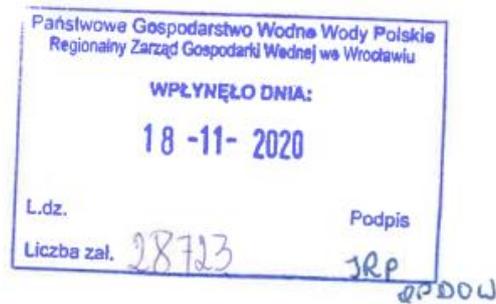




**REGIONAL DIRECTOR FOR
ENVIRONMENTAL PROTECTION
IN WROCLAW
AL. JANA MATEJKI 6
50-333 WROCLAW**



WOOS.420.18.2020.AP.17

Wrocław, 13 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 intermediary 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 - Bystrzyca Kłodzka Facility" for 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 investment will be carried out within the riverbed of the Nysa Kłodzka river and the Bystrzyca stream. The sections covered by the project in question include the Nysa Kłodzka river at the section from km approx. 148+450 km to km approx. 151+475 and the Bystrzyca stream at the section from km approx. 0+129 km to km approx. 1+659. The valley of the Nysa Kłodzka River covered by the activities is located wholly within the limits of the Bystrzyca Kłodzka commune, in the registration areas: Centrum, Zabłocie,

Zacisze, Stara Bystrzyca, Stary Waliszów and Niedźwiedna, Kłodzko Powiat, Lower Silesia Province.

2. The significant conditions for land use at the stage of project 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 shall 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, measures must be taken immediately to prevent the spread of the pollutants and to 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 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, water intake renovation 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 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 will 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 species of trees.
 - 2.12. Limit the duration of conducting the works within the riverbeds and the inflow of suspended matter into the waters.
 - 2.13. 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).
 - 2.14. It is permitted to carry out works in the beds of watercourses in the period from 1 June to the end of February after prior consultation with the ichthyologist 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.
 - 2.15. 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. If the water temperature of 18°C 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° C) – measurements should be taken daily.

- 2.16. Measure the suspended solids concentration in water on a daily basis. Measurement points should be located 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.
- 2.17. 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.
- 2.18. In the sections intended for the construction of a temporary cofferdam in the riverbed, 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 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 (when conducting fishing) 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 (JoL 2011, No. 210, item 1260)* – e.g. 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.

- 2.19. 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 reconstruction of sills, barrages and weirs into ramps.
- 2.20. The construction site facilities and technological roads and yards should be located:
- outside areas covered by tall greenery (trees, bushes), which are to be left in accordance with the design documentation,
 - 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.
- 2.21. 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.
- 2.22. 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.
- 2.23. 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.
- 2.24. 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.

- 2.25. 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.
- 2.26. 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.
- 2.27. 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). A flexible material (e.g. thick straw mats) should be placed between the boarding and the surface of the tree trunk to prevent abrasion by boarding. The boarding must be fixed to the trunk (e.g. with wire ties or steel tape) in such a way that it does not cause damage to the tree. During the period of the work, 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.
- 2.28. 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.

- 2.29. 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 an expert dendrologist.
- 2.30. The patches of natural habitats adjacent to work areas, but not intended to be damaged (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).
- 2.31. 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.
- 2.32. If new amphibian migration sites are identified during the period and in the areas 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.
- 2.33. Prior to the commencement of the works, an inventory of protected plant species and aphids in the Nysa Kłodzka riverbed and the Bystrzyca stream in the sections where the works are planned should be made, especially *Hildenbrandia rivularis*, Streamside Hygroamblystegium Moss *Hygroamblystegium fluviatile* and plants characteristic for white water-crowfoot communities (*Ranunculion fluitantis*). 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.
- 2.34. 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 botanist - phytosociologist who will indicate the most effective method of control for each plant species in a given location.

