

Regional Director  
for Environmental Protection  
in Gorzów Wielkopolski  
WOOŚ-II.4233.2.2011.TK

Gorzów Wielkopolski, February 16<sup>th</sup>, 2011

**DECISION**  
**on the environmental conditions**

Under Article 104 of the Act of 14 June 1960 – Administrative Procedure Code (Journal of Laws of 2000, No 98, item 1071, as amended), Article 71 Par. 2 Subpar. 2, Article 75 Par. 1 Subpar. 1 letter i), Article 82, Article 85 Par. 1 and Par. 2 Subpar. 1 of the Act of 3 October 2008 *on providing information on the environment and its protection, public participation in environmental protection and environmental impact assessments* (Journal of Laws of 2008, No 199, item 1227 as amended) and pursuant to Article 17 of the Act of 8 July 2010 *on special rules concerning the preparation and implementation of investments related to flood defences* (Journal of Laws No 143, item 963), after considering the application for issuance of decision on the environmental conditions, submitted on June 24<sup>th</sup>, 2009 by Tadeusz Kowalewski – Biuro Projektów Inżynierii Środowiska i Melioracji “Ekoprojekt” Sp. z o.o. at Stefana Batorego St. No 126a, 65-735 Zielona Góra, acting on the basis of the power of attorney granted by the Lubuski Board of Amelioration and Hydraulic Structures in Zielona Góra, Ptasia St. No 2B in Zielona Góra.

**I determine**

**the environmental conditions for the undertaking entitled:**

**“Nowa Sól – Pleszówek – stage I – construction of the left-bank embankment for the Odra river at chainage km 429.85÷432.40 and embankments of the Czarna Struga river at chainage km 0+000÷3+330”.**

**I. The type and location of the undertaking:**

The undertaking shall be implemented in the variant chosen by the investor, designated as Variant I, which comprises reconstruction, expansion and demolition of existing and construction of new flood protection facilities for the city of Nowa Sól, the Pleszówek quarter, located within the left-bank part of Odra valley and Czarna Struga river.

The undertaking shall comprise the following works:

1. Expansion of the left-bank flood embankment of Odra river at chainage km 429.85÷432.40 with related structures, consisting in:
  - expanding the embankment over a length of 1.2 km – Odra river at chainage km 429.85÷431.00;
  - demolishing the embankment body over a length of 1.435 km – Odra river at chainage km 431.00÷432.40;
  - constructing new 1.537 km long embankment section, replacing the functionally demolished embankments, i.e. a section of Odra embankment and a section of Czarna Struga right-bank backwater embankment.
2. Expansion of the Czarna Struga left-bank backwater embankment, with related structures, consisting in:
  - expanding the existing embankment body on the river section at chainage km 0.000÷2.840;
  - extending the embankment (constructing a new section) to km 3,330 of the river.
3. Expansion of the right-bank backwater embankment of Czarna Struga river, including the related structures, consisting in:
  - demolishing the existing embankment on the river section at chainage km 0.000÷0.293;
  - expanding the existing embankment body on the river section at chainage km 0.293÷3.104.
4. Expansion of the Czarna Struga riverbed on the river section at chainage km 0.000÷3.330, consisting in:
  - shaping a trapezoid cross-section of the riverbed;
  - strengthening the riverbed;
  - relocating the riverbed locally.

The site for implementation of the undertaking is located on area comprising 184 plots with total surface area 44.1284 ha, situated within: the Nowa Sól Municipality (precinct No 1 and No 3, surface area 19.2929 ha – the Pleszówek quarter on north-east outskirts of the Nowa Sól City) and the Otyń Commune (the Modrzyca precinct, surface area 24.8355 ha).

**II. Area use conditions during undertaking implementation and exploitation, with special consideration for the need to protect high conservation values in nature, natural resources and monuments and to limit disruptions to the adjacent areas:**

1. Access roads shall be localised and any possible works related to implementation of the undertaking shall be carried out, as practicable, on the landside of the embankment.
2. Within the sites of Natura 2000 habitats, construction works outside the outline of the toe of modernised and reconstructed embankments shall be maximally reduced.
3. Construction works carried out within the oxbow lake area with habitat 3150 (natural eutrophic lake) shall be maximally reduced.
4. Construction works shall be performed outside the nesting season i.e. outside the period from March 15<sup>th</sup> to July 31<sup>st</sup>.
5. In order to reduce onerous noise, construction works shall be carried out during daytime (from 6:00 am to 10:00 pm).
6. Equipment used for works has to be fully operational and meet requirements of the document authorising to use it; type and technical conditions of equipment has to guarantee security for surface and ground waters, protect soil against contamination and air against emission of dust or gases, and also it has to ensure protection against emission of noise to the environment.
7. Wastes produced when implementing the undertaking shall be collected selectively, separating hazardous wastes from wastes other than hazardous, and shall be gradually disposed of off the construction site.
8. Domestic wastewater shall be stored in tight containers and successively transported to the nearest wastewater treatment plant.
9. With respect to areas covered by preservation maintenance, which exist within the investment location, it is necessary that any works planned within such areas should be agreed with the Provincial Heritage Conservator in Zielona Góra.

**III. Environmental protection requirements which have to be considered in the construction design required for issuance of decision on investment project implementation permit.**

1. It is necessary to apply such design solutions which shall minimise interference of a/m investment in the environment, in particular the solutions which shall maximally reduce clearance of trees and shrubs on the embankment section to be demolished.

