment scenarios were analysed in the Report submitted

for evaluation. The report included:

1. the description of the scenario proposed by the applicant and a rational alternative scenario;
2. the description of the scenario most favourable for the environment;
3. definition of the expected environmental impact of the analysed scenarios;
4. a justification of the scenario proposed by the applicant together with an outline of its environmental impact.

Two investment scenarios and one scenario without the investment were analysed.

The scenario 3, the so-called "zero" scenario, assumed that no works related to the reinstatement, construction and renovation of regulatory structures would be performed. In the opinion of the authors of the Report, this would result in the fact that the hitherto flooded areas of the commune would still remain in the hazard zone and the fragmentation of the riverbed for aquatic organisms would be maintained. Failure to implement the project would therefore have a significantly negative impact and this scenario was therefore rejected.

The physical scope of the investment scenarios considered in both cases included modernisation of the existing regulatory structures of the Nysa Kłodzka River and renovation of the estuary section of the Porębnik stream.

The scope of works in scenario 1 encompassed in particular: reprofiling, disassembly and reconstruction of regulatory walls, renovation and reconstruction of bank revetments, flow improvement of the riverbed, conversion of the two sills H-14 and H-15 to stone ramps with an inclination of 1:25, renovation of the estuary section of the Porębnik stream and cutting down trees and bushes. The total length of the section where works will be carried out on both banks of the Nysa Kłodzka River is about 207 m. The total length of the section where works will be carried out on left bank of the Nysa Kłodzka bed is about 593 m. The total length of the section where works will be carried out on both banks of the estuary section of the Porębnik stream will be approx. 25 m.

The scenario 2 (alternative scenario) was considered to be the scenario where the works involving the restoration of the regulatory walls and slope revetments, and renovation of the estuary section of the Porębnik stream and cutting down trees and bushes, are the same for both scenarios. In scenario 2, on the other hand, the conversion of sills to ramps was abandoned. In addition, under scenario 2, land levelling for the beach is planned.

When analysing the impact on the acoustic climate, monuments, material goods or issues related to extraordinary environmental threats, it can be concluded that both scenarios are identical in this respect. The impact of the two scenarios on the abiotic part is similar, but they differ in terms of impact in the biotic part. The design solutions used in both scenarios are generally of a renovation or restoration nature and consist mainly in improving the technical condition of the existing regulatory bed development and stabilising the course of the bed in the plan as well as in the longitudinal profile. Both scenarios also provide for the construction of a nearly 500-metre section of the new wall. The scope of planned renovation works under scenario 1 is slightly smaller than under scenario 2 (shorter section of new wall construction and no beach construction planned under scenario 2). This translates into a lower negative impact on the hydromorphological state of the river and on fish species and other aquatic organisms and

their habitats. The construction of the beach is associated with permanent interference with the bank zone of the riverbed and the bank zone, which increases the value of the Hydromorphology Transformation Index (WPH). In addition, as an additional mitigation measure, scenario 1 provides for the flow capacity improvement of two sills for the migration of ichthyofauna: H-14 - at km 157+473 and H-15 - at km 157+603 by their conversion into ramps. The choice of scenario 1 is supported in particular by the removal of all significant migration barriers on the Nysa Kłodzka Nysa River, which are planned within the Długopole-Zdrój facility. This will provide a measurable environmental benefit - partial restoration of connection of populations of protected ichthyofauna species. This measure is not envisaged under scenario 2. Leaving the sills H-14 and H-15 in the Nysa Kłodzka riverbed will maintain the fragmentation of the population of water fauna species, including protected species of ichthyofauna. This is due to the fact that the current hydrotechnical development in the Nysa Kłodzka riverbed constitutes a barrier to the migration of aquatic organisms and interrupts the river continuity. This has a negative impact on the quality of biological and hydromorphological elements of the JCWP condition assessment. The dismantling of sills and construction of ramps according to the assumptions of scenario 1 will have a positive impact on the hydromorphological state of the river, which may contribute to improving the class of biological indicators, especially ichthyofauna. Taking into account the above data, scenario 1 was considered to be the most environmentally beneficial. It is also a scenario proposed for implementation by the investor. The Regional Director for Environment Protection in Wrocław, after having analysed the solutions proposed above and based on scenario validation, accepted the investor's request, i.e. to implement the project according to scenario proposed by the applicant, which at the same time is the scenario most beneficial for the environment.