2.35. Prior to the commencement of the works on the watercourse, protect against damage by appropriate marking of the patches of the natural habitat 3260 Lowland and foothill rivers with white water-crowfoot communities (*Ranunculion fluitantis*) 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(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 the reconstructed, renovated and new retaining walls, leave horizontal niches with square-shaped inlet dimensions of 11 x 11 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. Technical solutions for the fish pass and sills and weirs planned for conversion to ramps should ensure free migration of fish and other aquatic organisms. The fish pass and ramp design is to be agreed with an expert ichthyologist experienced in designing fish passes.
- 3.3. 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.
- 3.4. Do not use gabion mattresses or baskets.
- 3.5. Do not remove boulders or stones from the watercourse bed. In the regulated, homogeneous parts of the Nysa Kłodzka and as far as possible in the terrain parts of the Bystrzyca stream, 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.

- 3.6. The technology and method of performing works along the section from km 148+070 to km 148+200 (on the left bank, at the site of the habitat 9170 Central-European and subcontinental oak-hornbeam forests (*Galio-Carpinetum* and *Tilio-Carpinetum*) should be agreed with the experts: phytosociologist and dendrologist in order to minimise interference with the habitat patch and to maximise protection against damage.
- 3.7. Do not remove outwashes in the working section of the Nysa Kłodzka and the Bystrzyca stream except for places where it is necessary due to the technology of works adopted (except for those allowed under the condition of clause I section 2.11).

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 river basin 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 Bystrzyca Kłodzka – 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 100 m. The type of nesting boxes 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 botanist, monitor the success of replanting of protected plant species.
- 2.3. 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 macrovertebrates should be monitored by means of fishing on 5 sites located in the Nysa Kłodzka:
- 1) above the weir H-12 (reference point above the section covered by the works),
 - 2) between the weir H-12 and the mouth of the Bystrzyca stream to Nysa Kłodzka,
 - 3) between the mouth of the Bystrzyca stream and the weir H-11,
 - 4) between the weir H-11 and the sill H-10 unblocked in the form of a ramp,
 - 5) below the sill H-9 - km 147+400 and 2 sites in Bystrzyca:
 - 1) in the middle of the urban section covered by the works,
 - 2) at the height of the town of Zalesie at km 4+000.
- 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 the fish pass and ramps in the context of migration of aquatic organisms. Monitoring studies should, among other things, take into consideration the catching of fish in the fish pass and ramps, during spring and autumn migration.
- 2.5. For each stage (year) of the monitoring carried out, referred to in clause II, section 2.3 and 2.4, submit a written report to the issuing authority of this decision containing photographic documentation and an assessment of the functioning of the ramp as a bi-directional 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 ramp, 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.
- 2.6. The results of the monitoring referred to in clause II, section 2.1 to 2.2 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.

III. I do not impose an obligation to conduct an environmental impact assessment for the project and the proceedings in the scope of the transboundary impact on the environment under the proceedings on issuing the decision as specified in Article 72(1) of the act on the provision of information 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.

R e a s o n s

With the application of 17 March 2020 (date of receipt: 19 March 2020) the investor - the State Water Holding Polish Waters, acting through the intermediary of the State Water Holding Polish Waters Regional Water Management Authority in Wrocław, on behalf of which the representative, Ms Alicja Borowska, acts, applied to the Regional Director of 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.

Data on the applications 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: 93/2020.

Due to the fact that the number of parties to the proceedings exceeds 10 parties, 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 notices of 23 March 2020, ref.: WOOS.420.18.2020.AP, 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 familiarize 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 the letters of 23 March 2020, requested an opinion on the necessity to assess the impact of the planned projects 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 Poviát Sanitary Inspector in Kłodzko, in accordance with Article 64(1)(2) of the *EIA Act*.

The State Poviát Sanitary Inspector in Kłodzko did not take a position on the need to carry out an environmental impact assessment for the investment within the statutory deadline, which according to the current regulation of Article 78(4) of the *EIA Act*, is considered to constitute the lack of objections.

