



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

Państwowe Gospodarstwo Wodne Wody Polskie Regionalny Zarząd Gospodarki Wodnej we Wrocławiu	
WPLYNĘŁO DNIA: 02-11-2020	
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OPDOW

WOOŚ.420.21.2020.AP.19

Wrocław, 28 October 2020

**DECISION**

Pursuant to Article 71(2)(2), Article 75(1)(1)(i), Article 75(1a), 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), as well as § 3(1)(62) and (67) and § 3(2)(2) in conjunction with Article 3(1)(69)(c) of the regulation of the Council of Ministers of 10 September 2019 on the investments that may significantly impact the environment (Journal of Laws of 2019, item 1839) and Article 104 and 108 § 1 of the Act of 14 June 1960, the Code of Administrative Procedure (i.e. Journal of Laws of 2000, item 256, as amended), after examination into the application submitted by the investor - the State Water Holding Polish Waters, acting through the intermediation of the State Water Holding Polish Waters Regional Water Management Authority in Wrocław, on behalf of which the representative, Ms Alicja Borowska, is acting, for issuing the decision on environmental conditions,

**I establish**

**environmental conditions for the project entitled: "Task 2B.2/2 Flood protection of the valleys of the Bystrzyca Dusznicka River and the Kamienny Potok River (passive protection) - Duszniki-Zdrój Facility" in scenario 1.**

**I. I determine:**

**1. The type and location of project implementation:**

The planned project consists in the construction, reconstruction and reinstatement of regulatory structures together with the facilities connected with them functionally. The investment will cover a section of the Bystrzyca Dusznicka river from km 25+817 to km 30+260, together with an estuary section of the Jastrzębnik and Podgórna streams. The valley of the Bystrzyca Dusznicka river, covered by the activities, is located entirely within the boundaries of the Duszniki-Zdrój commune, with its registry areas: Centrum, Zdrój and Lasy, Kłodzko Powiat, Lower Silesia Province.

**2. Significant conditions of using the environment in the implementation and operation stages, with special emphasis on the necessity to protect natural**

**values, natural resources and monuments, and to restrict nuisance to neighbouring areas:**

- 2.1. Machinery and vehicle parking areas must be adequately protected after the works are completed against the penetration of contamination into the soil and water (in the event of leakage, breakdown of vehicles and machinery), including appropriate sorbent stands.
- 2.2. In the case of emissions of petroleum-based pollutants into water, immediate action must be taken to prevent the spread of the pollutants and remove the pollutants from the water surface without delay.
- 2.3. The wastes generated during the implementation of works should be categorised and stored separately in tight containers or at places being enclosed and adapted for this purpose, under conditions which prevent dusting and dispelling light fractions, and their negative effects on the environment.
- 2.4. Segregation and storage of hazardous waste shall be conducted in designated sealed containers set up on the hardened ground, 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, technological yards, construction material and humus storage areas should be located at a distance of not less than 50 m from wetlands.
- 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 bridges, debris flow dams, construction of ramps and relief channel).
- 2.8. Reduction of dust from construction sites and roads shall 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 shall be carried out under the current nature supervision of the following experts: lichenologist (lichens), botanist-phytosociologist (protected natural habitats and protected species of plants), dendrologist (principles of care and protection of trees), entomologist (protected species of invertebrates, macrozoobenthos), ichthyologist (fish and lampreys), herpetologist (amphibians and reptiles), ornithologist (birds), chiropterologist (bats), theriologist (mammals other than bats).
- 2.11. Works shall be carried out with "from the land" technology. It is allowed to carry out works in the riverbed only if it is not possible to carry out works from the bank, in the case of e.g. existing infrastructure, buildings, trees, places of 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 the sections of watercourses where ongoing works are planned - follow the ichthyologist's instructions.
- 2.15. 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°) - measurements should be taken daily.
- 2.16. Measure the suspended solids concentration in water on a daily basis. Measurement points should be located approx. 200 m below the site of the earthworks in the riverbed or on the bank slopes. Measurements should be taken at least 3 hours after the start of works on the given day. If a concentration of suspended solids above 40 mg/l is found, works must be stopped. Works can be restarted 3 hours after the suspended solids have fallen below 40 mg/l. If a concentration of suspended solids above 60 mg/l is found, works must be stopped by the end of the day. They can only be restarted after remeasurement and when the suspended solids concentration is below 40 mg/l. It is recommended to use automated suspended solids measuring equipment to obtain readings directly during or after the measurement.

- 2.17 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 ichthyologist's supervision (by means of a three-fold follow-up electrofishing carried out at 1-hour intervals). During electrofishing, special attention should be paid to catching larvae of European Brook Lamprey *Lampetra planeri* from the outwashes of silt and detritus inhabited by them and to the specimens of European Bullhead *Cottus gobio* and Alpine Bullhead *Cottus poecilopus*, which use hiding places under rocks and in the patches of dense water vegetation. If foreign species are found, listed in the *Regulation of the Minister of the Environment of 9 September 2011 on the list of plants and animals of foreign species which, if released to the environment, may threaten native species or natural habitats, Journal of Laws of 2011, No. 210, item 1260*) - e.g. Topmouth Gudgeon - 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 planned.
- 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 conversion of sills, barrages and weirs into ramps.
- 2.20. Back-up facilities of construction sites, roads and technological yards shall be located: outside the areas covered with high greenery (trees, bushes) intended to be preserved in the construction design; outside the area of identified natural habitats and outside the area of habitats and places of occurrence of protected species intended to be preserved in the construction design.
- 2.21. In zone "A" of health resort protection, felling of forest and park trees is forbidden with the exception of tending cuttings, and in zone "B" of health resort protection, felling of forest and park trees is forbidden with the exception of tending cuttings and felling specified in the forest management plan.