2. The period of works determined in the project shall be most favourable for the natural environment (outside the nesting season).
3. It is necessary to apply such technologies of execution, so as to reduce the hazard of damaging the trees or shrubs which are not intended for clearance and which grow within the area of works or in immediate vicinity.
4. It is necessary to apply such technical and organisational solutions, so as to maximally reduce construction works outside the outline of the toe of modernised and reconstructed embankment within the area of Natura 2000 habitats.
5. Applied technical solutions shall guarantee that changes of natural hydrographic conditions in adjacent Natura 2000 habitats shall be maximally reduced.
6. Access roads and manoeuvring and storage yards shall be located, as practicable, outside natural habitats (i.e. riparian forests and extensively used meadows).
7. Access roads on the Odra embankment being expanded on the section at chainage km 0+000÷1+200 shall be designed along the crest of the embankment.
8. Embankments shall be expanded using mineral materials, alternatively geosynthetics, which are not the source of emission of harmful substances to the soil and water environment.

#### **IV. Additional requirements and conditions.**

1. I do not find it necessary to carry out an Environmental Impact Assessment and to conduct the proceedings regarding cross-border impact on the environment under the proceedings for issuance of decision on investment project implementation permit.

#### **V. The undertaking characteristics, enclosed herewith, constitutes an integral part of the decision.**

### **GROUNDS**

The subject of conducted administrative proceedings and this decision on environmental conditions is undertaking entitled: "Nowa Sól – Pleszówek – stage I – construction of the left-bank embankment for the Odra river at chainage km 429.85÷432.40 and embankments of the Czarna Struga river at chainage km 0+000÷3+330", which is located on the area belonging to: the Nowa Sól Municipality and the Otyń Commune.

The greatest part of the land on which the undertaking is to be implemented shall be located on territory of the Otyń Commune.

The proceedings concerning issuance of environmental decision for the aforementioned undertaking, which is considered as an undertaking which potentially may significantly affect the environment, were instituted on the basis of the application submitted on June 24<sup>th</sup>, 2009 by Mr. Tadeusz Kowalewski - Biuro Projektów Inżynierii Środowiska I Melioracji "Ekoprojekt" Sp. z o.o., Stefana Batorego St. No 126a in Zielona Góra.

In accordance with the legal state effective on the day of submitting the aforementioned application, pursuant to Article 75 Par. 1 Subpar. 4 and Par. 4 of the Act of 3 October 2008 *on providing information on the environment and its protection, public participation in environmental protection and environmental impact assessments* (Journal of Laws No 199, item 1227, as amended), the authority competent to issue the decision on environmental conditions for the undertaking in question, according to material and territorial competence, was the Head of Otyń Commune in agreement with the President of the Nowa Sól city.

On the 25<sup>th</sup> of August 2010, new provisions of the Act of 8 July 2010 on special rules concerning the preparation and implementation of investments related to flood defences (so-called Special Flood Act; Journal of Laws No 143, item 963) were enforced, amending the EIA Act of 3 October 2008. In accordance with the said amendments, i.e. pursuant to amended Article 75 Par. 1 Subpar. 1 letter i) to the EIA Act, from the 25<sup>th</sup> of August 2010 the authority competent to issue decisions on environmental conditions for undertakings consisting in the implementation of investments related to flood defences is the Regional Director for Environmental Protection. Flood defences, pursuant to Article 2 Par. 1 of the aforementioned Special Flood Act of 8 July 2010 are flood embankments along with structures functionally connected with them.

The above means that in accordance with the legal state effective from August 25<sup>th</sup>, 2010, the authority competent to issue decisions on environmental conditions for implementation of the undertaking in question, located on the territory of the Lubuskie Province, is – according to material and territorial competence – the Regional Director for Environmental Protection in Gorzów Wielkopolski.

With respect to aforementioned changes in legal regulations, the Head of Otyń Commune handed over to the Regional Director for Environmental Protection in Gorzów Wielkopolski, by decision ref.: SOŚ-7624-7/16/09/10 of November 22<sup>nd</sup>, 2010 (received on December 1<sup>st</sup>, 2010), for handling the whole files of administrative proceedings concerning the application for issuance of decision on environmental conditions for this planned undertaking.

The files, which were handed over along with the aforementioned decision, included in particular:

- the application for issuance of decision on environmental conditions, submitted to the Head of Otyń Commune on the 24<sup>th</sup> of June 2009 by Mr. Tadeusz Kowalewski -

Biuro Projektów Inżynierii Środowiska I Melioracji "Ekoprojekt" Sp. z o.o., Zielona Góra, Stefana Batorego St. No 126a, acting in favour and on behalf of the Lubuski Board of Amelioration and Hydraulic Structures in Zielona Góra, Ptasia St. No 2B.

- project information card along with its recording on a CD;
- copy of the land register map with marked borders of the area on which the undertaking is to be implemented and the area which shall be affected by the undertaking;
- reconnaissance map in scale 1:10000;
- an extract from the land register comprising the foreseen land on which the undertaking shall be implemented and the area which shall be affected by the undertaking;
- the power of attorney granted to Mr. Tadeusz Kowalewski by the investor;
- an extract from the local spatial development plan for the part of the lands covered by the planned undertaking and the information about the absence of local spatial development plan for other lands of the planned undertaking;
- field recognition of biodiversity elements – an expertise prepared in June 2009 by a team composed of: Marcin Bocheński PhD, Paweł Czechowski PhD, Piotr Reda PhD, Mariusz Mleczak, under the directorship of Leszek Jerzak PhD;
- the environmental impact report for the undertaking, prepared in September 2009 in Biuro Projektów Inżynierii Środowiska i Melioracji "Ekoprojekt" Sp. z o.o., Stefana Batorego St. No 126a in Zielona Góra, by a team composed of: Tadeusz Kowalewski, Teresa Gruszewska, Jerzy Zieliński, Henryk Kucharczyk, Katarzyna Jakubiec;
- the environmental impact report for the undertaking – supplementation, prepared in September 2010 in Biuro Projektów Inżynierii Środowiska I Melioracji "Ekoprojekt" Sp. z o.o., Stefana Batorego St. No 126a in Zielona Góra, by a team composed of: Tadeusz Kowalewski, Jerzy Zieliński, Piotr Reda, Marcin Bocheński, Wojciech Zieleniewski, Katarzyna Jakubiec;
- complete set of letters such as: applications, opinions, notices, announcements, explanations and other letters collected in the course of the administrative proceedings conducted in the Otyń Commune.