The protection of the soil and water environment is linked to the proper organisation of the construction site and technical roads at the stage of construction.

The land planned for storage of materials should be secured with non-permeable material to protect the surface layer of soil and the further part of ground water against contamination (by infiltration), and all repairs, maintenance procedures and other activities connected with building equipment operation will be conducted in the intended places such as repair workshops, service outlets, the civil works contractor's permanent base. The construction site and its operating backyard will be equipped with waste containers and sanitary facilities. Periodical unfavourable impacts on surface water may exist at the implementation stage of the planned project. Earthworks related to the modernisation and restoration of regulatory structures will cause a periodic change of the existing soil structure (humus removal) and periodic rainwater runoff from the area (uncovered soil) to the river. As a consequence, water may be drained periodically polluted with an organic suspension. In determining the conditions of this decision, the authority considered the results presented in the Report of the analysis of assessment of the project's impact on environmental objectives of part of the waters within the boundaries of which the project is implemented and on which it has impact.

In accordance with the Plan of water management on the Odra River basin area, adopted by the regulation of the Council of Ministers of 18 October 2016 (Journal of Laws of 2016, item 1967), hereinafter referred to as PGW, the planned project is located within the boundaries of two planning water management bodies - surface water bodies JCWP *Nysa Kłodzka from Różanka to Biała Łądecka* with the code PLRW6000812159 and JCWP *Porębnik* with the code PLRW600041211969. JCWP *Nysa Kłodzka from Różanka to Biała Łądecka* is a natural body of water with a poor status, monitored, not threatened with failure to achieve the environmental objectives such as good ecological status and good chemical status, the possibility of migration of aquatic organisms in the section of the significant stream - Nysa Kłodzka from Biała Łądecka to Bystrzyca. Derogation was established for this JCWP until 2027. Part of the waters is an area designated for the protection of habitats or species referred to in the provisions of the Nature protection act of 16 April 2004 (i.e. Journal of Laws of 2020, item 55, as amended), where the maintenance or improvement of the status of water is an important factor in their protection. The JCWP has been designated as a body of water intended for water intake for securing the drinking water supply for human consumption and an area sensitive to eutrophication. JCWP *Porębnik* is a strongly altered body of water in poor condition, unmonitored, threatened by failure to achieve environmental objectives, which are good ecological potential and good chemical status. Derogation was established for this JCWP until 2027. JCWP *Porębnik* is also an area designated for the protection of habitats or species referred to in the provisions of the Nature protection act, where the maintenance or improvement of the status of water is an important factor in their protection. The investment is located outside areas requiring special protection due to the presence of plant and animal species or their habitats or natural habitats under protection, including Natura 2000 areas and other forms of nature protection - within the meaning of Article 6(1) of the *Nature protection act*. The closest Natura 2000 site - an area of Community importance - Dzika Orlica SCI PLH020061, is located at a distance of about 5.5 km, but it is located in the Łaba river basin, which additionally eliminates the possibility of negative impacts on this

Natura 2000 site. The closest Natura 2000 site, the Bialskie Mountains and the Śnieżnik Group PLH020016, located in the Nysa Kłodzka river basin, is about 6 km away.

When analysing the impact of the investment on environmental objectives, considering the position of the Minister of Maritime Economy and Inland Navigation, it should be pointed out that the project in question, in accordance with the PGW, was identified as likely to threaten the achievement of environmental objectives for two JCWPs *Nysa Kłodzka from Różanka to Biała Łądecka* and *JCWP Nysa Kłodzka from Biała Łądecka to Ścinawka*. The scope of planned works in relation to the measures presented in the PGW and in the in the *Flood Risk Management Plan for the Odra River Basin (regulation of the Council of Ministers of 18 October 2016 on the adoption of the Flood Risk Management Plan for the Odra river basin (Journal of Laws of 2016, item 1938))*, hereinafter referred to as FRMP, has been significantly reduced by the investor both spatially and in relation to the scope of activities. The aim of the project is to restore the functionality of the regulatory structures in the area of Długopol-Zdrój and to adapt them to the conditions of the bank water passage, located in the existing riverbed. The aim of the task is to reduce the flood risk for the problem area of the Kłodzko Valley. The investor plans to withdraw from the works in the right-bank part of the Nysa Kłodzka riverbed due to the presence of natural habitats at km approx. 157+720 - 157-811. It was concluded on the basis of the analyses carried out that no lasting and negative impact on the elements of the water status evaluation is expected. Short-term or medium-term impacts on biological elements of water status evaluation such as phytobenthos, macrophytes and benthic macro-vertebrates were identified. They will be associated with the local destruction of the habitats of these organisms and an increase in the concentration of suspended matter in the sections covered by the works. With regard to ichthyofauna, similar impacts have been identified in relation to possible mechanical destruction of habitats and the negative impact of an increase in suspended matter concentration. As far as physicochemical elements are concerned, a significant impact concerns an increase in the concentration of suspensions and biogenic substances. However, due to the nature of the works, this will be related only to the stage of project implementation. In order to minimise the above-mentioned effects, in the conclusion of this decision, the local authority has formulated a number of conditions necessary to be undertaken at the stage of investment implementation and operation.