- 2.22. Trees and bushes felling in the period of 1 March to 31 August shall 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.
- 2.23. 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.
- 2.24. 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).
- 2.25. 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 and at a distance of not less than 50 m from wetlands.
- 2.26. 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.
- 2.27. 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.
- 2.28. Prior to commencement of any construction works, the stumps of the trees exposed to mechanical damage should be protected with wooden boards to a height of 2-3 m from the ground level (bottom of the boards is to be based on the substrate). Between the boards and the surface of the tree trunk, place the flexible material (e.g. thick straw mats), protecting the stump against abrasion by boards.

Boards must be attached to the stump (e.g. with the bands of wire or steel tape), in a manner that does not damage the tree. During the period of works performance, the condition of the safety measures should be systematically checked and any damage should be removed. If valuable species of bryophytes and/or lichens are found on the trunk, the trees shall be protected in a way that does not endanger the protected species under the supervision of an appropriate nature supervision expert.

- 2.29. 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 an expert-dendrologist, but if possible, those boughs which form shaded zones in the riverbed should be left.
- 2.30. 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.
- 2.31. The patches of natural habitats adjacent to work areas, but not intended to be removed (in accordance with the design documentation) should be visibly marked and effectively protected against damage under the supervision of an expert phytosociologist (before the commencement of works).
- 2.32. 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.
- 2.33. 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.
- 2.34. Prior to the commencement of the works, an inventory of protected species of plants, aphids and red algae in the bed of the Bystrzyca Dusznicka and Jastrzębnik and Podgórna streams shall be made in the sections where the works are planned. Next, plants/stones inhabited by the above-mentioned species should be moved from the areas at risk of destruction, where the presence of the above-mentioned species was found, under the supervision of an expert botanist and lichenologist, 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.

- 2.35. 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.
- 2.36. All works in the vicinity of nature monuments (6 trees of the species Common Beech *Fagus sylvatica* and Small-leaved Lime *Tilia cordata*) growing in the Health Resort Park on the bank of Bystrzyca Dusznicka are performed under the current supervision of a dendrologist. Before starting the works, a dendrological expert's opinion should be prepared, including an indication of how to minimise the impacts according to the current state of the given object. The scope of works in the area of the objects should be limited to the necessary minimum resulting from technical and technological reasons.
- 2.37. Prior to the commencement of the works on the watercourse, protect against damage - by appropriate marking - the patches of the natural habitat 3260 Lowland and foothill rivers with white water-crowfoot communities *Ranunculion fluitantis* or, transferring the plants forming the habitat to a section of the watercourse which will not be covered by the works. The works shall be performed under the supervision of a botanist - phytosociologist.
- 2.38. Prior to the commencement of the works, in the planned tree felling sites, where the presence of the following lichens has been found: *Bryoria fuscescens*, *Pleurosticta acetabulum*, Oakmoss *Evernia prusnastri*, *Ramalina farinacea*, *Ramalina fastigiata*, *Tuckermannopsis chlorophylla*, Fishbone Beard Lichen *Usnea filipendula* and *Usnea subfloridana*, prepare a detailed inventory of the above-mentioned species with the assistance of an expert lichenologist. If the above species are found on trees to be cut down, the works should be carried out under the strict supervision of an expert lichenologist and the necessary measures should be taken to minimise the impacts indicated by the expert.
- 2.39. Prior to the commencement of the works, in the places of planned tree felling, where the presence of *Ulotia crispa* and *Ulotia bruchii* was found, a detailed inventory of the above-mentioned species should be made with the participation of a botanist - phytosociologist. In the event of a collision between the species' sites and the areas of planned works, metaplanting of specimens should be carried out under the supervision of a botanist-phytosociologist expert, moving all the inhabited tree trunks (whole) to the sites suitable for the habitat.

- 2.40. Prior to the commencement of the construction works, move the specimens of the following protected plant species to sites with appropriate habitat conditions:
- a. River Water-Crowfoot *Batrachium fluitans* - move a minimum of about 90% of the individuals of the species threatened with destruction in connection with the implementation of the project to places where the works have already been carried out or to places not covered by the works along the urban section in the town of Duszniki-Zdrój (above the current location of the front of works). The transfer of specimens shall be carried out under the strict supervision of an expert botanist - phytosociologist and ichthyologist;
  - b. Goat's Beard *Aruncus sylvestris* - move all specimens of the species threatened with destruction in connection with the project. The transfer of specimens shall be carried out under the strict supervision of an expert botanist - phytosociologist;
  - c. Spring Snowflake *Leucoium vernum* - move all specimens of the species threatened with destruction in connection with the project. The transfer of specimens shall be carried out under the strict supervision of an expert phytosociologist.

**3. Requirements concerning the environmental protection required to be considered in the documentation requirements to issue the decision, laid down 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 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. Make no less than 40 such niches over the entire working area, distributed as evenly as possible. The works shall be carried out under the supervision of an ornithologist.
- 3.2. Technical solutions of the renovated barrages: H-45 at km 27+048, H-46 at km 27+421 and H-48 weir at km 27+522 of the Bystrzyca Dusznicka river, should ensure free migration of fish and other aquatic organisms. Barrages and weirs should be made in the form of semi-natural ramps across the entire width of the bed enabling free migration of fish and lampreys and other aquatic organisms (inclination of approx. 1:25 or milder, stone rip-rap of varying fractions, not bound by concrete in the surface part, cross profile with low water pit in the middle part). The designs of the barrages and weir to be converted into ramps should be agreed with an ichthyologist specialist 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 the relief channel, debris flow dams and ramp elements. 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 riverbed, 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 planned debris flow dams should be made in an openwork form, so that they would retain only heavy rock and tree rubble and allow the transport of fine rock and tree rubble outside the periods of floodwater flow and ensure free migration of aquatic organisms. The designs of debris flow dams should be agreed with a botanical expert - phytosociologist and ichthyologist expert at the stage of project documentation development.
- 3.7. In the case of identified collisions of trees growing in the bankline with the planned works, consult an expert dendrologist and ichthyologist.
- 3.8. Use stone lining on the bottom of the relief channel planned to be made within the town of Duszniki-Zdrój, which will ensure the complete outflow of water from the channel after the passage of flood waters.
- 3.9. The relief channel on the upstream side should be equipped with a threshold allowing water to flow only in case of flood conditions.
- 3.10. The connection of the relief channel with the river from the downstream side should be designed in a gentle way, with minimal interference with the bottom and riverbed banks (if it is needed to reinforce the bottom in Bystrzyca Dusznicka, the place of connection with the relief channel may be reinforced with a stone rip-rap founded in concrete).