The Regional Director for Environmental Protection in Gorzów Wielkopolski determined as follows:

The application for issuance of decision on environmental conditions for implementation of undertaking entitled: "Nowa Sól – Pleszówek – stage I – construction of the left-bank embankment for the Odra river at chainage km 429.85÷432.40 and embankments of the Czarna Struga river at chainage km 0+000÷3+330", submitted by Mr. Tadeusz Kowalewski -

Biuro Projektów Inżynierii Środowiska i Melioracji "Ekoprojekt" Sp. z o.o., Stefana Batorego St. No 126a in Zielona Góra, acting on behalf and in favour of the investor, i.e. Lubuski Board of Amelioration and Hydraulic Structures in Zielona Góra, Ptasia St. No 2B, was delivered to the Head of Otyń Commune on the 24<sup>th</sup> of June 2009.

The applicant enclosed the following documents to the application:

- project information card along with its recording on a CD – 4 copies;
- copy of the land register map certified by the District Authority, with marked borders of the area on which the undertaking is to be implemented and the area which shall be affected by the undertaking – 2 sheets – 4 copies;
- reconnaissance map in scale 1:10000 – 2 copies;
- an extract from the land register comprising the foreseen land on which the undertaking shall be implemented and the area which shall be affected by the undertaking;
- the investor's power of attorney.

The undertaking was classified as an undertaking which might have a significant impact on the environment, referred to in § 3 Par. 1 Subpar. 61 ("flood devices except maintenance and reconstruction thereof") of the Regulation of the Council of Ministers of November 9<sup>th</sup>, 2010 on determining the types of undertakings which may significantly affect the environment and detailed conditions for qualifying undertakings for an environmental impact report (Journal of Laws of 2004, No 257, item 2573 as amended).

Pursuant to Article 173 Par. 2 Subpar. 2 of the Act of 3 October 2008 *on providing information on the environment and its protection, public participation in environmental protection and environmental impact assessments* (Journal of Laws of No 199, item 1227, as amended) this is an undertaking which may have a potential significant impact on the environment, the implementation of which requires obtainment of decision on environmental conditions (pursuant to Article 71 Par. 2 Subpar. 2), issued before obtainment of one or several decisions referred to in Article 72 Par. 1 Subpar. 1-18 and Article 72 Par. 1a thereof.

The applicant stated in the submitted application that the environmental decision for the planned undertaking would be necessary for the investor to obtain: water permit, decision on localisation of public purpose investment and decision on building permit.

Pursuant to Article 59 Par. 1 Subpar. 2 of above-cited EIA Act, in order to implement an undertaking which might have a potential significant impact on the environment it is also necessary to carry out an environmental impact assessment, if such an obligation was stated on the basis of Article 63 Par. 1 by authority competent to issue environmental decisions, after getting an opinion from the authorities, referred to in Article 64 Par. 1.

The Head of Otyń Commune, acting on the basis of Article 61 Par. 1 §1 of the Act of 14 June 1960 – Administrative Procedure Code (i.e. Journal of Laws of 2000, No 98, item 1071, as amended) and on the basis of Article 73 Par. 1 of the Act of 3 October 2008 *on providing information on the environment and its protection, public participation in environmental protection and environmental impact assessments* (Journal of Laws of 2008, No 199, item 1227 as amended) instituted, on the basis of the aforementioned application, proceedings for issuance of environmental decision for the undertaking being the subject of the said application.

The parties (more than 20) were informed about instituting administrative proceedings regarding the issuance of environmental decision, pursuant to Article 49 and Article 61 §4 of the Code of administrative procedure and pursuant to Article 74 Par. 3 of the EIA Act, by Announcement of the Head of Otyń Commune, ref.: SOŚ-7624-7/1/09 of June 29<sup>th</sup>, 2009.

The announcement was displayed for the period from June 30<sup>th</sup> to July 15<sup>th</sup>, 2009 on the notice boards in villages: Otyń, Modrzyca and Bobrowniki and in the seat of the Commune Office in Otyń, as well as in the publicly available data list (Bulletin of Public Information) kept by the Head of Otyń Commune. The announcement was also displayed on the notice board in the seat of the City Hall in Nowa Sól for the period from July 1<sup>st</sup>, 2009 to July 15<sup>th</sup> 2009.

Acting on the basis of Article 64 par. 1 of above-cited EIA Act, the Head of Otyń Commune asked for an opinion as to the need to carry out an environmental impact assessment for a/m undertaking of:

- the State District Sanitary Inspector in Nowa Sól, by the letter of 29 June 2009, ref.: SOŚ-7624-7/4/09;
- the Regional Director for Environmental Protection in Gorzów Wielkopolski, by the letter of 29 June 2009, ref.: SOŚ-7624-7/3/09;

The Head of Otyń Commune enclosed to aforementioned letters, pursuant to Article 64 par. 2 of above-cited EIA Act: application for issuing the decision, an extract from the local spatial development plan for part of the lands covered by the application and the information about the absence of local spatial development plan for other lands.

