

Appendix 4c

Wrocław, 25.06.2019.

[image of the crowned eagle]

DIRECTOR
THE WATER BASIN MANAGEMENT
STATE WATER HOLDING POLISH WATERS

WR.ZUZ.5.421.37.2019.PG

DECISION

Pursuant to Article 390 Clause 1 Letter b in reference to Article 16 Item 34 Letter a, b and c, Article 396 Clause 1, Article 397 Clause 1 and 3 Item 2 together with Article 14 Clause 4, Article 400 Clause 1 and 7, Article 403 Clause 1, Article 407 Clause 1 and 2, Article 408, Article 409 Clause 1 and 2, Article 414 Clause 1 Item 1, Article 415 Item 1 and 5 of the Act dated 20 July 2017 - *the Water Law* (Journal of Laws of 2018, item 2268 as amended) and Article 104 of the Act dated 14 June 1960 - *the Code of Administrative Procedure* (Journal of Laws of 2018, item 2096 as amended; hereafter the CAP), having considered the application dated 11.01.2019, ref. no. 10/P/2018/JB, submitted by the Municipality of Wrocław, on behalf of which acts the Road and City Maintenance Authority in Wrocław represented by Ms. Dorota Wolińska-Janosz, the proxy, corrected on 27.03.2019, for the issuance of a water-law permit to locate new construction facilities at high flood risk areas in the range of: extension of Ślężoujście Street in Wrocław - sealing of an embankment and slopes along the street from km 0+157 to 0+386 and construction of an exit to the land plot no. 11/2 AM-14, Maślice precinct in Wrocław, at km 0+312, in the area with flooding probability of the Odra river at $Q_{1\%}$ and $Q_{10\%}$, as well as extension of Ślężoujście Street in Wrocław - construction of a road-type embankment along the street and reinforcement of its slopes along with construction of a retaining wall on the land plot no. 52 AM-13, Maślice precinct in Wrocław and construction of a network of utilities - rainwater drainage system within the land plot no. 54 and 56 AM-13, Maślice precinct in Wrocław, in the area between the bank line and the flood embankment or natural high bank into which the flood embankment was embedded, i.e. between the bank line of the Ługowina river and the "Maślice I" and "Maślice II" flood embankment and the embankment of Ślężoujście Street, implemented under the investment entitled: "*Extension of Ślężoujście Street in Wrocław from Potokowa Street up to the built-up area*".

I declare as follows:

- I. For the benefit of the Municipality of Wrocław, on behalf of which acts the Road and City Maintenance Authority in Wrocław, 49 Długa Street, 53-633 Wrocław, I hereby issue the water-law permit for:
 1. location of new construction facilities i.e. extension of Ślężoujście Street in Wrocław at high flood risk areas in the range of:
 - sealing of an embankment and slopes along the street from km 0+1574 to 0+386 at the land plot no. 9/10, 10, 11/1, 11/2, 13/4, 13/2, 13/3 AM-14, Maślice precinct in Wrocław,
 - construction of an exit to the land plot no. 11/2 AM-14, Maślice precinct in Wrocław at km 0+312, in the area with flooding probability of the Odra river at $Q_{1\%}$ and $Q_{10\%}$,
 2. location of new construction facilities i.e. extension of Ślężoujście Street in Wrocław at high flood risk areas in the range of:
 - construction of a road-type embankment along the street and reinforcement of its slopes at the land plot no. 52 and 56 AM-13, Maślice precinct in Wrocław,
 - construction of a retaining wall at km 0+072-0+121 at the land plot no. 52 AM-13, Maślice precinct in Wrocław,

■ construction of a network of utilities - rainwater drainage system DN 300 with an W1 outlet at the end, at the land plot no. 54 and 56 AM-13, Maślice precinct in Wrocław, in the area between the bank line and the flood embankment or natural high bank into which the flood embankment was embedded, i.e. between the bank line of the Ługowina river and the "Maślice I" and "Maślice II" flood embankment, implemented under the investment entitled: "*Extension of Ślężoujście Street in Wrocław from Potokowa Street up to the built-up area*".