## **II. I state it necessary:**

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

- 1.1. If it is necessary to carry out works in the period from October to the end of February, which will result in losses of stream trout eggs in the spawning grounds below the site of the works performance, stocking with stream trout should be carried out annually during the works performance period in cooperation with an expert ichthyologist. For stocking, stocking material from the Nysa Kłodzka catchment area must be used and the size of the stocking density must be based on an assessment of the real losses in the species population and the amount of stocking material introduced by the fishing user. In addition, the expert ichthyologist, in consultation with the fishing user of the waters, may indicate the need for additional stocking in the year following the completion of the works, in order to maintain the species abundance until the spawning conditions in the section covered by the works are restored.

- 1.2. In the area of the town of Duszniki-Zdrój - 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 the period of 5 years from the completion of the investment - in the section covered by the project - carry out annual monitoring of patches of the natural habitat 91E0 Willow-poplar-alder-ash forests *Salicetum albae*, *Populetum albae*, *Alnenion glutinosoincanae*, large bittercress and 3260 Lowland and foothill rivers with *Ranunculion fluitantis* communities.  
  
Monitoring should be carried out in terms of the quality of the parameter "structure and functions of the habitat" (according to the methodology of the State Environmental Monitoring of the Chief Inspectorate of Environmental Protection) and the hydromorphological state of Bystrzyca Dusznicka below and above the debris flow dams. If a negative impact of dams on natural habitats and watercourse hydromorphology is found (by the hydromorphologist and phytosociologist), additional measures to eliminate the negative impact should be identified and implemented.
- 2.2. In the first and third year after the completion of the works, monitor the success of replanting of individuals of River Water-Crowfoot, Goat's Beard and Spring Snowflake.
- 2.3. In the first and third year after the completion of the works, the occurrence of fish and lampreys as well as macro-vertebrates should be monitored by means of fishing on 4 sites at the section of the Bystrzyca Dusznicka covered by the execution of the project in question.
- 2.4. In the first, third and fifth year after the completion of the works - with the participation of an ichthyologist specialist - carry out the monitoring of the functioning of the ramps in the context of migration of aquatic organisms. Monitoring studies should, inter alia, take into consideration the catching of fish in the ramps, during spring and autumn migration.

2.5. For each stage (year) of the monitoring carried out, 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 authority issuing the decision), at the investor's expense, appropriate measures aimed at eliminating or minimising the factors influencing these irregularities.

**III. I do not impose an obligation to conduct an environmental impact assessment for the project and the proceedings in the scope of the cross-border impact on the environment under the proceedings on issuing the decision as mentioned 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. 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 19 March 2020 (date of receipt: 19 March 2020) the investor - the State Water Holding Polish Waters, acting through the intermediation of the State Water Holding Polish Waters the Regional Water Management Authority in Wrocław, on behalf of which the Ms Alicja Borowska acts, applied to the Regional Director for Environmental Protection in Wrocław for issuing a decision on environmental conditions for the above-mentioned project and for making it immediately enforceable.

The planned undertaking is classified as projects to have a potentially significant impact on the environment, listed in § 3(1)(62) and (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 impact 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(1a) and 75(1)(1)(i) 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 a competent authority responsible for issuing a decision on environmental conditions for this project.

Data on the application for issuing a decision on environmental conditions are included in the publicly available list of data on documents containing information on the environment and its protection (<http://www.ekoportal.gov.pl/>) under the number: 96/2020.

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 the Code of Administrative Procedure (i.e. Journal of Laws of 2020, item 256 as amended)*, hereinafter referred to as CAP, the local authority notified the parties to the proceedings of all actions taken in the case by way of a notice published in the Public Information Bulletin on the website of the Regional Directorate for Environmental Protection in Wrocław.

The Regional Director for Environmental Protection in Wrocław, by the notice of 23 March 2020, ref.: WOOS.420.21.2020.AP, informed the parties to the proceedings, inter alia: about initiating an administrative procedure for issuing the decision on environmental conditions for the above-mentioned investment, about the authority competent to issue the decision and the authorities competent to issue an opinion on the necessity to conduct an environmental impact assessment, about the possibility to familiarise oneself with the case files and to submit comments and applications at each stage of the procedure, about the place where the case files are kept and about the possible form of submitting the comments and applications, as well as about the authority competent to examine those comments and applications.

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

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

The State Poviast Sanitary Inspector in Kłodzko in a decision of 6 April 2020 (date of receipt: 08 April 2020), ref.: NS-ZNS-72-16/AZ/20, expressed an opinion on the lack of the need to conduct an environmental impact assessment.