The State District Sanitary Inspector in Nowa Sól, by the letter of 2 July 2009, ref.: ONS-NZ-4300/41/09 expressed his opinion, according to which it was unnecessary to carry out an environmental impact assessment for the undertaking in question.

The Regional Director for Environmental Protection in Gorzów Wielkopolski, by the letter of 8 July 2009, ref.: RDOŚ-08-WPN II-6632-5-40/09/danj, expressed his opinion, according to which it was necessary to carry out an environmental impact assessment and in which he determined the required scope of the EIA report.



Basing on obtained opinions of the aforementioned authorities, the Head of Otyń Commune, pursuant to Article 63 par. 1 and Par. 4 of the EIA Act, stated – by the decision of July 23<sup>rd</sup>, 2009, ref.: SOŚ-7624-7/5/09 – the obligation to carry out an environmental impact assessment and simultaneously determined the scope of the EIA report for the aforementioned undertaking.

The parties to the proceedings were informed about the decision issued, pursuant to Article 49 and Article 61 §4 of the Administrative Procedure Code and pursuant to Article 74 Par. 3 of the EIA Act, by Announcement of the Head of Otyń Commune, ref.: SOŚ-7624-7/6/09 of June 23<sup>rd</sup>, 2009. The Announcement was displayed for the period from July 24<sup>th</sup>, 2009 to August 11<sup>th</sup>, 2009 on the notice boards in the Otyń Commune, within the planned investment area, and on the notice board in the seat of the City Hall in Nowa Sól for the period from July 27<sup>th</sup>, 2009 to August 13<sup>th</sup>, 2009.

The environmental impact report of the undertaking, prepared in September 2009, along with its recording on a CD, was submitted to the Commune Office in Otyń by Mr. Tadeusz Kowalewski, acting in favour and on behalf of the investor, by the letter ref.: P-421-103/2008/7/09 of October 6<sup>th</sup>, 2009. The report was prepared by Biuro Projektów Inżynierii Środowiska i Melioracji "Ekoprojekt" Sp. z o.o., Stefana Batorego St. No 126a in Zielona Góra, by a team composed of: Tadeusz Kowalewski, Teresa Gruszewska, Jerzy Zieliński, Henryk Kucharczyk and Katarzyna Jakubiec.

The information about submitted report was published on the 7<sup>th</sup> of October 2009 in publicly available register of information on the environment, kept by the Otyń Commune under sheet No 2/E/2010.

Having received the report, the Head of Otyń Commune, acting under Article 79 Par. 1 of above-cited EIA Act, enabled the society to participate in the proceedings, by making public, by Announcement ref.: SOŚ-7624-7/3/09 of October 21<sup>st</sup>, 2009, the information within the scope specified in Article 33 Par. 1 of the EIA Act, including the information concerning the application and its subject, the authority competent to consider the application and to issue the decision and about the authorities taking part in assessment of impact on the environment which are competent to issue an opinion and to make arrangements, about the possibility to familiarise with the documentation related to the case and also about the possibility, procedure and place of submitting requests and remarks within the time limit of 21 days.

The announcement, which contained aforementioned information, was displayed in the Otyń Commune, for the period from October 21<sup>st</sup>, 2009 to December 18<sup>th</sup>, 2009 on the notice boards in villages: Otyń, Modrzyca and Bobrowniki and in the publicly available data list (Bulletin of Public Information) kept by the Head of Otyń Commune. The announcement

was also displayed on the notice board in the seat of the City Hall in Nowa Sól for the period from October 22<sup>nd</sup>, 2009 to November 13<sup>th</sup>, 2009.

Simultaneously, acting under Article 106 §1 of the Administrative Procedure Code, in connection with Article 77 Par. 1 and Article 78 Par. 1 Subpar. 2 of the EIA Act, the Head of Otyń Commune, by the letter of October 21<sup>st</sup>, 2009, enclosing a/m report on impact of the undertaking on the environment, requested:

- the Regional Director for Environmental Protection in Gorzów Wielkopolski for settlements for the conditions of implementing the undertaking in question (letter ref.: SOŚ-7624-7/10/09);
- the State District Sanitary Inspector in Nowa Sól for expressing an opinion in the matter of implementation of the undertaking in question (letter ref.: SOŚ-7624-7/11/09).

Basing on submitted report, prepared in September 2009, the State District Sanitary Inspector in Nowa Sól, by the letter of October 26<sup>th</sup>, 2009 ref.: ONS-NZ-4301/17/09, expressed its opinion that the planned investment and the effects of its implementation should not adversely affect the human health.

The Regional Director for Environmental Protection in Gorzów Wielkopolski, in the letter ref.: ROŚ-08-WPN II-6632-5-40/09/danj of November 5<sup>th</sup>, 2009, stated that the submitted report could not constitute the grounds for settlements for environmental conditions of implementing the aforementioned undertaking, most importantly due to the fact that the data and information contained therein were insufficient for proper identification and assessment of the effects of implementing the whole investment in relation to the objectives of natural environment protection, including in the Natura 2000 sites.

In relation to the aforementioned standpoint, the Head of Otyń Commune, by the letter ref.: SOŚ-7624-7/11/09 of November 17<sup>th</sup>, 2009, called Mr. Tadeusz Kowalewski to supplement the EIA report by the elements indicated by RDOŚ in a/m letter of November 5<sup>th</sup>, 2009.