The area under consideration is situated within the groundwater body JCWPd No. 125, code PLGW6000125. According to PGW, its quantity and chemical condition is considered as good. JCWPd is not threatened by the failure to achieve the environmental objectives set for it. The designated JCWPd is designated as a body of water intended for water intake for securing the drinking water supply for human consumption. According to the data of the *Polish Geological Institute - Polish Research Institute of 2016*, both the quantitative and qualitative status of the indicated JCWPd was assessed as good. The planned project will not adversely affect the quantitative and qualitative status of this water body.

Hazardous wastes containing asbestos and mercury will be produced at the project implementation stage, coming from insulation and construction materials resulting from demolition works, wastes containing residues of hazardous substances and wastes other than hazardous and neutral wastes, including: concrete waste and concrete rubble from demolitions and repairs, wastes from renovation and reconstruction of roads, wastes resulting from the operation of machines and equipment,

as well as municipal wastes. The waste generated during the implementation and operation of the project will be selectively collected in designated, properly secured places, in tight containers adapted to the consistency and properties of the stored wastes, and then transferred to authorised recipients for further management.

The environmental impact at the investment implementation stage will be limited to the stage of carrying out the works, which is of a discontinuous nature and concentrated along the place of investment implementation. Periodic atmospheric pollution will occur during the implementation works, mainly related to the operation of equipment and means of transport driven by internal combustion engines. The investment will require the use of heavy construction equipment. These machines will generate noise and emissions to atmospheric air, but these impacts will only occur during the investment implementation. In particular, an increase in the emission of gaseous pollutants (mainly NO_x) contained in the exhaust fumes of machines and vehicles working on the site should be expected in the construction phase, as well as an increase in the emission of dusts associated with the transport and use of powdery and dusty materials on the site and more intensive vehicle traffic in the project area. Vehicles will be parked on hardened surface. Earthworks will uncover the land surface in the part protected with plants until now. Weather erosion may occur on the uncovered land during strong wind breezes (typical especially for autumn and the end of winter) and air dusting may increase locally. The noise nuisance in the construction phase will be generated by working machines and traffic of vehicles. The quantified nuisances will be temporary and transient in nature, however. The impact on noise will be limited to the stage of works performance and, in the meanwhile, certain transient related nuisances may occur, they will be short-term according to the advancing front of works.

Part of the planned project is located in close proximity to the sites entered in the register of monuments and covered by the conservatory protection zone (notably the Łazienki). The undertaking of earthworks on the area designated for the investment will be preceded by obtaining the position of the relevant conservator of monuments for conducting earthworks. It is the authority's opinion that a position of the monuments conservator is a sufficient guarantee that appropriate measures to protect such sites are taken.

For the landscape, the project implementation period is associated with changes in the structure of the local landscape. The direct negative perception in the visual sense may be the presence and movement of heavy vehicles and the presence of portable building structures. However, this impact is limited to the stage of investment implementation and after the completion of the works the area will be cleaned up. During the implementation of the investment it is also possible that the visual quality of the landscape will diminish (temporary occupation of land for construction sites, storage yards and others). The spatial range of the impact on the landscape will relate to the area of the project implementation and the area from which particular works will be visible. It should be emphasised here, however, that the project consists in the construction, reconstruction and renovation of the existing regulatory structures, and therefore at the operation stage it will not contribute to changes in the structure of the local landscape.