The Minister of Maritime Economy and Inland Navigation, in a letter dated 09 April 2020 (date of receipt: 14 April 2020), ref.: DOK.DOK2.9750.1.15.2020.ASL, stated the substantive deficiencies in the submitted Data Sheet for the Project entitled "Task 2B. 1/1 Flood protection of the Nysa Kłodzka Valley - Bystrzyca Kłodzka Facility", prepared under the direction of Mr Wojciech Lewandowski, February 2020, hereinafter referred to as PDS, and requested the local authority to call the applicant to supplement the evidence. In view of the above, the local authority by the letter of 17 April 2020, ref.: WOOS.420.18.2020.AP.6, called the investor's representative to supplement the PDS to the extent indicated by the Minister of Maritime Economy and Inland Navigation. With the letter of 19 May 2020 (date of receipt: 20 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 20 May 2020, ref.: WOOŚ.420.18.2020.AP.7, furnished the supplementation of the above-mentioned evidence to the Minister of Maritime Economy and Inland Navigation. With the letter of 20 May 2020, ref.: WOOŚ.420.18.2020.AP.8, 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 Poviát Sanitary Inspector in Kłodzko.

The Minister of Maritime Economy and Inland Navigation, in the opinion of 18 June 2020 (date of receipt: 24 June 2020), ref.: DOK.DOK2.9750.1.15.2020.ASL, stated that there is no need to prepare an environmental impact assessment of 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) The works interfering with the riverbed and river banks should be carried out only within the designated sections where the project implementation is planned.
- 2) 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.
- 3) The designed ramps should ensure free migration of aquatic organisms.
- 4) No materials should be recovered from the bottom of the riverbed for the purpose of the works.
- 5) When carrying out 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.
- 6) 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.
- 7) The works planned for implementation should be carried out under the current supervision of an expert ichthyologist.
- 8) 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.
- 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 water and soil.

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. 3-7 and 9 (prescribed, successively, in the conditions of cl. I sec. 3.2, cl. I sec. 3.5, cl. I sec. 2.11-2.14, cl. I sec. 2.18, cl. I sec. 2.10 and cl. I sec. 2.6 of this Decision). At the same time, the local authority considered that

the provisions of condition no. 1-2 and no. 8 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 again did not issue an opinion within the relevant deadline, which according to the current regulation of Article 78(4) of the *EIA Act*, is considered to constitute the lack of objections.

The Regional Director for Environmental Protection in Wrocław has analysed the collected documentation in the context of the provisions of Article 63(1) of the cited act. In consideration of the information included in the PDS, 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.420.18.2020.AP.9 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.420.18.2020.AP.10. 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: 190/2020, of which the authority informed in the above-mentioned announcement.

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

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 entitled "Task 2B.1/1 1 Flood protection of the Nysa Kłodzka Valley - Bystrzyca Kłodzka Facility" (hereinafter Report) prepared under the direction of Mr Wojciech Lewandowski [SWECO Consulting Sp. z o. o., Wrocław, August 2020]. 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: 238/2020.

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.420.18.2020.AP.12, summoned the applicant to supplement its content. The documentation submitted in the case, including the both Reports, was finally supplemented on 21 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 24 September 2020, ref.: WOOŚ.420.18.2020.AP.14, 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, indicating at the same time the period of 30 days for their submission;
- an authority competent for consideration of comments and applications.

The notices were made public from 25 September 2020 to 27 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 given address, verbally for the record or in the electronic version without having to provide a safe electronic signature from 28 September 2020 until 27 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(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, near the bridge over the Nysa Kłodzka between the national road no. 33 and the town of Zabłocie within the Stary Waliszów registration area, near the building on Plac Szpitalny Street in the vicinity of the Bystrzyca stream bed and near the bridge over the Nysa Kłodzka River on Unii Lubelskiej Street,
- 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.420.18.2020.AP.16, 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 is to cover the sections of the Nysa Kłodzka river at km approx. 148+078 km to km approx. 151+475 km and the Bystrzyca stream at the section from km approx. 0+129 km to km approx. 1+659.