The works related to supplementation of the report were completed in September 2010. The supplemented report, prepared in September 2010 by BPIŚiM "EKOPROJEKT" Zielona Góra, by Marcin Bocheński, Wojciech Zieleniewski and Katarzyna Jakubiec, was submitted, along with its recording on a CD, to the Otyń Commune Office by the applicant's letter ref.: P-421-103/200821/10 of September 27<sup>th</sup>, 2010.

Having received the supplemented report, the Head of Otyń Commune, acting under Article 79 Par. 1 of the EIA Act, by Announcement ref.: SOŚ-7624-7/14/10 of October 8<sup>th</sup>, 2010, provided to the public the information within the scope specified in Article 33 Par. 1 of the EIA Act, including the information concerning the application and its subject, the authority

competent to consider the application and to issue the decision and about the authorities taking part in environmental impact assessment which are competent to make settlements and to issue an opinion, and also about the possibility to familiarise with the documentation related to the case and about the possibility, procedure and place of submitting requests and remarks within the time limit of 21 days.

The announcement, which contained aforementioned information, was displayed in the Otyń Commune, for the period from October 12<sup>th</sup>, 2010 to November 3<sup>rd</sup>, 2010 on the notice boards in the seat of the Office of Otyń Commune and in villages: Otyń, Modrzyca and Bobrowniki and also in the publicly available data list (Bulletin of Public Information) kept by the Head of Otyń Commune. The announcement was also displayed on the notice board in the seat of the City Hall in Nowa Sól for the period from October 13<sup>th</sup>, 2010 to November 4<sup>th</sup>, 2010.

Simultaneously, acting under Article 106 §1 of the Administrative Procedure Code, in connection with Article 77 Par. 1 and Article 78 Par. 1 Subpar. 2 of the EIA Act, by the letter of October 8<sup>th</sup>, 2010, enclosing the supplemented EIA report, the Head of Otyń Commune requested:

- the Regional Director for Environmental Protection in Gorzów Wielkopolski for settlements for the conditions of implementation of the undertaking in question (letter ref.: SOŚ-7624-7/12/09/10);
- the State District Sanitary Inspector in Nowa Sól for expressing an opinion in the matter of implementing the undertaking in question (letter ref.: SOŚ-7624-7/13/09/10).

The State District Sanitary Inspector in Nowa Sól, by the letter of October 13<sup>th</sup>, 2010 ref.: ONS-NZ-4301/19/10, gave positive opinion for the planned investment.

The Regional Director for Environmental Protection in Gorzów Wielkopolski did not express its standpoint in the matter of settlements for the undertaking in question, because – in accordance with the changed legal state, which at that time was already in force – he was the authority competent for issuing the decision on environmental conditions for the undertaking in question, not for making settlements for conditions of its implementation. Therefore, by the letter ref.: RDOŚ-08-WPN II-6632-5-40/09/10/danj of October 29<sup>th</sup>, 2010, referring to the regulation of Article 75 Par. 1 Subpar. 1 letter i) of a/m EIA Act, implemented on August 25<sup>th</sup>, 2010, he requested the Head of Otyń Commune for handing over the whole documentation related to the planned undertaking.

According to conducted pre-analysis of all handed over documents, the proceedings regarding issuance of environmental decision and the environmental impact assessment, conducted as a part of the said proceedings for the undertaking in question, were carried

out by the Head of Otyń Commune in accordance with effective relevant legal regulations, while the files collected in the course of conducted proceedings, which were handed over by the decision of November 22<sup>nd</sup>, 2010 ref.: SOŚ-7624-7/16/09, constituted complete and exhaustive evidentiary material which as a whole could be used by the present authority to continue the proceedings in the case at hand – despite the changes implemented on the 25<sup>th</sup> of August 2010 to provisions of the *Act on providing information on the environment and its protection, public participation in environmental protection and environmental impact assessments*.

In addition, continuing by the present authority of administrative proceedings instituted by the Head of Otyń Commune would not be in conflict with other changes implemented on the 25<sup>th</sup> of August 2010 to provisions of the *Act on providing information on the environment and its protection, public participation in environmental protection and environmental impact assessments*, since it is of no importance for the procedure of environmental impact assessment that in case of flood defences it is no longer necessary to enclose to the application an extract from the local spatial development plan or the information about its absence and that pursuant to Article 14 of a/m Special Flood Act instead of two decisions: decision on determining location of public purpose investment and decision on construction permit for development of flood embankments, only one decision shall be issued, i.e. the decision on investment project implementation permit. This follows from the fact that the changes in the provisions of the EIA Act refer to Article 72 Par. 1, in which the catalogue of decisions, before obtainment of which an environmental decision is issued, was broadened (in Article 72, Par. 1 Subpar.18) by decision on investment project implementation permit, issued on the basis of the aforementioned Special Flood Act.

The fact that on November 15<sup>th</sup>, 2010, after enforcing the new Regulation of the Council of Ministers of November 9<sup>th</sup>, 2010 on determining the types of undertakings which may significantly affect the environment (Journal of Laws No 213, item 1397), the Regulation of the Council of Ministers of November 9<sup>th</sup>, 2004 on determining the types of undertakings which may significantly affect the environment and detailed conditions for qualifying undertakings for an environmental impact report (Journal of Laws of 2004, No 257, item 2573 as amended) was no longer in force does not affect the proceedings conducted in the case at hand, either. Pursuant to §4 of the new Regulation, any proceedings related to issuance of environmental decisions which were instituted before enforcement of the new regulation shall be subject to the legislation hitherto in force.

Taking into account the arguments, referred to above, the Regional Director for Environmental Protection in Gorzów Wielkopolski commenced the environmental impact assessment under continued administrative proceedings regarding issuance of environmental decision for the undertaking in question.