Due to its nature and scale of implementation, the analysed project will not have a significant impact on the climate on a regional and local scale. Its implementation does not involve the generation

of significant amounts of pollution or a significant change in spatial conditions that may result in impacts on the climate. The impact on climate change stems from factors such as: greenhouse gas emissions, direct and indirect emissions related to energy demand, the effectiveness of the solutions applied. The planned project is not a source of large-scale greenhouse gas emissions. During the construction phase, combustion of fuels in cars and machines will result in the emission of gases classified as greenhouse gases. During the investment implementation, there may be a slight energy demand associated with e.g. the functioning of the construction facilities. The scope of works and changes in the existing state is only local and short-term. There will be no significant changes in the scale of green areas that shape the local climate, such as: the surface of the water table, water, or the way the river banks are managed. The anticipated environmental protection measures in the form of minimising tree felling, greening of slopes or the required protection of adjacent areas will be conducive to not deteriorating the biodiversity conditions and air standards in the investment area.

No need for specific measures to minimise the climate impact is expected. The project, during the operation phase, due to its static rather than dynamic character, does not cause any emissions of gases, dusts, heat, other types of energy or harmful substances. There will be no impact of the investment on: temperature fluctuations, light radiation, atmospheric pressure, air movement or humidity. No climate change will occur in connection with the implementation, exploitation and possible liquidation of the project due to the microscale of the investment in question. The project has been designed in a way guaranteeing resistance to the negative phenomena accompanying climate change. Its implementation is necessary to protect against the effects of the surges. The planned project will be designed on the basis of existing legal regulations and will therefore be implemented in a way that considers extreme environmental phenomena related to climate change. It should also be stressed that the investment itself is one of the elements increasing the safety of the inhabitants against the effects of extreme floods. Remedial measures to eliminate the impact of the project on climate change will be the proper organisation of works, the use of low-emission devices and taking measures to minimise the negative impact of the project on the environment at the stage of investment implementation.

The cumulative impact of the investment may concern mainly increased concentration of suspended matter in water. Most of the analysed projects, whose impacts could accumulate with those of the project in question, are located at a considerable distance from this project planned to be implemented in the area of the town of Długopole-Zdrój. Taking into account the minimisation measures indicated in the decision will limit the potential cumulative negative impacts to a moderate level, the following will provide the protection, inter alia: measurements of suspended solids concentration taken during the works and planned breaks in the works in case of exceeding the threshold values. With regard to regulatory and maintenance works, it should be pointed out that they will be carried out only in places where such intervention is required.

The investment, in terms of the type, category and quantity of hazardous substances, is not classified as a facility likely to be a source of serious failure as mentioned in Article 248 of the Act of 27 April 2001 *Environmental Protection Law* (Journal of Law of 2020, item 1219, as amended). There are no grounds, either, due to the investment type, to assess the necessity of establishing a limited use area

as mentioned in Article 135 Clause 1 of the Environmental Protection.

The Nysa Kłodzka river basin is a border basin (border with the Czech Republic). This basin is separated from the state border by the peaks of the Bystrzyckie and Orlickie Mountains and the Śnieżnik Massif. Due to the lack of impacts, no transboundary environmental impact can occur in the upper parts of the watercourse, as the run-off of the water takes place inside the country, which eliminates the possibility of transboundary environmental impact.

Based on the submitted documentation taking into account the impact assessment as well as potential environmental hazards associated with the implementation and operation of the investment and indicating a number of necessary actions in order to secure and minimise the potential negative impacts, the body decided to impose conditions on project implementation, which are listed in the conclusion of the decision. The conditions determined in the conclusion of the decision were imposed also to minimise the impact of the planned investment on the natural environment, and on the objectives of nature and landscape protection.

The impact of the planned project on the soil and water environment was analysed in the course of the proceedings conducted. The condition of cl. I, section 2.1 and 2.2 will provide protection against the leakage of hazardous substances from machinery and vehicles on the site and will ensure protection of the soil and water environment against oil pollution during emergency situations involving the spillage of hazardous substances and immediate removal of the resulting pollution.

Wastes generated at the stage of investment implementation will be managed in accordance with the applicable legal regulations. However, in order to ensure this, the conclusion of the present decision imposes the conditions of clause, section 2.3 to 2.5.

The condition of clause I, section 2.6 ensures the creation of an appropriate and safe storage place for materials intended for the investment implementation, process yards, construction material and humus storage areas.

The conditions of clause I, section 2.8 - 2.9 were imposed in order to limit nuisance in the scope of the project's impact on the sanitary condition of ambient air and acoustic condition of protected areas.