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. In the applicant's opinion, the failure to implement the project would therefore have a significantly negative impact and this scenario was hence rejected.

The physical scope of the investment scenarios considered in both cases included the modernisation of the existing regulatory structures of the Nysa Kłodzka and the Bystrzyca stream.

The scope of works in scenario 1 encompassed in particular: reprofiling, construction, disassembly and reconstruction of regulatory walls, reprofiling, construction, disassembly and reconstruction of bank revetments, slope formation, clearing the bed, conversion of two sills to ramps, construction of a fish migration channel with a control sill, conversion of the weir H-12 into a ramp and profiling the area under the beach. The length of the section covered by the works only on the right bank of the Nysa Kłodzka will be approx. 820 m. The length of the section covered by the works only on the left bank of the Nysa Kłodzka will be approx. 655 m. The length of the section where the works will be carried out parallel on both banks will be approx. 360 m. The length of the section covered by the works only on the right bank of the Bystrzyca will be approx. 350 m. The length of the section covered by the works only on the left bank of the Bystrzyca will be approx. 415 m. The length of the section where the works will be carried out parallel on both sections will be approx. 310 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 are the same for both scenarios, while the works related to the ichthyological unblocking of the riverbed of the Nysa Kłodzka was abandoned under the alternative scenario.

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 construction of a fish migration channel with a sill

diverting directly above the inlet to tailwater was planned at the river section from the fish pass outlet to the mill race outlet. The flow improvement of the sills H-9 and H-10 through their conversion to a ramp is required for free migration of fish at the section from the weir to the mill race estuary. Damage to the revetments and a fragment of the concrete sill directly below the weir will be removed. The low water pits used in the design of the ramp must smoothly connect with the migration channel in the Nysa Kłodzka riverbed. The scenario 2 does not envisage measures to restore the river's flow capacity for fish and to restore its function as a migration corridor, i.e. unblocking the sills H-10 and H-9 as well as the weir H-12. Therefore, if this option is selected, there will be no positive impacts of the planned works during the operational phase as mitigation measures to mitigate the negative impacts of the transformation of fish and macro-vertebrate habitats. This will contribute to an increase in the negative impact of the investment in the Bystrzyca Kłodzka facility on ichthyofauna to a "significant" level - threatening the failure to achieve the environmental objectives for the USWB Nysa Kłodzka from Różanka to Biała Łądecka. For this reason, scenario 2 was identified as less environmentally beneficial. It should also be noted that thanks to the planned flow improvement measures, the entire section of the Nysa Kłodzka covered by the works will be opened within the Bystrzyca Kłodzka facility, indicated as a priority for bi-environmental fish (from the unblocked sill H-9 at km approx. 148+226 to the Bystrzyca estuary at km approx. 150+590). This will be of importance for this group of fish after the future opening of the partitions on the Nysa Kłodzka river below the facility in question. This will also contribute to the implementation of one of the environmental objectives of the discussed USWB *Nysa Kłodzka*, i.e. "flow capacity for the migration of ichthyofauna on the section of the important river from the Biała Łądecka to Bystrzyca". 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 the 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 USWB *Nysa Kłodzka from Różanka to Biała Łądecka with the code PLRW6000812159* and USWB *Bystrzyca* with the code PLRW 60004121499. The USWB *Nysa Kłodzka from Różanka to Biała Łądecka* is a natural body of water with a poor status, monitored. It is at risk of not achieving the environmental objectives. The environmental objectives for this USWB include a good ecological status, the possibility of migration of organisms in the section of the significant stream - *Nysa Kłodzka from Biała Łądecka to Bystrzyca* and good chemical status. The above-mentioned USWB has a derogation from the possibility to achieve the environmental objectives until 2027 due to lack of technical capacity. The USWB *Nysa Kłodzka from Różanka to Biała Łądecka* is intended for water intake for the purposes of supplying the population with water for consumption. A 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). The USWB *Bystrzyca* was assessed as a strongly transformed body of water, with poor status, unmonitored. It is not threatened by the failure to achieve the environmental objectives. The environmental objectives for this USWB are good environmental potential and good chemical status. The above-mentioned USWB does not have a time derogation for the possibility to achieve the environmental objectives, it is not intended for water intake for the purpose of supplying the population with water for consumption. A 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. 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 - *Bystrzyca Łomnicka Valley PLH020083*, is located at a distance of approx. 2.5 km.