Pursuant to the requirement set forth in Article 17Par. 3 pf a/m Act of 8 July 2010 on special rules concerning the preparation and implementation of investments related to flood defences, the General Director for Environmental Protection was informed, by the letter of December 7<sup>th</sup>, 2010, about the application, submitted by the Head of Otyń Commune, for issuance of a decision on environmental conditions for a/m undertaking.

Meeting the requirements set forth in the *Act on providing information on the environment and its protection, public participation in environmental protection and environmental impact assessments* (Journal of Laws No 199, item 1227, as amended) and in accordance with the regulations of the Administrative Procedure Code, bearing in mind the need to inform the parties to the proceedings and the public about the change of the authority competent to issue environmental decisions, the Regional Director for Environmental Protection in Gorzów Wielkopolski proceeded as follows:

- Published the information about the application for issuance of environmental decision in publicly available data list, under No 2010/A/0152.
- Published the information about the environmental impact report for the undertaking in question in publicly available data list, under No 2010/E/0153.
- Informed the investor and a legal representative acting on behalf of the investor about instituting administrative proceedings – by Announcement of December 13<sup>th</sup>, 2010 – pursuant to Article 61 §4 of the Administrative Procedure Code.
- Informed other parties to the proceedings about instituting administrative proceedings – by Announcement of December 13<sup>th</sup>, 2010 – pursuant to Article 49 and Article 61 §4 of the Administrative Procedure Code.

The Announcement was published in the Public Information Bulletin at the website of RDOŚ, where it was available from December 13<sup>th</sup>, 2010 to December 28<sup>th</sup>, 2010. The Announcement was also displayed on the notice board in the seat of RDOŚ in Gorzów Wielkopolski – during the period from December 13<sup>th</sup>, 2010 to December 28<sup>th</sup>, 2010, on the notice board in the Office of Otyń Commune and in the Public Information Bulletin at the website of the Commune Office in Otyń and on the notice board in Modrzyca – for the period from December 22<sup>nd</sup>, 2010 to January 5<sup>th</sup>, 2011, and also on the notice board in the City Hall in Nowa Sól – during the period from December 16<sup>th</sup>, 2010 to December 30<sup>th</sup>, 2010.

- Made public, by Announcement of December 21<sup>st</sup>, 2010, the information pursuant to the requirement set forth in Article 33 of the EIA Act, i.a. the information about the application submitted by the Head of Otyń Commune and its subject, about the authority competent to consider the application and to issue the decision and about the authority taking part in assessment of impact on the environment which is competent to issue an opinion and about the possibility to familiarise with the

documentation related to the case and also about the possibility, procedure and place of submitting requests and remarks. The period for submitting requests and remarks was fixed from December 28<sup>th</sup>, 2010 to January 17<sup>th</sup>, 2011. The Announcement was published in the Public Information Bulletin at the website of RDOŚ, where it was available from December 28<sup>th</sup>, 2010 to January 17<sup>th</sup>, 2011. The Announcement was also displayed on the notice board in the seat of RDOŚ in Gorzów Wielkopolski – during the period from December 27<sup>th</sup>, 2010 to January 18<sup>th</sup>, 2011, on the notice board in the Office of Otyń Commune and in the Public Information Bulletin at the website of the Commune Office in Otyń and on the notice board in Modrzyca – for the period from December 28<sup>th</sup>, 2010 to January 17<sup>th</sup>, 2011 and also on the notice board in the City Hall in Nowa Sól – during the period from December 16<sup>th</sup>, 2010 to December 30<sup>th</sup>, 2010.

Additionally, a working meeting was held on December 17<sup>th</sup>, 2010 in the seat of RDOŚ in Gorzów Wielkopolski, the purpose of which was discussing the matters regarding the protection of nature and clarifying the doubts as to possible significant impact of the undertaking on the environment.

The meeting was attended by representatives of the investor and of the investor's legal representative, the authors of the EIA report and representatives of RDOŚ in Gorzów Wielkopolski.

On the basis of collected evidentiary material, the Regional Director for Environmental Protection in Gorzów Wielkopolski determined as follows:

According to the aforementioned documentation, the existing flood protection system for the Nowa Sól areas is insufficient in relation to the protection level required for the residential areas, industrial areas, public roads and technical infrastructure facilities of the Nowa Sól city and agricultural areas in the Otyń Commune having great economic value.

The existing flood embankments: the Odra left-bank embankment and the Czarna Struga backwater embankments do not meet the primary requirements as regards:

- raising the crest over computational waters,
- having proper coefficient of stability,
- contacts to high terrains,
- ensuring adequate capacity of the valley for the transfer of flood waters.

As it follows from the submitted report, the planned change of the method and improvement of flood protection for the Pleszówek quarter in Nowa Sól shall be implemented by two stages, from which the first one is the subject of the present proceedings regarding issuance of decision on environmental conditions.

For the second stage the investor shall request for another decision, what is not in conflict

with effective regulations of the EIA Act.

The report submitted by the letter ref.: P-421-103/2008/7/09 of October 6<sup>th</sup>, 2009, along with the supplementation submitted by the letter ref.: P-421-103/200821/10 of September 27<sup>th</sup>, 2010, meets all requirements provided for in Article 66 of the Act of 3 October 2008 *on providing information on the environment and its protection, public participation in environmental protection and environmental impact assessments* (Journal of Laws No 199, item 1227 as amended). On the basis of the data and information contained in the report, the conditions of implementation and exploitation of the planned undertaking were determined, which guarantee the protection of all elements of the environment.