The obligation imposed in clause I, section 2.10 to perform nature supervision is to guarantee that performance conditions of works are met, which require expertise, and the presence of specialists is to guarantee appropriate response in sudden cases, not anticipated at the investment planning stage, which will minimise the risk of negative impact on the natural elements existing within the region or in direct neighbourhood of the conducted works.

The conditions of clause I, section 2.7 and section 2.11 to 2.21 are primarily intended to protect ichthyofauna. During the performance of works it is necessary to ensure continuity of water flow in the watercourse and proper living conditions of ichthyofauna. The control of suspended solids concentration in the water and the introduced breaks in the works are to minimise the negative impacts associated with the implementation stage - this is to prevent changes in the physicochemical conditions of the water and the habitat conditions for the river fauna. During the works in the bed it is necessary to carry out ichthyological supervision, as this will prevent the negative impacts resulting from the lack of natural expertise of persons performing the construction works. The task of the ichthyologist will be to indicate

the proper way of carrying out the works and then to control the correctness of their execution, as well as to observe the behaviour of the ichthyofauna and ensure the implementation of adequate actions in situations threatening it. Moreover, it is necessary to protect the watercourse against pollution at the stage of investment implementation. The deadline defined in clause I, section 2.15 recommended for carrying out the works is aimed in particular at the protection of larvae of European Brook Lamprey *Lampetra planeri*, which is protected under the *Regulation of 16 December 2016 on the protection of animal species (Journal of Laws of 2016, item 2183, as amended)* and *Stream Trout Salmo trutta* during the breeding period.

The condition of clause I section 2.22 aims at minimising damage within medium and high vegetation (trees and bushes) and within natural habitats.

The condition of clause I, section 2.23 results from the provisions of Article 38a(1)(10) of the Act of 28 July 2005 on health resort treatment, health resorts and areas of health resort protection and on health resort communes (i.e. Journal of Laws of 2020), item 1662), which stipulates that in zone "A" of health resort protection it is forbidden to cut down forest and park trees, with the exception of nursing cuts and the provisions of Article 38a(2)(2) of this act, which provides that in zone "B" of health resort protection it is forbidden to cut down forest and park trees, with the exception of nursing cuts and felling specified in the forest management plan.

The conditions of clause I, section 2.24 and 2.25 are intended to protect animal species associated with trees and bushes, i.e. insects, birds and bats from the destruction of their breeding, developmental forms and the killing of adults or juveniles during the breeding season or developmental cycle.

The conditions of clause I, section 2.26 to 2.33 are intended to protect tall greenery planned to be left, exposed to mechanical damage during the works, in particular by minimising the risk of damage to tree branches, trunks and roots and preventing excessive soil compaction in the immediate vicinity of the trees and reducing soil aeration within the root systems during the works. Moreover, the condition of clause I, section 2.33 aims at minimising the negative impact of the project on the natural habitats, including the natural habitat 6430 Mountain tall herb communities (*Adenostylion alliariae*) and riverside tall herb communities (*Convolvuletalia sepium*) and 91E0 Willow-poplar-alder-ash forests (*Salicetum albobfragilis*, *Populetum albae*, *Alnenion glutinoso-incanae*, *large bittercress*) listed in the Regulation of the Minister of the Environment of 13 April 2010 on natural habitats and species of Community interest and the criteria for the selection of areas eligible for recognition or designation as Natura 2000 sites (Journal of Laws of 2014, item 1713), located within and in the immediate vicinity of the investment execution site.

The condition of clause I section 2.34 is intended to protect birds and bats that may use cracks in walls and bridges as nesting places and shelters.

The condition of clause I, section 2.35 is intended to protect amphibians during the breeding period and migration to and from breeding sites.

The condition of clause I, section 2.36, was imposed in order to prevent the destruction of sites of protected species of plants, including aphids, listed in the Regulation of the Minister of the Environment

of 9 October 2014 on the protection of plant species (Journal of Laws of 2014, item 1409), notably, Streamside Hygroamblystegium Moss *Hygroamblystegium fluviatile* and *Hildenbrandia rivularis* - occurring within the area of works covering the Nysa Kłodzka riverbed.

The condition of clause I, section 2.37 was imposed to eliminate and prevent the spreading of foreign species of plants along the river valley, which are often expansive species, eliminating native species. This condition is especially important due to the fact that works are to be carried out in the riverbed and its direct neighbourhood, which may greatly facilitate the spreading of expansive species of plants.