- II. I issue the water-law permit for the location of new construction facilities at high flood risk areas specified in Section I of this decision for a specified period, i.e. until **25 June 2039**.
- III. The water-law creates no rights to properties and water facilities required for its implementation and does not infringe any property rights and entitlements of third parties entitled to such properties and facilities.
- IV. Further obligations under the authorisation granted to locate new construction facilities at high flood risk areas in the scope specified in Section 1.1-2 of this decision are as follows:
1. Performance of all the works in line with the documentation being the technical grounds for issuing the decision and with the arrangements as well as applicable regulations and standards.
 2. Adequate protection of the works performed and removal of people, equipment, facilities and gathered possessions which are susceptible to flooding and other movable objects likely to be damaged or to cause water pollution off this high flood risk area in the event of such flood risk and flooding.
 3. Notification of the interested parties 14 days in advance on the date of commencement and completion of works.
 4. Repair any damage and coverage of any losses which may occur during the performance of works.
 5. Clean-up of the work area within 14 days upon the completion of works.
 6. Restoration of any areas temporarily occupied in connection with the performance of works to their original state and clearance of areas to be found close to the facilities.
 7. Satisfaction of compensation claims related to the issued water-law permit.

JUSTIFICATION

On 14.01.2019, the Director of the Water Basin Management in Wrocław / State Water Holding Polish Waters received an application, dated 11.01.2019, ref. no. 10/P/2018/JB, submitted by the Municipality of Wrocław on behalf of which acts the Road and City Maintenance Authority in Wrocław represented by Ms. Dorota Wolińska-Janosz, the proxy, for the issuance of a water-law permit to locate new construction facilities at high flood risk areas implemented under the investment entitled: "*Extension of Ślężoujście Street in Wrocław from Rędzińska Street to Potokowa Street in Wrocław*".

The application was accompanied with the following documents:

1. "*Hydro-legal survey report*" - *Extension of Ślężoujście Street from Rędzińska Street to Potokowa Street in Wrocław* - prepared by Road and Bridge Design Office "BBKS-PROJEKT" Ltd. Co. in December 2018, together with a description on the intended activity with no specialised terms.
2. Agreement on the Water Supervision Authority in Wrocław / State Water Holding Polish Waters dated 2 December 2018, ref. no. WR.5.A.434.142.2018.RW, regarding the reconstruction of Ślężoujście Street and the culvert on the Ługowina river.
3. Decision of the Regional Director for Environmental Protection in Wrocław dated 21.08.2018, ref. no. WOOŚ.420.140.2018.KK.1, on the refusal to initiate proceedings to issue a decision on environmental conditions for the project consisting in the extension of Ślężoujście Street from Rędzińska Street to Potokowa Street in Wrocław.
4. Decision of the Director of the Regional Water Management Authority in Wrocław / State Water Holding Polish Waters dated 20.11.201, ref. no. WR.RPP.423.96.2018.KW, exempting the following operations from the prohibitions set out in Article 176 Clause 1 Item 4 and 5 of the Act dated 20 July 2017 - *the Water Law*: digging up embankments, constructing structures or facilities on flood protection

embankments not functionally related to them and construction of buildings at a distance of less than 50 m from embankment feet, for the implementation of the investment entitled: "*Extension of Ślężoujście Street from Rędzińska Street to Potokowa Street in Wrocław*", within the "Maślice I" and "Maślice II" flood protection embankments and with their 50-m protection zone.

5. Abridged extracts from the land register.
6. Confirmed payment of an administrative fee for the issuance of the water-law permit in the amount of 221.34 PLN.

Due to the entry into force of the Act dated 20 July 2017 - *the Water Law*, as of 1 January 2018, pursuant to Article 397 Clause 1, the Polish Waters authorities are the competent authority for water-law permits and consents. At the same time, pursuant to Article 397 Clause 3 Item 2 the Director of the Water Basin Management for Polish Waters is the competent authority for water-law permits referred to in Article 388 Clause 1 Item 1, not specified in Item 1 Letters a, c and d.