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 USWBs *Nysa Kłodzka from Różanka to Biała Łądecka* and *USWB Nysa Kłodzka from Biała Łądecka to Ścinawka*. The scope of planned works in relation to the measures presented in the PGW and 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. By limiting the scope of works to the necessary minimum the investor plans to maintain and improve the functionality of the existing hydrotechnical structures within the Bystrzyca Kłodzka, as well as to implement optimal solutions for the Nysa Kłodzka river ecosystem. The scope of works has been reduced mainly to activities that do not significantly affect the current shape of the flowing water and bank zone. An exception to the above-mentioned project are activities which interfere with their shape, i.e. construction of new regulatory walls and slope revetments, construction of a migration channel for fish, profiling the bank for the beach, separation of a bipartite bed at bridges and execution of ramps. The analyses presented show that macrophytes and phytobenthos and hydromorphological elements may be the most threatened indicators of the assessment of the status of surface waters. For the planned rehabilitation and reconstruction works, which do not interfere with the shape of the bed and the bank zone, these effects will not be permanent. Mid-bed and bank outwashes created in the accumulation processes, being natural hydromorphological elements, may be removed from the riverbed as a consequence of the planned activities. These effects will be reversible. The natural hydromorphological elements will gradually reproduce in the bed as a result of erosive-accumulated water activity. The local changes of flora and fauna habitats and reduction of hydromorphological diversity will take place by profiling the right bank under the beach (on the 50 m section of the Nysa Kłodzka River). The liquidation of habitat fragments will take place here as a result of the change of slope building material, liquidation of natural hydromorphological elements and permanent anthropopressure related to beach use. The length of the section where the works will be carried out is about 0.18% of the length of USWB, so this action will not permanently affect its deterioration. As a result of the construction of the channel, which is necessary to maintain the ichthyological flow capacity at low water levels, the variation in morphology and bed depth will increase over a section of about 650 m. The analyses showed no negative impact of the planned activities on the achievement of the objectives set for these water bodies. 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 unified groundwater body UGWB No. 125, code PLGW6000125. The UGWB no. 125 was evaluated as a groundwater body with a good chemical status, good quantitative status, monitored, not threatened with failure to achieve the environmental objectives of maintaining the good chemical status and good quantitative status. The indicated UGWB is designated as a body of water intended for water intake for securing the drinking water supply for human consumption. 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 not protected with plants. 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 house). 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 primarily 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 will be conducive to not deteriorating 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 surges. The planned project will be designed based on the valid legislation and will therefore be implemented in a way that takes into account the extreme environmental phenomena associated with 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 commune of Bystrzyca Kłodzka. Compliance with 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 Laws of 2020, item 1219.). 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(1) of the Environmental Protection Law.

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 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.

Waste management will be carried out within the area of the investment in question in accordance with the applicable law. However, in order to ensure this, the conclusion of the present decision imposes the conditions of clause, section 2.3 to 2.5.

Clause I, section 2.6 ensures the creation of an appropriate and safe storage place for materials intended for the investment implementation. All construction materials will be located at an appropriate distance from existing water bodies and wetlands, outside the range of flood waters, outside the boundaries of protection zones of groundwater intakes.