The condition of clause I, section 2.38 was imposed to prevent the destruction of the habitat patches of lowland and foothill rivers with white water-crowfoot communities (*Ranunculion fluitantis*). In the local authority's judgement, it is necessary to protect as many plants forming the habitat as possible (not only species under legal protection), because the habitat is of key importance for the functioning of the Nysa Kłodzka ecosystem and also constitutes the first link in the food chain and is the habitat of invertebrates which provide food for fry and fish.

The condition of clause I, section 3.1 aims at improving the habitat conditions for birds (e.g. *Motacilla sp.* Wagtail species protected under *the Animal Species Protection Regulation*) in sections of watercourses enclosed by stone walls. These niches can be used as breeding and shelter sites.

The conditions of clause I, section 3.2 and 3.3 were imposed to limit the introduction of non-natural materials into the watercourse which could adversely affect the water chemistry and habitat conditions. In addition, the use of mesh and stone mattresses and gabion baskets is not allowed, as they can be dangerous traps for animals. The use of stones of varying sizes is intended to increase the roughness of the bottom and create better habitat conditions for ichthyofauna.

The condition of clause I, section 3.4 was imposed to increase the diversity of habitat conditions within the bed area and to initiate fluvial and biological processes through the presence of boulders and stones in the watercourse bottom.

The condition of clause I section 3.5 was imposed to improve the conditions for migration of aquatic organisms, in particular fish, in the section of Nysa Kłodzka covered by this project.

The condition of clause I, section 3.6 was imposed in order to preserve the valuable patches of natural habitats 6430 Mountain tall herb communities (*Adenostylian alliaënae*) and riverside tall herb communities (*Convolvuletalia sepium*) and 91E0 Willow-poplar-alder-ash forests (*Salicetum albo-fragilis*, *Populetum albae*, *Alnenion glutinoso-incanae*, large bittercress).

The performance of monitoring tests referred to in clause II, section 2.1 - 2.3 will allow to obtain information on the impact of investment execution at the operation stage on fish and lampreys as well as macro-vertebrates, natural habitats, and in particular on the habitat 3260 Lowland and foothill rivers with Batrachion vegetation (*Ranunculion fluitantis*) and ecological elements of the watercourse. The results of the monitoring studies are also to facilitate forecasting of the impacts that may occur in the case of executing similar works in other sections of the Nysa Kłodzka River and will be the basis for the possible implementation of additional measures to eliminate the negative impact of the project on the environment.

The conditions of clause II, section 2.4 and 2.6 set the requirement to conduct - by an appropriate

expert - the monitoring of the functioning of ramps and that reports on its implementation be submitted to the local authority.

The condition of clause II, section 2.5 will allow the local authority to obtain information on the effectiveness of the applied solutions - and will confirm the participation of the specialist during monitoring studies.

Due to the nature of the project, it is not possible to completely minimise the negative impacts on natural elements occurring within and in the immediate vicinity of the project in question. The provisions of conditions of clause II, section 1.1 are intended to compensate for losses due to the destruction of stream trout eggs in spawning grounds.

The provisions of the condition of clause II, section 1.2 and 1.3 are intended to compensate for the possibility of destruction of nesting sites of White-Throated Dipper, Grey Wagtail and Goosander, which are protected as species under the above-mentioned Regulation on the protection of animal species. The imposed compensating measures are not the compensation in the meaning of Article 34 and 35 of the above-mentioned nature protection act but result from the provisions of Article 75(3) of the Environmental Protection Law act.

In the event of a collision (which cannot be eliminated during works) with sites of plants, animals or fungi of the species protected pursuant to resolutions of the Minister of the Environment on protection of plant species, on protection of animal species and of 16 October 2014 on protection of fungus species (Journal of Laws, item 1408), in relation to which bans apply as defined in the aforementioned resolutions, prior to commencing the works the investor should obtain a separate permit from the appropriate body for actions prohibited in relation to these species, in accordance with Article 56 of the aforementioned environmental protection act, and once that permit is obtained - the works are to be conducted taking into consideration the conditions stemming from the permit.

In the authority's judgement, the data on the project, possessed at the stage of issuing the decision on environmental conditions, allow for an exhaustive assessment of the project's environmental impact and there is no need to conduct the assessment of the impact of the project on the environment as part of the procedure for issuing the decision referred to in Art. 72(1) of *the EIA Act*. The data obtained on the project were sufficient to determine the conditions of project implementation.