Pursuant to Article 390 Clause 1 Item 1 Letter b of the Act – *the Water Law* (Journal of Laws 2018, item 2268, as amended), a water-law permit is required for the location of new construction facilities at high flood risk areas.

In the course of proceedings, on 27.03.2019, by the letter ref. no. 154/P/2019/JB, the applicant requested to correct the name of the investment task in the previously submitted application, due to the investor's limitation of the scope of construction works in Ślężoujście Street, covering a section from Potokowa Street to the existing built-up area only, at the same time informing that the remaining works / sections will be conducted under a separate investment task.

It is concluded from the documents attached to the application that for the purpose of obtaining the requested water-law permit, the formal and legal requirements set out in the provisions of the Act, i.e. Article 407 Clause 2 of the Act dated 20 July 2017 - *the Water Law* were fulfilled and the documentation being the technical grounds for the requested permit fulfils the requirements specified in Article 408, Article 409 Clause 1 and 2 of the Act of 20 July 2017 - *the Water Law*.

Based on the documentation attached to the application, it was established that:

1. The project is aimed to extend Ślężoujście Street by constructing a new street surface, pavement, street lighting, a DN300 rainwater sewerage system with an outlet W_1 to the Ługowina river, urban technological and tele-technical ducts and to seal the road embankment in order to reduce a risk of flooding within its adjacent areas. Under the extension and in relation to the changed technical parameters of the road embankment, it was planned - within the high flood risk area, i.e. in the area with flooding probability of the Odra river at $Q_{1\%}$ and $Q_{10\%}$ - to make sealing (at the Odra river side) of the embankment and slopes of Ślężoujście Street at km 0+157 to 0+386 and to construct an exit to the land plot no. 11/2 AM-14, Maślice precinct. Moreover, within the area between the bank line of the Ługowina river and the "Maślice I" and "Maślice II" flood protection embankments, it is planned to build a road embankment and to reinforce the slope of Ślężoujście Street and to construct a retaining wall and a network of utilities - DN 300 rainwater drainage system, ended with an W_1 outlet to the Ługowina river.
2. Due to the fact that the project is located at the special protection area, i.e. on the flood protection embankments of the Ługowina river and in their protection zones, for which the prohibitions specified in Article 176 Clause 1 of the Act dated 20 July 2017 - *the Water Law* apply, therefore, for the implementation of the investment entitled: "*Extension of Ślężoujście Street from Rędzińska Street to Potokowa Street in Wrocław*", the applicant obtained a decision of the Director of the Regional Water Management Authority in Wrocław exempting (from such prohibitions) the following operations: digging up the embankments, constructing structures or facilities on the flood protection embankments not functionally related to them and construction of buildings at a distance of less than 50 m from the embankment feet. Upon the completion of all the works related to the extension of Ślężoujście Street, the area temporarily occupied in connection with the works should be cleaned up and brought to its original state, and the properly-shaped road embankment slopes and embankments should be strengthened, sodded or sown with a mixture of grasses and fertilisers.