The Minister of Maritime Economy and Inland Navigation, in a letter dated 07 April 2020 (date of receipt: 14 April 2020), ref.: DOK.DOK2.9750.1.14.2020.SW, stated the substantive deficiencies in the submitted Information Sheet for the Project entitled: "Task 2B.2/2 Flood protection of the valleys of the Bystrzyca Dusznicka River and the Kamienny Potok River (passive protection) - Duszniki-Zdrój Facility" prepared under the direction of Mr Wojciech Lewandowski, March 2020, hereinafter referred to as the PIS, and has requested the local authority to call the applicant to supplement the evidence. In view of the above, the local authority, with the letter of 17 April 2020, ref.: WOOŚ.420.21.2020.AP.6, called upon the investor's representative to supplement the PIS to the extent indicated by the Minister of Maritime Economy and Inland Navigation. With the letter of 08 May 2020 (date of receipt: 11 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 13 May 2020, ref.: WOOŚ.420.17.2020.AP.7, handed over the supplementation of the evidence to the Minister of Maritime Economy and Inland Navigation and with the letter of 18 May 2020, ref.: WOOŚ.420.17.2020.AP.8, applied also for a new opinion on the necessity to conduct an environmental impact assessment for 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 their opinion of 29 May 2020 (date of receipt: 04 June 2020), ref.: DOK.DOK2.9750.1.14.2020.SW, stated that there is no need to prepare an environmental impact assessment for the above-mentioned project, pointing out at the same time that the following conditions and requirements have to be complied with 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) Debris flow dams should be designed to preserve the free migration of aquatic organisms and the transport of fine rubble and wood rubble.
- 3) The designed ramps should ensure free migration of aquatic organisms.
- 4) When conducting works on the watercourse channel, the flow of water must be maintained and adequate conditions for the migration of aquatic organisms must be ensured.
- 5) The removal of natural morphological elements, such as mid-bed and bank outwashes, is only acceptable if it is necessary from the point of view of technology and organisation of works.
- 6) No materials should be recovered from the bottom of the riverbed for the purpose of the works.
- 7) The connection of the relief channel with the river from the downstream side should be designed in a gentle way, with minimal interference with the bottom and riverbed banks.

- 8) When carrying earthworks and works within the bed, the surface run-off and sediment turbidity resulting in the inflow of suspended matter to waters must be kept to a minimum.
- 9) 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.
- 10) The works planned for implementation should be carried out under the current supervision of an expert ichthyologist.
- 11) 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.
- 12) If harmful substances penetrate into the aquatic environment, in particular as a result of equipment failure due to leakage of fuels, greases and oils, it is necessary to use appropriate sorbents for capturing these contaminants, and the used materials after neutralisation should be handed over to authorised recipients.
- 13) Operating backyards of the construction site must be located at a suitable location away from the riverbed so that any pollution from the site does not enter the soil and water.

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. 2-4, no. 6-10 and no. 12-13 (prescribed in the conditions of cl. I sec. 3.6, cl. I sec. 3.2, cl. I sec. 2.18, cl. I sec. 3.5, cl. I sec. 3.10, cl. I sec. 2.12, cl. I sec. 2.18, cl. I sec. 2.10, cl. I sec. 2.2 and cl. I sec. 2.6 of this Decision). At the same time, the local authority considered that the provisions of condition no. 1, no. 5 and no. 11 refer to the characteristic features of the investment and technology of carrying out the works, which were included in the justification of this decision and are an element of the characteristics of the project in question or were formulated in a too general way or result from separate legal regulations which the investor is obliged to comply with in the case of undertaking the execution of the investment in question.

The State Powiat Sanitary Inspector in Kłodzko issued a position after 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 Regional Director for Environmental Protection in Wrocław has analysed the collected documentation in the context of the provisions of Article 63 Clause 1 of the cited act. In consideration of the information included in the project information sheet, the local authority has found that the said investment project may have a significant environmental impact and it is therefore required to develop an environmental impact assessment. In connection with the above, on 3 July 2020, the local authority issued the decision ref. WOOŚ.420.21.2020.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 for the decision with 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 above-mentioned fact by the notice of 3 July 2020, ref.: WOOŚ.420.21.2020.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: 186/2020, of which the authority informed in the above-mentioned announcement.

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

While fulfilling the statutory disposition of Article 63(5) of the *EIA Act*, the Regional Director for Environmental Protection in Wrocław by the decision of 30 July 2020, ref.: WOOŚ.420.21.2020.AP.11, suspended the proceedings on issuance of the decision on environmental conditions until submission by the applicant of the environmental impact report for the project. The parties are not entitled to appeal against this decision.

With the letter of 31 July 2020 (date of receipt: 6 August 2020), the investor's representative submitted the "The environmental impact report for the project entitled: "Task 2B.2/2 Flood protection of the valleys of the Bystrzyca Dusznicka River and the Kamienny Potok River (passive protection) - Duszniki-Zdrój Facility" (hereinafter Report) prepared under the direction of Mr Wojciech Lewandowski [SWECO Consulting Sp. z o. o., Wrocław, August 2020]. In consideration of the above, the Regional Director for Environmental Protection in Wrocław by the decision of 10 August 2020, ref.: WOOŚ.420.21.2020.AP.13, initiated the proceedings to examine the application. The data about the above-mentioned Report were included in the publicly available list of data about the documents containing information about the environment and its protection under the sheet number: 232/2020.

After analysing the Report and the submitted documentation, the Regional Director for Environmental Protection in Wrocław with the letter of 13 August 2020, ref.: WOOŚ.420.17.2020.AP.15, summoned the applicant to supplement its content. The documentation submitted in the case, including the Report, was finally supplemented on 04 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 2 November 2017, ref.: WOOŚ.420.21.2020.AP.16, made information about the planned project publicly available, i.e. information about:

- commencement of the proceedings;
- commencement of the environmental impact assessment for the project;
- the subject of the decision to be issued in the case;
- an authority competent to issue the decision and the authorities competent to issue the opinion;

- the possibility of familiarising oneself with the necessary case documentation and about the place in which it is made available for reading;
- possibility of submitting comments and applications;
- the method and place of submitting comments and applications, indicating at the same time the period of 30 days for their submission;
- an authority competent for consideration of comments and applications.