Together with the application for issuing a decision on environmental conditions, the applicant requested that the decision be immediately enforceable. Pursuant to the statutory provisions of Article 108 § 1 of the CAP, it is only possible to make a decision immediately enforceable if it is necessary for the goods and values set out in this provision, namely "for the protection of human health or life, or to protect the national holding from heavy losses, or for any other public interest or a party as exceptionally important interest". The enforcement of the decision will be "indispensable" in a situation where "it is not possible to act at a given time and in an existing situation without exercising the rights or obligations decided upon in the decision, because a delay in their enforcement threatens the protected goods. This threat must be real and not just theoretically probable" (J. Borkowski [in:] B. Adamiak, J. Borkowski, Code of Administrative Procedure. Commentary, 8th Issue. C.H. Beck Publishing House, p. 524).

The application was justified by an overriding reason relating to the public interest. The aim of

the task is to improve the flood protection system in the town of Długopole-Zdrój, i.e. to protect human health and life and to protect the national holding from heavy losses (flooding). Floods in the mountain basins in the Kłodzko area are characterised by a very violent course. The time of the formation of the flood wave from the moment of the occurrence of intense or prolonged rainfall is very short. The rapid runoff of rainwater from the steep mountain slopes and then its runoff through streams and mountain rivers is associated with the occurrence of high velocities, which results in the formation of a large corridor-forming force. This force lifts and transports huge amounts of rock rubble, washes away and captures trees, causes local landslides, devastates the bed structures, especially in the form of bank walls and bottom sills, washes away bridge abutments and, in some cases, piles up water as a result of the resulting blockage on the bridge structures, which in turn contributes to the breaking of the bridge or its surrounding. The project implementation area in the Nysa Kłodzka valley is characterised by compact residential, commercial and communication areas located mainly along rivers. The river network of the Nysa Kłodzka River and its tributaries forms a fan-shaped system. Such an unfavourable catchment system causes the water level to rise very quickly due to the inflow of water from mountain areas. The effects of such floods can be observed in Kłodzko Land not only in case of floods with a probability of exceeding $p=1\%$ (once every 100 years). Their occurrence is accompanied by flooding of vast areas in the entire width of the river valley. In the analysed area, high water velocities and significant forces destroying the bed structures appear more often in the form of a surge close to the flows with the probability of exceeding of $p=10\%$ (once every 10 years). Technical measures are prescribed in the Land in the Flood Risk Management Plan for the proper protection of the Kłodzko Land, including the construction of dry reservoirs on the tributaries of the Nysa Kłodzka River, as well as the performance of activities supporting flood protection of the Kłodzko Land, i.e. undertaking works within the watercourses, such as flood capacity enhancement, regulatory and maintenance works. The following is planned, in particular: 2A.1/1 construction of the "Boboszów" dry flood control reservoir on Nysa Kłodzka River, 2A.1/2 construction of the "Roztoki Bystrzyckie" dry flood control reservoir on Goworówka stream, 2A.2/1 construction of a dry flood protection reservoir on the Duna stream, 2A.2/2 Construction of "Szalejów Górny" dry flood control reservoir on Bystrzyca Dusznicka River, 2B.1/1 Flood Protection of the Nysa Kłodzka River (facilities: Międzylesie, Bystrzyca Kłodzka and Kłodzko), 2B.2/2 flood protection of the Bystrzyca Dusznicka River and the Kamienny Potok River (facilities: Polanica-Zdrój, Duszniki-Zdrój and Szczytna) and 2B.2/1 Flood protection of the valleys of the Biała Łądecka River and the Morawka River (facilities: Łądek-Zdrój and Stronie Śląskie). The project in question, being the subject of the case, covers a section of the Nysa Kłodzka which was included in the FRMP. Moreover, the planned flood control activities are part of the task covering supra-local flood protection of the Kłodzko Land, which is also confirmed in the above-mentioned document. On the basis of the above, the Regional Director for Environmental Protection in Wrocław has decided that it is necessary to make this decision immediately enforceable and has approved the investor's application. Hence, in accordance with the foregoing, this Decision shall be immediately enforceable.

During the proceedings on issuing the decision in question, the environmental protection body allowed all evidence which might have contributed to a correct determination of the case, and the

determination was made on the basis of the entire evidence collected during the proceedings, by which the body met the requirements of Article 75 § 1 and Article 80 of the *Code of Administrative Procedure*.

In view of the foregoing, it has been decided as in the conclusion of the Decision.