3. The investment under consideration is implemented on the grounds of the Act dated 10 April 2003 on the special principles of preparation and implementation of investments in the field of public roads (Journal of Laws of 2018, item 1474), therefore Article 396 Clause 1 Item 7, Article 407 Clause 2 Item 3 and Article 422 Item 3 of the Act dated 20 July 2017 - *the Water Law* do not apply in any matters related to the issuance of this water-law permit.
4. Based on the flood hazard maps referred to in Article 169 Clause 2 of the Act dated 20 July 2017 - *the Water Law*, the following land plots: 9/10, 10, 11/1, 11/2, 13/4, 13/2, 13/3, AM-14, Maślice precinct in Wrocław - planned for the investment under consideration - are within the range of flooding probability at $Q_{1\%}$, where the estimated depth of flooding ranges from 0 to 4.0 m, and the ordinate of flooding (based on the Numerical Water Surface Model) for $Q_{1\%}$ is ca. 113.61 m above sea level. Then, the following land plots 9/10, 10, 11/1, 11/2 AM-14, Maślice precinct in Wrocław are also located within the range of flooding probability at $Q_{10\%}$, where the estimated depth of flooding ranges from 0 to 2.0 m and the ordinate of flooding (based on the Numerical Water Surface Model) for $Q_{10\%}$ is ca. 111.60 m above sea level. Under the meaning of Article 16 Item 34 Letter a and b of the Act - *the Water Law*, the area within the range of flooding probability at $Q_{1\%}$ is a high flood risk area where the probability of flooding is medium and amounts to once every 100 years. Then, the area within the range of flooding probability at $Q_{10\%}$ is a high flood risk area where the probability of flooding is high and amounts to once every 10 years. Moreover, part of the investment located at the land plots no. 52, 54 and 56 AM-13, Maślice precinct in Wrocław is situated between the bank line and the flood embankment or natural high bank into which the flood embankment was embedded, i.e. between the bank line of the Ługowina river and the "Maślice I" and "Maślice II" flood embankment, which - in line with Article 16 Item 34 Letter c - is also a high flood risk area.
5. The investment is located in the area of surface water bodies named "*Ługowina*" coded PLRW6000231338 and in the area of ground water bodies coded PLGW6000109.
6. Within the investment area there are no forms of nature protection and the investment area is not located within any special protection area under the Natura 2000 protected areas network. The planned investment will not pose any direct or indirect threat to the protected natural environment at the stage of construction and operation.

The water-law permit specified in this decision does not violate the provisions of Article 396 Clause 1 of the Act dated 20 July 2017 - *the Water Law*, in particular:

1. the provisions of the Odra basin management plan annexed to the Regulation of the Council of Ministers dated 18 October 2016 *on the Odra basin management plan* (Journal of Laws 2016, item 1967),
2. the settled conditions for making use of waters within the water region, adopted in the Regulation no. 9/2016 of the Director of the Regional Water Management Authority in Wrocław dated 14 July 2016 *on establishing the conditions for making use of waters within the Middle Odra water region* (Official Journal of the Lower Silesia Province of 2016, item 3675),
3. the provisions of the flood risk management plan annexed to the Regulation of the Council of Ministers dated 18 October 2016 *on the adoption of the Flood risk management plan for the Odra basin area* (Journal of Laws 2016, item 1938).

The Director of the Water Basin Management in Wrocław / State Water Holding Polish Waters, taking into account the request submitted by the applicant on the correction of the name of the investment task in the previously submitted application, on 15.04.2019, notified the interested parties (pursuant to Article 61 Paragraph 4 of *the Code of Administrative Procedure*) of the initiation of proceedings in the case under consideration. In line with the notification, the parties were given the opportunity to get to know the documents attached to the application and make any requests or objections to the pending procedure.

The parties of the proceedings submitted no applications / objections in reference to the issue within the set period of time. The conducted administrative proceedings proved that there are no obstacles to issue the permit under consideration in the scope and on terms set out in the present decision.

Pursuant to Article 400 Clause 7 of the Act dated 20 July 2017 - *the Water Law*, the information on the initiation of the proceedings was made public by posting it on the Public Information Bulletin website: <http://wodypolskie.bip.gov.pl> and placing it for a period of 7 days on the notice board at the seat of the Director of the Water Basin Management in Wrocław / State Water Holding Polish Waters.

The decision was issued on the grounds of the formal and substantive legal provisions referred to in the legal basis, as in force on the date of submitting the application and setting out the specific conditions of the permit, in order to protect the legitimate interests of the parties.

Due to the fact that a water-law permit is issued by way of a decision for a specific period of time, pursuant to Article 400 Clause 1 of the Act - *the Water Law*, this water-law permit for the location of new construction facilities in high flood risk areas was issued, as requested, for a specific period of time, i.e. for a period of 20 years, in spite of the 30-year validity period for water-law permits provided for in Article 400 Clause 1 of the Act dated 20 July 2017 - *the Water Law*.