The announcement was made public from 11 September 2020 to 13 October 2020 (inclusive). The documents were made available for viewing in the registered office of the Regional Directorate for Environmental Protection in Wrocław. Comments and applications regarding the planned project could be submitted in writing at the above-mentioned address, verbally for the record or in the electronic version without having to provide a safe electronic signature from 14 September 2020 until 13 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 would not be considered. No comments or applications were filed in the established time limit. No comments were received after the deadline for submitting comments and requests, either.

Pursuant to Article 3(1)(11) of the *EIA Act*, information about the planned project was made publicly available by:

- announcing the information 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 Regional Director for Environmental Protection in Wrocław ([rdos.wroclaw.gov.pl](http://rdos.wroclaw.gov.pl));
- announcing the information in the place of investment execution, i.e.: on the information board of the Duszniki-Zdrój Town and Commune Office and on the information board located at Mickiewicza Street in Duszniki-Zdrój, near the Museum of Papermaking in Duszniki-Zdrój by the Bystrzyca Dusznicka riverbed,
- announcing the information about the planned project by means of a notice in the manner customary in the town competent for the subject matter of the proceedings by displaying the notice on a notice board and making it public in the BIP of Duszniki-Zdrój Town and Commune Office.

No comments or applications from the public 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, by fulfilling the statutory disposition of Article 10 § 1 of the CAP, informed the parties to the proceedings by way of a notice dated 14 September 2020, ref.: WOOŚ.420.21.2020.AP.18, that all the evidence was collected and about the possibility to read it and submit explanations and comments on the considered case before issuing this decision. 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 Poviát 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*.

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. identification 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.

As per Article 66 of the *EIA Act*, two investment scenarios and one non-investment scenario were appraised in the Report submitted for evaluation.

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, as a consequence, the areas of the commune that have been flooded up till now, would still remain in the hazard zone and the fragmentation of the riverbed for aquatic organisms would be maintained. In the applicant's opinion, failure to implement the project would therefore have a significantly negative impact and this scenario was therefore rejected.

The physical scope of the investment scenarios considered in both cases included modernisation of the existing regulatory structures of the Bystrzyca Dusznicka river, renovation of the estuary section of the Podgórna stream and construction of a relief channel in the area of the Museum of Papermaking.

The scope of works in scenario 1 encompassed: construction of two debris flow dams, construction of a relief channel to secure the Museum of Papermaking, renovation and reconstruction works, including: construction of new regulatory walls and revetment walls of the slopes at the section of about 655 m, reprofiling of the existing walls at the section of about 3 200 m, demolition of destroyed regulatory walls, superstructure of regulatory walls at the section of about 160 m, formation of a bipartite bed at the section of about 400 m, construction of bank revetments at the section of about 165 m, reconstruction of bottom revetments along with the construction of weir structures in the area of the Museum of Papermaking, sectional stabilisation of the longitudinal profile by the use of wooden buttresses, preparation of the area above the debris flow dam at the section of about 115 m, conversion of two barrages and a weir into semi-natural

stone ramps with an inclination of about 1:25, reconstruction of the footbridge M-68, demolition of the remains of the unused bridge M-59 at km 27+685, demolition of the damaged bridge M-74 at km 30+206, construction of three bridges in the course of existing roads, renovation of the weir H-44, renovation of the estuary section of the Podgórna stream, maintenance of the riverbed consisting in clearing the estuary section of the Jastrzębnik stream and cutting down trees and bushes. The total length of the section covered by the works only on the right bank of Bystrzyca Dusznicka in this scenario is about 925 m. The total length of the section covered by the works only on the left bank of Bystrzyca Dusznicka is about 550 m. The length of the section where the works will be carried out parallel on both banks is approx. 2,015 m. Moreover, within the framework of the planned works, a sectional adjustment and revetment of the main watercourse is planned, together with securing the estuary section of the existing tributary - Podgórna stream at a length of about 15 m. The proposed debris dams are planned to be made in openwork technology. Only flood flows will be discharged into the relief channel.

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 construction of debris flow dams was changed from openwork to gabion construction. It is also planned to pass the water through the relief channel in a continuous manner by separating the river current between the existing channel and the designed channel.

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. A significantly lower negative impact on the environment of scenario 1 than scenario 2 of the project implementation is connected mainly with the openwork construction of debris flow dams envisaged in scenario 1. Such a solution ensures that the ecological capacity of the river is maintained, both for the migration of fish and other aquatic organisms, as well as for the transport of smaller fractions of the rubble (possible limitation only immediately after strong swelling - necessary removal of the material accumulated above the dam as part of maintenance works). Scenario 2 provides for the construction of two gabion dams. Such type of dams are not only a foreign element in the landscape, but above all they are associated with greater interference with habitats at the construction stage and permanent interruption of the migration path of ichthyofauna and other aquatic organisms at the operational stage. Such dams constitute a major barrier in the river, disrupting the continuity of the river and constituting a permanent barrier for aquatic organisms and for the transport of debris.

These are negative impacts of significant magnitude and long-term impact during the operational phase. Scenario 1 also provides for the construction of a relief channel with a weir to fill it only in flood conditions. The negative impact of such a solution on the environment was assessed as weak (destruction of habitats at the connections with the river during the implementation phase). At the operation stage, a properly designed channel should not have a significant negative impact. In scenario 2, it is planned to build a relief channel without a weir at the inlet and to permanently direct the water body of Bystrzyca Dusznicka to the relief channel. The negative impact of such a solution will be significant both during the implementation phase (destruction of habitats at the connections with the river) as well as during the operation phase - permanent water distribution will cause the riverbed to dry out and consequently habitats will be lost and physicochemical conditions will be deteriorated, moreover, some fish and other aquatic organisms may migrate to the channel where they will be exposed to the shortage of habitats and to periodic water shortages during low water levels. 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 soils and ground water (by infiltration). In order to protect the soil and water environment, all repairs, maintenance procedures and other activities connected with building equipment operation should 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, but this will not pose a considerable threat to the receivers of such water, because the suspension will undergo sedimentation. 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 Water management plan for 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 the planning surface water bodies JCWP *Bystrzyca Dusznicka from the source to Kamienna Potok* with the code PLRW60007121839. JCWP *Bystrzyca Dusznicka from the source to Kamienna Stream* was assessed as a natural body of water of poor status, monitored, not threatened by failure to meet