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 2.19 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 2.13 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. In order to ensure the protection of protected fish species during the spawning period from 1 March to the end of June, occurring in the riverbed of the Nysa Kłodzka and Bystrzyca, the spawning period of fish was excluded from the possibility of carrying out works in the riverbed.

The condition of clause I section 2.20 aims at minimising damage within medium and high vegetation (trees and bushes) and within natural habitats.

The conditions of cl. I, section 2.21 and 2.22 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 2.23 to 2.30 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. In addition, the condition of clause I, section 2.30 aims at minimising the negative impact of the project on the natural habitats, including the habitat 9170 Central-European and subcontinental oak-hornbeam forests (*Galio-Carpinetum* and *Tilio-Carpinetum*) - listed in the *Regulation of the Minister of the Environment of April 13th, 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 in the direct vicinity of the investment.

The condition of clause I section 2.31 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 2.32 is intended to protect amphibians during the breeding period and migration to and from breeding sites.

The condition of clause I, section 2.33, 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, *Hildenbrandia rivularis* and Hygroamblystegium Moss *Hygroamblystegium fluviatile* occurring within the area of works covering the banks of the river covered by the works.

The condition of clause I, section 2.34 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 2.35 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 and Bystrzyca stream 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 condition of clause I, section 3.2 was imposed to improve the conditions for migration of aquatic organisms, in particular fish, in the section of the Nysa Kłodzka and Bystrzyca covered by this project.

The conditions of clause I, section 3.3 and 3.4 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 3.5 was imposed, e.g. 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 3.6 is intended to protect a patch of the natural habitat 9170 Central-European and subcontinental oak-hornbeam forest (*Galio-Carpinetum*, *Tilio-Carpinetum*).

The condition of clause I, section 3.7 aims to limit to the necessary minimum the transformation of the bed morphology of the Nysa Kłodzka and Bystrzka stream and to preserve - as far as possible - the present well developed ecosystem of the watercourses, in particular macrophytes.

The performance of monitoring tests referred to in clause II section 2.1 - 2.3 will allow to obtain information on the actual impact of investment implementation on European Brook Lamprey, natural habitats (in particular on the habitats 3260 Lowland and foothill rivers with *Ranunculion fluitantis* communities and 91E0 Willow-poplar-alder-ash (forests *Salicetum albae*, *Populetum albae*, *Alnenion glutinosoincanae*), large bittercress, 9170 Mountain tall herb communities (*Adenostylion alliiariae*) and riverside tall herb communities (*Convolvuletalia sepium*) and ecological elements of the stream. 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 and Bystrzyca stream and will be the basis for the possible implementation of additional measures to eliminate the negative impact of the project on the environment.

The condition of clause II, section 2.4 requires that monitoring of the function of the fish pass and the ramps as fish passes for aquatic organisms, in particular fish, be carried out by an appropriate specialist.

The condition of clause II, section 2.5 and 2.6 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 the conditions of clause II, section 1.1. are intended to compensate for losses to the destruction of stream trout eggs in spawning grounds. The provisions of the condition of clause II, section 1.2 are intended to compensate for losses resulting from the potential destruction of nesting sites of White-Throated Dipper *Cinclus* and Grey Wagtail 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 act Environmental Protection Law.

While implementing the conditions specified above, the implementation of the investment will not have a significant negative impact on the natural elements, including the Natura 2000 sites and the Nysa Kłodzka river and Bystrzyca stream valley ecological corridor, as well as on the biological biodiversity, understood as intra-species variability (gene diversity), inter-species variability (species diversity) and super-species variability (diversity of ecosystems and landscapes).