With regard to the above settlements - it was declared as in the sentence.

INSTRUCTION ON PARTIES' RIGHTS

1. The parties may appeal against the decision to the Director of the Regional Water Management Authority in Wrocław / State Water Holding Polish Waters through the Director of the Water Basin Management in Wrocław (39 Wybrzeże Wyspiańskiego Street, 50-370 Wrocław) within 14 days of its delivery - Article 14 Clause 4 of the Act dated 20 July 2017 - *the Water Law*.
2. By the time limit for lodging an appeal, either party may waive the right to appeal against the public administration body which issued the decision - Article 127a Paragraph 1 of *the Code of Administrative Procedure*.
3. As of the date of delivery - to the public administration body - of such a statement on waiving the right to appeal by the last party to the proceedings, the decision becomes final and legally binding - Article 127a Paragraph 2 of *the Code of Administrative Procedure*.
4. A water-law permit creates no rights to properties and water facilities required for its implementation and does not infringe any property rights and entitlements of third parties entitled to such properties and facilities - Article 393, Clause 4 of the act dated 20 July 2017 - *the Water Law*.
5. A water-law permit expires if the period for which it was issued has expired - Article 414 Clause 1 Item 1 the Act dated 20 July 2017 - *the Water Law*.
6. A water-law permit may be revoked or restricted without compensation if an entity (plant) changes the purpose and scope of water use or the conditions for exercising the rights specified in such a water-law permit - Article 415 Item 1 of the Act of 20 July 2017 - *the Water Law*.
7. A water-law permit may be revoked or restricted without compensation if an entity (plant) has not started on time exercising the rights under such a water-law permit other than the ones specified in Article 414 Clause 1 Item 3 or has not exercised such rights for at least 2 years - Article 415 Item 5 of the Act dated 20 July 2017 - *the Water Law*.
8. The present decision does not constitute a building permit as comprehended by the provisions of the Act dated 7 July 1994 - *the Building Law* (the consolidated text - Journal of Laws of 2010 item 1202 as amended).

Note on fees and charges:

Pursuant to Article 398 Clause 3 of the Act dated 20 July 2017 - *the Water Law* (Journal of Laws of 2018, item 2268 as amended) an administrative charge of - 221.34 PLN = 664.02 PLN (in words: two hundred and twenty one PLN 34/100) was paid for the issuance of this water-law permit.

Pursuant to Article 7 Item 3 of the Act dated 16 November 2006 on stamp duty (Journal of Laws of 2019, item 1000), the submission of documentation stating the granting of a power of attorney is exempt from stamp duty.

[round seal with the image of an
eagle in the middle and an
inscription around it: NATIONAL

[stamp]
DIRECTOR
Agnieszka Gramiak-Bień

To be received by (Unit ZPO):

1. **Municipality of Wrocław - Road and City Maintenance Authority in Wrocław**
49 Długa Street, 53-633 Wrocław
represented by: Ms. Dorota Wolińska-Janosz
address for correspondence:
Dorota Wolińska-Janosz
Road and Bridge Design Office - BBKS-PROJEKT Ltd. Co
10/1 Ojca Beyzyna Street, 53-204 Wrocław
2. Polish Angling Association, District of Wrocław
65 Kazimierza Wielkiego Street, 50-077 Wrocław
3. State Treasury - National Support Centre for Agriculture
seated at 30 Karmelkowa Street, 01-207 Wrocław
address for correspondence:
60 Mińska Street, 54-610 Wrocław
4. Municipality of Wrocław, Municipal Green Areas Management
33 Trzebnicka Street, 50-231 Wrocław
5. Municipality of Wrocław - President of Wrocław
9 Sukiennice Street, 50-107 Wrocław
6. State Treasury - State Water Holding Polish Waters
Regional Water Management Authority in Wrocław (PUW)
34 K.C. Norwida Street, 50-950 Wrocław

For the attention of:

1. Unit WR.ZPU
2. Unit WR.ZZI
3. Unit WR.ZUZ - archived files