environmental objectives. No time derogations and no less stringent objectives have been set for this JCWP. The objective is good ecological and chemical status. A part of the waters is designated as an area sensitive to eutrophication caused by pollution from municipal sources, and as an area designated for the protection of habitats or species referred to in the provisions of the Nature Protection Act of 16 April 2004 (i.e. Journal of Laws of 2020, item 55, as amended), where the maintenance or improvement of the status of water is an important factor in their protection. The investment is located partly within the boundaries of the area of Community importance - the Orlickie Mountains PLH020060 and the Area of Special Protection of Birds - Stołowe Mountains PLB020006 and partly within the boundaries of the Protected Landscape Area - the Bystrzyckie and Orlickie Mountains. The project is located on the border of ecological corridors GKZ-8B Bystrzyckie Mountains and Stołowe Mountains (GKZ-8A). It is designated as a body of water intended for water intake for securing the drinking water supply for human consumption.

The area under consideration is situated within the groundwater body JCWPd No 125, code PLGW6000125. According to PGW, its quantity and chemical condition is considered as good. JCWPd is not threatened by the failure to achieve the environmental objectives set for it. The indicated JCWPd is designated as a body of water intended for water intake for securing the drinking water supply for human consumption. The above-mentioned JCWPd is not subject to time derogations or to less stringent objectives.

It was concluded on the basis of the analyses carried out that no lasting and negative impact on the elements of the water status evaluation is expected. A short-term and reversible impact on hydromorphological elements was identified at the implementation stage, e.g. in the form of temporary changes in water flow conditions resulting from the works carried out in the riverbed (as a result of separating the part of the riverbed), sectional modification of the riverbed in the cross section and longitudinal section related to the formation of a bipartite bed, renovation and reconstruction of bridges, changes in the structure of the bottom and banks as a result of renovation and restoration works. For the biological elements, the impact will arise for such elements as: phytobenthos, macrophytes, benthic macrovertebrates and ichthyofauna. They will be associated with the temporary and local destruction of habitats and groups of organisms and the growth of suspended matter. Moreover, during the implementation phase, as a result of works in the riverbed, the mechanical destruction of ichthyofauna will occur along with loss of habitats. Suspended matter may increase as a result of which the oxygen conditions may deteriorate when performing works in the bed and on the banks. Mid-bed and bank outwashes created in the accumulation processes will be removed from the riverbed as a consequence of the works carried out within the framework of the project connected with the renovation, conversion and reconstruction of revetments. Natural hydromorphological elements will be restored. In order to minimise the above-mentioned effects, in the conclusion of this decision, the local authority has formulated a number of conditions which must be enforced at the stage of investment implementation and operation.

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, discontinuous 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<sub>x</sub>) 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.

At the stage of the investment operation, the main source of emission of pollutants into the air and noise will be the vehicles driving in the area of the investment in question. As per the presented acoustic analysis enclosed in the documentation of the case, the project should not excessively affect the acoustically protected areas located in the vicinity of the investment in accordance with *the Regulation of the Minister of the Environment of 14 July 2007 on the permissible noise levels in the environment (Journal of Laws of 2014, item 112)*. The investment should not have a significant negative impact on the condition of atmospheric air, either.

A part of the planned undertaking is located in close proximity to the sites entered in the register of monuments and covered by the conservatory protection zone, and these are, notably: a paper mill with its surroundings, Frederic Chopin Theatre, house and Health resort Park. The undertaking of earthworks on the area designated for the investment will be preceded by obtaining the position of the relevant conservator of monuments for conducting earthworks. It is the authority's opinion that a position of the monuments conservator is a sufficient guarantee that appropriate measures to protect such sites are taken.

For the landscape, the project implementation period is associated with changes in the structure of the local landscape. The direct negative perception in the visual sense may be the presence and movement of heavy vehicles and the presence of portable building structures. However, this impact is limited to the stage of investment implementation and after the completion

of the works the area will be cleaned up. During the implementation of the investment it is also possible that the visual quality of the landscape will diminish (temporary occupation of land for construction sites, storage yards and others). The spatial range of the impact on the landscape will relate to the area of the project implementation and the area from which particular works will be visible. It should be emphasised here, however, that the project consists in the construction, reconstruction and renovation of the existing regulatory structures, and therefore at the operation stage it will not lead 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 operating backyard. The scope of works and changes in the existing state is only local and short-term. There will be no significant changes in the scale of green areas that shape the local climate, such as: the surface of the water table, water, or the way the river banks are managed. The anticipated environmental protection measures in the form of minimising tree felling, greening of slopes or the required protection of adjacent areas will be conducive to the non-deterioration of 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 the climate change. Its implementation is necessary to protect against the effects of flood surges. The planned project will be designed on the basis of existing legal regulations and will therefore be implemented in a way that considers extreme environmental phenomena related to climate change. It should also be stressed that the investment itself is one of the elements increasing the safety of the inhabitants against the effects of extreme floods. Remedial measures to eliminate the impact of the project on climate change will be the proper organisation of works, the use of low-emission devices and taking measures to minimise the project's adverse impact on the environment at the stage of investment implementation.

The investment, in terms of the type, category and quantity of hazardous substances, is not classified as a facility likely to be a source of serious failure as mentioned in Article 248 of the Act of 27 April 2001 *Environmental Protection Law* (Journal of Law of 2020, item 1219). There are no grounds, either, due to the investment type, to assess the necessity of establishing a limited use area as mentioned in Article 135 Clause 1 of the Environmental Protection.