The report presents two variants of implementing the undertaking, from which the investor chose variant I, which assumes displacement of the Odra left-bank embankment section by 60-200m from the riverbed and expansion of existing backwater embankments of Czarna Struga river.

According to the report, the above variant is most favourable for the environment, since it is both technically and economically justified, and additionally it does not cause any infringement of environmental quality standards. Therefore, the present authority did not indicate other variant for implementation of the investment by the investor. The scope of works planned during implementation of the undertaking in the variant chosen by the investor, as well as the place thereof, are defined in item I hereof.

As it follows from the presented documentation, implementation of the undertaking shall consist most of all in carrying out earthworks, including i.a. constructing embankments, executing excavations, displacing soil and also in carrying out concrete works and driving sheet piles. The aforementioned works shall be performed using various means of transport, equipment for concrete works and heavy equipment for earthworks such as: bulldozer, roller, loader and compacting equipment.

Substances and energy (noise, gases, dusts, wastes, oil derivatives, etc.) shall be emitted to the environment only while performing building works. After completion the investment shall not be the source of emission of any substances and energy to the environment. With this regard, the conditions that need to be met in order to protect the environment while implementing the investment are defined in item II hereof.

According to the report, the undertaking in question shall not be connected with any risk of impact outside borders of our country. Thus, due to local character of impact of the planned undertaking, it shall not be necessary to conduct proceedings concerning cross-border impact on the environment.

For that reason it was found unnecessary to conduct proceedings concerning cross-border impact on the environment under the proceedings for issuance of decision on investment

project implementation permit.

The planned undertaking is not one of the plants listed in Article 248 of the Act of 27 April 2001 – Environmental protection law (Journal of Laws of 2008, No 25, item 150, as amended) which pose a threat of serious industrial failures.

The analysed undertaking does not belong to the installations defined in Article 135 Par. 1 of the Act - Environmental protection law, therefore there are no grounds to establish an area of limited use.

It is noted in the report that fragments of the planned undertaking's areas are located within the zone of strict preservation maintenance or in its vicinity, within a radius up to 1 km from the border of the zone of strict preservation maintenance. The border of the zone of strict preservation maintenance runs in the vicinity of the beginning section of the Odra embankment to be expanded (km 0+000), Korzeniowskiego Street and Żwirki i Wigury Street.

In addition, archaeological site No 4 (AZP 65-15/2) – a crematory cemetery dating back to the Bronze Age is located in this region. The investment terrain within the area of the end of left-bank backwater embankment of Czarna Struga river (km 3+129) is situated about 10m in the zone of strict preservation maintenance. The surroundings of the aforementioned zone are included in the investment area and – with reference to particular embankments and Czarna Struga river – extends to:

- the Odra embankment – to km 1+050;
- the left-bank backwater embankment of Czarna Struga river – to km 1+950;
- the right-bank backwater embankment of Czarna Struga river – to km 1+950;
- Czarna Struga river – to km 2+200.

With respect to aforementioned areas covered by preservation maintenance, it is necessary to make settlements for design works in those areas with the Provincial Heritage Conservator in Zielona Góra, what was written in the conditions determined herein. The Contractor of works shall be also obliged to inform the conservator about any possible findings during earthworks.

The undertaking in question is located in immediate vicinity of two Natura 2000 sites, whose borders in the analysed area overlap.

They are:

- Birds Special Protection Area (BSPA) "The Middle Odra Valley" (PLB080004);
- Habitats Special Protection Area (HSPA) "The Odra Valley in Nowa Sól" (PLH080014).

Aforementioned Natura 2000 sites are located in the Odra river's embanked area, i.e. east of the upstream toe of the Odra modernised embankment.



Additionally, the embankment shall be implemented in small part (the mouth of Czarna Struga river) on the terrain of landscape protection area "21 – The Odra Valley in Nowa Sól". The possibility of potential impact of the undertaking on aforementioned Natura 2000 sites was particularly deeply analysed in the "Environmental impact report" and the supplementation thereto. The elements for protection of which a given site was determined were subject to assessment. The present authority considered the material presented in the said documents to be satisfactory for proper assessment of impact of the undertaking on natural environment.

The investment implementation stage carries the risk of periodical destruction of natural habitats (habitat No 6510 – hay meadows extensively used) in few meter long swathe of land about 1.5 km long along the Odra embankment. According to the report – after completion of the investment any destroyed swathes of habitats shall be reconstructed as part of reinstating works or shall be self-regenerated. The said impacts, according to the EIA report, do not significantly affect integrity and functioning of Natura 2000 sites. Increased traffic of vehicles and construction equipment, as well as increased penetration of the area by workers performing works may adversely affect reproduction of birds and for that reason it is necessary to adhere to the timetable of construction works.

As it results from conducted environmental impact assessment, implementation and exploitation of analysed undertaking – with observance of all conditions presented in the EIA report and in the supplementation thereto, as well as those defined herein – shall not cause hazards that would require carrying out an environmental compensation. Therefore, no requirements in this regard are determined herein.

Having conducted the environmental impact assessment, before issuing the decision on environmental conditions, the present authority, acting under Article 10 §1 and Article 49 of the Administrative Procedure Code, informed all parties to the proceedings, by Announcement of January 18<sup>th</sup>, 2011 ref.: WNOŚ-II.4233.2.2011.AN, about collecting the whole evidentiary material in the case for issuance of decision on environmental conditions for the undertaking in question and about possibility for the parties to make statements as to the collected evidence and materials before issuing the requested decision.

The Announcement was published on the notice board and in the Public Information Bulletin on the website of RDOŚ, where it was available from January 18<sup>th</sup>, 2011 to February 1<sup>st</sup>, 2011.