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 09 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 a 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 [w:] 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 Bystrzyca Kłodzka, i.e. to protect human health and life and to protect a 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 their 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). Therefore, there is no doubt that the planned undertaking is 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:

1. State Water Holding Polish Waters
80/82 Grzybowska Street
00-844 Warsaw
through the intermediation of:
State Water Holding Polish Waters
Regional Water Management Authority in Wrocław
34 C. K. Norwida Street, 50-950 Wrocław
represented by:
Alicja Borowska
34 C. K. Norwida Street
50-950 Wrocław
2. Parties to the proceedings pursuant to Article 49 of the CAP

Cc:

1. The Lower Silesian State Sanitary Inspector in Kłodzko,
16 Stefana Okrzei Street, 57-300
Kłodzko - dispatch by ePUAP
2. Minister of Climate and Environment, 52/54 Wawelska Street, 00-922 Warsaw - dispatch by ePUAP

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**REGIONAL DIRECTOR FOR
ENVIRONMENTAL PROTECTION
IN WROCLAW
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Appendix to the decision of the Regional Director for Environmental Protection in Wrocław of 13 November 2020, ref. No.: WOOŚ.420.18.2020.AP.17, for the project titled: "Task 2B.1/1 Flood Protection of the Nysa Kłodzka Valley - Bystrzyca Kłodzka Facility;

PROJECT CHARACTERISTICS

The investment will be located within the boundaries of the Lower Silesia Province, within the Kłodzko Powiat, within the boundaries of the Commune of Bystrzyca Kłodzka, in the registry areas: Centrum, Zabłocie, Zacisze, Stara Bystrzyca, Stary Waliszów and Niedźwiedna, Kłodzko Powiat, Lower Silesia Province.

The planned project will be carried out within the Nysa Kłodzka riverbed and the Bystrzyca stream. The sections covered by the project in question include the Nysa Kłodzka river at the section from km approx. 148+450 to km approx. 151+475 and the Bystrzyca stream at the section from km approx. 0+129 to km approx. 1+659.

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

- reprofiling the existing regulatory and revetment walls of 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;
- construction of new regulatory walls and slope revetments;
- demolition of destroyed regulatory walls and slope revetment;
- reconstruction of regulatory walls in place and along the route of existing ones;
- sectional reinforcement of the existing walls by executing a band (set-off);
- local slope reinforcement with a wedged stone rip-rap;
- clearing the bed within bridges with formation of a bipartite channel;
- conversion of the sills H-9 and H-10 into ramps;
- construction of a fish migration channel - at a section of about 500 m together with a control sill;
- conversion of the weir H-12 into a ramp;
- profiling the area under the beach on a section of about 50 m;
- cutting down the trees and shrubs colliding with the scope of works performed.

The length of the section covered by the works only on the right bank of the Nysa Kłodzka will be approx. 820 m. The length of the section covered by the works only on the left bank of the Nysa Kłodzka will be approx. 655 m. The length of the section where the works will be carried out parallel on both banks will be approx. 360 m. The length of the section covered by the works only on the right bank of the Bystrzyca will be approx. 350 m. The length of the section covered by the works only on the left bank of the Bystrzyca will be approx. 415 m. The length of the section where the works will be carried out parallel on both sections will be approx. 310 m.

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

- construction of the walls at a section of about 140 m;
- demolition and reconstruction of walls at a section of about 180 m;
- reprofiling the walls over a distance of about 925 m;
- construction of bank revetments on a section of about 630 m;
- demolition and reconstruction of walls over a distance of about 80 m;
- reprofiling the slopes over a distance of about 180 m;
- slope formation over a distance of about 50 m;
- clearing the bed at a distance of about 320 m;
- conversion of two sills H-9 and H-10 into ramps.
- construction of a fish migration channel - at a section of about 500 m together with a control sill;
- conversion of the weir H-12 into a ramp.
- profiling the area under the beach on a section of about 50m.

Renovation and reconstruction works on the Bystrzyca stream include (the lengths of one-sided works - to the right or left bank slope - are given):

- demolition and reconstruction of the walls at a section of about 615 m;
- reprofiling of the walls at a section of about 860 m;
- construction of bank revetments at a section of about 15 m.

Regional Director for
Environmental Protection in Wrocław

Wojciech Rejman

*/signed with a qualified
electronic signature/*

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