Notice

The parties are entitled to appeal against this decision to the General Director for Environmental Protection through the Regional Director for Environmental Protection in Wrocław within 14 days of its receipt.

Pursuant to Article 127a of the Code of Administrative Procedure, a party may, within the time limit for lodging an appeal, waive the right to lodge an appeal against the decision of the public administration body which issued the decision. The decision becomes final and binding on the day of delivering a statement waiving the right to appeal by the last of the parties to the proceedings to the public administration body.

Regional Director for
Environmental Protection in Wrocław

Wojciech Rejman

/signed with a qualified electronic signature/

Recipients:

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00-844 Warsaw through:
The State Water Holding Polish Waters
Regional Water Management Authority in Wrocław
ul. C. K. Norwida 34 50-950 Wrocław
represented by:
Alicja Borowska
ul. C. K. Norwida 34
50-950 Wrocław

2. Parties to the proceedings pursuant to Article 49 of

the CAP Cc:

1. State Powiat Sanitary Inspector in Kłodzko, 16 Stefana Okrzei Street, 57-300 Kłodzko - dispatch by ePUAP
2. Minister of Infrastructure, 4/6 Chałubińskiego Street, 00-922 Warsaw - dispatch by ePUAP

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**REGIONAL DIRECTOR FOR
ENVIRONMENTAL PROTECTION
IN WROCLAW**

**AL. JANA MATEJKI 6
50-333 WROCLAW**

Appendix to the decision of the Regional Director for Environmental Protection in Wrocław of 19 November 2020, ref. No.: WOOS.420.10.2020.AP.22, for the project titled: "Task 2B.1/1 Flood Protection of the Nysa Kłodzka Valley - Długopole-Zdrój Facility".

PROJECT CHARACTERISTICS

The investment will be located within the boundaries of the Lower Silesia Province, in the Kłodzko Powiat, within the limits of the commune of Bystrzyca Kłodzka, in the town of Długopole-Zdrój, within the Długopole-Zdrój registry area.

The planned project will be carried out within the Nysa Kłodzka riverbed and the Porębnik stream. The sections covered by the project in question include the Nysa Kłodzka River from km approx. 156+970 to km approx. 158+100 and an estuary section of the Porębnik stream with a length of approx. 25 m.

The following works are planned to be executed under the project:

- reprofiling the existing regulatory walls and revetment slopes by cleaning and supplementing the joints, filling in the losses of stone, levelling (raising) the wall crest level, reinforcing the wall body by executing a band (set-off), consisting of excavating a trench in the bottom of the bed and then a concrete screed under the foot of the wall;
- demolition of destroyed regulatory walls;
- reconstruction of the regulatory walls in the place and along the route of the existing walls;
- local slopes reinforcement;
- ichthyological flow capacity improvement by constructing ramps on the existing sills H-14 and H-15 in the form of an inclined ramp with an inclination of about 1:25 or milder,
- clearing the bed within the M-33 bridge, located at km approx. 157+642, by clearing the right span of the bridge and making a wedge-shaped rip-rap and above the bridge over a total length of approx. 20 m. Clearing of the left span, performing the reprofiling of the slope revetment below the bridge and dismantling and rebuilding the slope revetments above the bridge according to the scope defined in the concept,

- at km approx. 156+970, removing the remains of the damaged footbridge and rebuilding and securing the slopes in its area,
- renovation of the estuary section of the Porębnik stream,
- cutting down the trees and bushes colliding with the scope of works performed.

The total length of the section where works will be carried out on both banks of the Nysa Kłodzka River is about 207 m. The total length of the section where works will be carried out on left bank of the Nysa Kłodzka bed is about 593 m. The total length of the section where works will be carried out on both banks of the estuary section of the Porębnik stream will be approx. 25 m.

Renovation and reconstruction works on the Nysa Kłodzka encompass (the lengths of one-sided works - to the right- or left-bank slope - are given):

- construction of walls over a distance of about 480 m,
- demolition and reconstruction of walls over a distance of about 140 m,
- reprofiling the walls over a distance of about 200 m,
- revetment of bank slopes over a distance of about 115 m,
- clearing the bed at a distance of about 20 m (removing the outwashes in the bed clearance),
- conversion of 2 sills into stone ramps with an inclination of 1:25,
- renovation of the estuary section of the Porębnik stream at a distance of about 25 m.

Regional Director for
Environmental Protection in Wrocław

Wojciech Rejman

/signed with a qualified electronic signature/

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