The Announcement was also displayed on the notice board in the Commune Office of Otyń and in the Public Information Bulletin on the website of the Commune Office of Otyń and on the notice board in the City Hall in Nowa Sól – for the period from January 20<sup>th</sup>, 2011 to February 3<sup>rd</sup>, 2011.

In the course of conducted proceedings with participation of the public, no remarks or requests relating to the undertaking were submitted within the time limits indicated in the Announcements of the Head of Otyń Commune and in the Announcement of the present authority.

No non-governmental organisations, acting for the protection of environment, took part in the proceedings regarding the assessment of impact of the planned undertaking on the environment, as they did not report their will to take part in the conducted proceedings.

In regard to the foregoing, taking into account the whole evidentiary material collected by the Head of Otyń Commune, the opinions presented by the State District Sanitary Inspector in Nowa Sól, taking into consideration the arrangements contained in the environmental impact report for the undertaking and in the supplementation thereto and also the outcome of conducted proceedings with participation of the public, acting on the basis of the legal regulations cited in the introduction hereof, it was decided as stated hereinabove.

Appendix: Characteristics of the planned undertaking.

### Information

- A decision on environmental conditions should be enclosed to the application for issuance thereof, referred to in Article 72 Par. 1 Subpar. 1-18 and Article 72 of the *Act on providing information on the environment and its protection, public participation in environmental protection and environmental impact assessments*, within the date fixed in Article 72 par. 3 and 4 thereof.
- Any changes of decisions on environmental conditions shall be subject to relevant provisions on issuance of decisions on environmental conditions.
- Information about the decision is subject to disclosure in publicly available data list.
- The parties may appeal against the decision to the General Director for Environmental Protection in Warsaw via the Regional Director for Environmental Protection in Gorzów Wielkopolski within 14 days from the date of delivery.

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This decision is final since no appeal was filed within statutory deadline.

Under Article 7 Subpar. 3 of the Act of November 16<sup>th</sup>, 2006 on stamp duty (Journal of Laws of 2006, No 225, item 1635 as amended), no stamp duty was collected for issuing of this decision.

Recipients:

1. Mr. Tadeusz Kowalewski
2. Lubuski Board of Amelioration and Hydraulic Structures in Zielona Góra
3. other parties to the proceedings- under Article 49 of the Administrative Procedure Code
4. File.

Copies to:

1. The Head of Otyń Commune
2. The President of Nowa Sól city

**REGIONAL DIRECTORATE FOR  
ENVIRONMENTAL PROTECTION  
IN GORZÓW WIELKOPOLSKI**

**Appendix to the decision on environmental conditions,  
ref.: WOOŚ-II.4233.2.2011.TK of February 16<sup>th</sup>, 2011.**

**UNDERTAKING CHARACTERISTICS**

The undertaking refers to the reconstruction, expansion and demolition of existing and construction of new flood protection facilities for the city of Nowa Sól, the Pleszówek quarter, located within left bank part of the Odra valley and Czarna Struga river.

The site for implementation of the undertaking is located on the area comprising 184 plots with total surface area 44.1284 ha, situated within the Lubuskie Province, the Nowa Sól district within territory of: the Nowa Sól Municipality and the Otyń Commune.

The scope of the undertaking shall comprise:

- expansion of left-bank flood embankment of Odra river at chainage km 429.85÷432.40 with related structures, consisting in:
  - expanding the embankment over a length of 1.2 km – Odra river at chainage km 429.85÷431.00;
  - demolishing the embankment body over a length of 1.435 km – Odra river at chainage km 431.00÷432.40;
  - constructing new 1.537 km long embankment section, replacing the functionally demolished embankments, i.e. a section of Odra embankment and a section of Czarna Struga right-bank backwater embankment.
- expansion of Czarna Struga left-bank backwater embankment, with related structures, consisting in:
  - expanding the existing embankment body on the river section at chainage km 0.000÷2.840;
  - extending the embankment (constructing new section) to km 3.330 of the river.
- expansion of right-bank backwater embankment of Czarna Struga river including the related structures, consisting in:
  - demolishing the existing embankment on the river section at chainage km 0.000÷0.293;
  - expanding the existing embankment body on the river section at chainage km

0.293÷3.104.

- Expansion of Czarna Struga riverbed on the river section at chainage km 0.000÷3.330.

The aforementioned works shall be the first stage of changing the method and improving the protection level of the Pleszówek quarter in Nowa Sól.

The planned displacement of Odra left-bank embankment from the river bank (approx. 60-200m) shall increase the cross-section of high waters in the Odra valley and shall reduce the risk of ice dams within the area of km 431 of Odra river.

The designed correction of embankment route shall also be the preparation of Odra embankment geometry for construction of levee (dam) damming the Czarna Struga valley within the area of its mouth to Odra river.

Expansion of Czarna Struga embankments shall contribute to improvement of their stability and tightness, while raising the right-bank embankment and construction of additional section of left-bank embankment being a closure to high terrain shall significantly improve protection against flood in this part of Nowa Sól.

Implementation of the undertaking shall allow protecting the residential areas, industrial areas, public roads and technical infrastructure facilities of the Nowa Sól city and agricultural areas in the Otyń Commune, having great economic value, situated in the Otyń Commune.

[stamp of the Regional Director for Environmental Protection in Gorzów Wielkopolski - Jan Rydzanicz */illegible signature/ and stamp of acting Regional Director for Environmental Protection in Gorzów Wielkopolski – Wincenty Piworun – Deputy Regional Director for Environmental Protection, Regional Nature Conservator in Gorzów Wielkopolski */illegible signature/**

This decision is final since no appeal was filed within statutory deadline.