The Bystrzyca Dusznicka 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. Due to the lack of impacts, no transboundary environmental impact occurs in the upper parts of the watercourse, as the water runoff takes place inside the country, which eliminates the possibility of transboundary environmental impact.

Based on the submitted documentation, which considered the analysis of impacts and potential environmental hazards associated with the implementation and operation of the investment, a number of necessary actions was indicated 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 limit the impact of the planned investment on the natural environment, including the objects of protection of the Natura 2000 sites 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 clause 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 water and groundwater environment against oil pollution during emergency situations involving the spillage of hazardous substances and immediate removal of the resulting pollution.

Waste management within the said investment area will be conducted in accordance with the applicable law. However, in order to ensure this, the conclusion of the present decision imposes

the conditions in clause I, section 2.3 to 2.5.

The condition of clause I, section 2.6 ensures the creation of an appropriate and safe storage place for materials intended for the investment implementation. All construction materials will be located at an appropriate distance from wetlands.

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 ichthyologist's task 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.

The condition of clause I, section 2.20 aims at minimising damage within green areas (especially trees and bushes) and within natural habitats.

The condition of clause I, section 2.21 results from the provisions of Article 38a(1)(10) of the *Act of 28 July 2005 on health resort treatment, health resorts and areas of health resort protection and on health resort communes (i.e. Journal of Laws of 2020), item 1662*, which stipulates that in zone "A" of health resort protection it is forbidden to cut down forest and park trees, with the exception of nursing cuts and from the provisions of Article 38a(2)(2) of this act, which provides that in zone "B" of health resort protection it is forbidden to cut down forest and park trees, with the exception of nursing cuts and felling specified in the forest management plan.

The conditions of clause I, section 2.22 and 2.23 are intended to protect animal species associated with trees and bushes, 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 condition of clause I, section 2.24 is aimed at limiting the scope of cutting down trees and bushes during the investment implementation. The areas directly conflicting with the investment execution include places planned for the construction and renovation of facilities (e.g. regulatory walls, bank slope revetments, debris flow dams) as well as technological roads, yards and technological facilities, which are directly related and necessary for the execution of the investment.

The conditions of clause I, section 2.25 to 2.30 are intended to protect tall greenery, 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.

*The condition of clause I, section 2.31 aims at minimising the negative impact of the project on the natural habitats, including the natural habitat 91E0\* Willow-poplar-alder-ash forests (*Salicetum albofragilis*, *Populetum albae*, *Alnenion glutinoso-incanae*, large bittercress) and 6430 Mountain tall herb communities (*Adenostylion alliariae*) and riverside tall herb communities (*Convolvuletalia sepium*) - listed in the Regulation of the Minister of the Environment of 13 April 2010 on natural habitats and species of Community interest and the criteria for the selection of areas eligible for recognition or designation as Natura 2000 sites (Journal of Laws of 2014, item 1713), located within and in the immediate vicinity of the investment.*

The condition of clause I, section 2.32 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 2.33 is intended to protect amphibians during the breeding period and migration to and from breeding sites.

The condition of clause I, section 2.34 was imposed in order to prevent the destruction of sites of protected plants, aphids and red algae species 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)*, occurring within the area of works covering the Bystrzyca Dusznicka riverbed and Jastrzębnik and Podgórna streams.

The condition of clause I, section 2.23 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 2.36 was imposed to prevent damage to the natural monuments located in the immediate vicinity of the area of planned works. I also point out that works in the vicinity of natural monuments which may violate the bans applicable to this form of nature protection - in accordance with Article 45 of *the Nature Protection Act* - should be agreed with the relevant body (i.e. the Town Council in Duszniki-Zdrój).

The condition of clause I, section 2.37 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 this habitat is of key importance for the functioning of the Bystrzyca Dusznicka ecosystem - it constitutes the first link in the food chain and is the habitat of invertebrates which provide food for fry and fish.

The conditions of clause I, section 2.38 - 2.40 was imposed in order to protect the species of lichens, aphids and plants listed in the mentioned Regulation on the protection of plant species.

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 a watercourse 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 Bystrzyca Dusznicka 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 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 imposed in order to ensure the movement of rubble in the river and to maintain the possibility of hydromorphological processes that have hitherto occurred in the riverbed.

The condition of clause I, section 3.7 was imposed to limit tree felling for the growth conditions of the water table insulation and to create thermal barriers, which can adversely affect aquatic organisms.

The conditions of clause I, section 3.8 to 3.10 are intended to eliminate the risk of aquatic organisms being trapped in the relief channel after the passage of surge water.

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, 6430 Mountain tall herb communities *Adenostylian alliariae* and riverside tall herb communities *Convolvuletalia sepium* and 3220 Pioneer vegetation on the stones of mountain streams) 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 Bystrzyca Dusznicka River and will be the basis for the possible implementation of additional measures to eliminate the negative impact of the project on the environment.

The conditions of clause II, section 2.4 and 2.5 set the requirement to conduct - by an appropriate specialist - the monitoring of the functioning of ramps as fish passes and that reports on its implementation be submitted to the local authority. This will allow the local authority to obtain information on the effectiveness of the applied solutions and will confirm the participation of the specialist during monitoring studies.

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

The provisions of the condition of clause II, section 1.2 are intended to compensate for the possibility of 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 Environmental Protection Law act, and their application will contribute to faster recovery of the population of the above-mentioned species of animals.

While implementing the conditions specified above, the investment's execution will not have a considerable adverse impact on natural elements, including the Natura 2000 sites. These measures are not contrary to the provisions of *the Order of the Regional Director for Environmental Protection in Wrocław of 20 June 2014 on establishing a plan of protection tasks for the Natura 2000 area Orlickie Mountains PLH020060 (JoL of Low. Sil. Province of 2014, item 2814)*. The

project should also not have a significant negative impact on the ecological corridors: Stołowe Mountains GKZ-8A and Bystrzyckie Mountains GKZ-8B, the ecological corridor of the Bystrzyca Dusznicka river valley, protection of nature and landscape of the Protected Landscape Area "The Bystrzyckie and Orlickie Mountains", as well as biological diversity, 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 16 October 2014 on protection of fungus species (Journal of Laws, item 1408), in relation to which bans apply as defined in the aforementioned resolutions, prior to commencing the works the investor should obtain a separate permit from the appropriate body for actions prohibited in relation to these species, in accordance with Article 56 of the aforementioned environmental protection act, and once that permit is obtained - the works are to be conducted as per 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 project's environmental impact 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 severe losses, or for any other public interest or a party as exceptionally important interest". The enforcement of the decision will be "indispensable" in a situation where "it is not possible to act at a given time and in an existing situation without exercising the rights or obligations decided upon in the decision, because a delay in their enforcement threatens the protected goods. This threat must be real and not just theoretically probable" (J. Borkowski [in:] B. Adamiak, J. Borkowski, Code of Administrative Procedure. Commentary, 8th Issue. C.H. Beck Publishing House, p. 524).

The application was justified by an overriding public interest. The aim of the task is to improve the flood protection system in the town of Duszniki-Zdrój, i.e. to protect human health and life and to protect a national holding from severe losses (flooding). Floods in the mountain basins in the Kłodzko area are characterised by a very violent course. The time of flood wave formation from the moment of the occurrence of intense or prolonged rainfall is very short. The rapid runoff of rainwater from the steep mountain slopes and then its runoff through streams and mountain rivers is associated with the occurrence of high velocities, which results in the formation of a large corridor-forming force. This force lifts and transports huge amounts of rock rubble, washes away and captures trees, causes local landslides, devastates the bed structures, especially in the form of bank walls and bottom sills, washes away bridge abutments and, in some cases, piles up water

as a result of the resulting blockage on the bridge structures, which in turn leads to the breaking of the bridge or its surrounding. The project implementation area in the Bystrzyca Dusznicka valley is characterised by compact residential, commercial and communication areas located mainly along rivers. The river network of the Bystrzyca Dusznicka along with 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 the 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 flow rate with the probability of exceeding of  $p=10\%$  (once every 10 years). For the proper protection of the Kłodzko Land, technical activities were prescribed 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, 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: Duszniki-Zdrój, Polanica-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 undertakings are part of the task covering supra-local flood protection of the Kłodzko Land and the town of Kłodzko, 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 clause IV, 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* act.

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

### **Instruction**

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 qualified  
electronic signature*

Recipients:

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

Cc:

1. State Poviats 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 WROCŁAW**

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

**Appendix to the decision of the Regional Director for Environmental Protection in Wrocław of 28 October 2020, ref. No.: WOOŚ.420.21.2020.AP.19, for the project titled: “Task 2B.2/2 Flood protection of the valleys of the Bystrzyca Dusznicka River and the Kamienny Potok River (passive protection) - Duszniki-Zdrój Facility”.**

**PROJECT CHARACTERISTICS**

The investment will be located entirely within the boundaries of the Duszniki-Zdrój commune, the registry areas: Centrum, Zdrój and Lasy, Kłodzko Powiat, Lower Silesia Province.

The planned project consists in the construction, reconstruction and reinstatement of regulatory structures together with the facilities connected with them functionally. The investment will cover a section of the Bystrzyca Dusznicka river from km 25+817 to km 30+260, and renovation of the estuary section of the Podgórna stream and maintenance of the estuary section of the Jastrzębnik stream.

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

- construction of a relief channel together with the construction of a bridge providing access to the buildings of the Museum of Papermaking;
- construction of a bridge or culvert under the powiat road no. 3301D;
- construction of a bridge in the course of the municipal road which is an extension of Bystrzycka Street;
- construction of a bridge in the course of a municipal road in order to adapt its inside diameter to the new width of the bipartite bed;
- sectional adjustment and revetment of the main watercourse to the passage of flood waters together with protection of the estuary sections of existing tributaries (Podgórna stream);
- reprofiling of the existing regulatory walls and slope revetments;
- construction of new regulatory walls and slope revetments;
- demolition of destroyed regulatory walls and slope revetments;
- reconstruction of the regulatory walls in the place and along the route of the existing walls;

- sectional reinforcement of the existing walls by executing a band (set-off);
- ichthyological flow capacity enhancement of the bed by converting the two barrages: H-45 at km 27+048; H-46 at km +27+421 and the weir H-48 at km 27+522 to semi-natural ramps in the form of an inclined ramp made from boulders and stones with an inclination of about 1:25 or milder;
- local slope reinforcement with a wedged stone rip-rap;
- clearing the bed in the place of narrowing and within bridges, by removing gravel outwashes and silts;
- construction of debris flow dams at km about 29+308 and at km about 30+206;
- cutting down trees and bushes;
- maintenance of the riverbed consisting in clearing the estuary section of the Jastrzębnik stream.

The total length of the section covered by the works only on the right bank of the Bystrzyca Dusznicka will be about 925 m. The total length of the section covered by the works only on the left bank of the Bystrzyca Dusznicka will be about 550 m. The length of the section where the works will be carried out parallel on both banks will be approx. 2,015 m. A sectional adjustment and revetment of the main watercourse together with securing the estuary section of the existing tributary - Podgórna stream will be about 15 m. The maintenance of the estuary section of the Jastrzębnik stream will also be undertaken.

Regional Director for  
Environmental Protection in Wrocław

Wojciech Rejman  
*/signed with qualified  
electronic signature*

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