

Decision no. 3017/OS/2017

Issuing unit Silesian Voivodship Marshal

Case Provision of the Lesser Poland Board of Amelioration and Water Structures with a water-law permit for the following:

- Extension of flood embankment for the River Vistula, along with backwater embankment of the River Dłubnia;
- Redevelopment and construction of piping, culverts, power lines, IT lines, and other facilities through the flood embankments within the framework of task titled: "Completion of redevelopment of flood embankments for the Vistula River in Cracow: Section 1 – the left embankment of the Vistula River from the Wandy bridge to the Przewóz barrage with backwater embankments of Dłubnia River; Section 2 – the left embankment of the Vistula River from the Przewóz barrage to Suchy Jar".

Basis Article 104 of the Administrative Proceeding Code; Article 9 (2) item 1b) and item 2, Article 122 (1) item 3 and 4, Article 123 (2) and (3), Article 123a (1) item 4, Article 123a (9), Article 127 (1) and (5), Article 128, Article 40 (2) item 2 of the Act of 18 July 2001 Water Law (OJ of 2017, item 1121, uniformed text).

I hereby decide as follows:

I. I provide the Lesser Poland Board of Amelioration and Water Structures in Cracow, with its registered office at 73. Szlak Street, with a water-law permit for the development of water facilities, including the following:

1) Redevelopment and extension of flood embankments according to the following summary:

Section	River chainage km	Designed embankment chainage km	Length [m]	Coordinates in the embankment crest axis	Minimum embankment crest elevation required [m a.s.l.]	Type of typical section / type of construction works	Length [m]
				N E			
SECTION 1 - the left embankment of the Vistula River from the Wandy bridge to the Przewóz barrage with backwater embankments of Dłubnia River							
Left embankment of the Vistula River from the Wandy bridge to the estuary of Dłubnia	87+900	0+000	1142	50°3'12.5'' 20°3'0.5''	201.08	Type III Redevelopment	983
	89+040	1+142		50°3'11.9'' 20°3'57.4''	200.84	Type II Extension	159
Left embankment of the Vistula River from the estuary of Dłubnia to the port	89+640	1+142	955	50°3'14.6'' 20°4'25.0''	200.75	Type I Extension	955
	90+550	2+097		50°3'17.8'' 20°5'11.5''	200.27		

channel							
Left embankment of the Vistula River from the port channel to the Przewóz Barrage	90+640	2+097	1220	50°3′17.3″ 20°5′15.3″	200.27	Type II Extension	941
						Type I Extension	235
	91+540	3+317		50°2′47.7″ 20°5′48.7″	200.03	Type II Extension	44
Right backwater embankment of the River Dłubnia	0+000	0+000	1830	50°3′11.9″ 20°3′57.4″	200.84	Type II Extension	429
	2+373	1+830		50°4′2.6″ 20°3′46.7″	201.17	Existing road embankment at Podbipięty Street	10
						Type II Extension	1391
Left backwater embankment of the River Dłubnia	0+000	0+000	1263	50°3′14.6″ 20°4′25.0″	200.84	Type I Extension	363
						Existing road embankment at Podbipięty Street	31
	1+609	1+263		50°3′48.6″ 20°4′5.2″	200.91	Type II Extension	742
						Demolition or grading	127
SECTION 2 - the left embankment of the Vistula River from the Przewóz barrage to Suchy Jar							
Left embankment of the Vistula River from the Przewóz barrage to Suchy Jar	91+990	0+000	2875	50°2′40.5″ 20°6′8.9″	199.46	Type II Extension	308
						Type I Extension	966
						Type II Extension	208
						Type I Extension	129
	96+680	2+875		50°2′54.1″ 20°8′18.2″	198.51	Type II Extension	135
						Type I Extension	195
						Type II Extension	202
						Type I Extension	597
			Type II Extension			135	

Type I – extension of the embankment within the embanked area's side (riverside), crest reinforced with gravel mix on geotextile and finished with breakstone, service road located on an abutment or at the landside slope foot (locally the road may move away from the embankment slope, e.g. to bypass and protect objects or habitats located within the embankment route) hardened with sand ballast on geotextile and with breakstone, and finished with aggregate for the purpose of traffic of service vehicles. Sealing of the embankment body on the riverside using bentomat or film, and of the subbase using a vertical anti-filtration membrane.

Type II – as in case of type I, but without an abutment on the landside and a service road on its top. A service road shall be located on the embankment crest.

Type III – redevelopment of the existing embankment body, including development of a vertical anti-filtration membrane starting from the embankment crest. No need to extend the existing embankment body.

Demolition or grading – demolition or grading of the existing embankment body, function of which shall be taken over by the flood embankment located in a different place, for which a separate design documentation was done, and which is a subject of a separate proceeding. Extension of the existing embankments and development of a new section shall be done in the same time, while assuring continuous flood protection for the neighboring areas.

2) Extension and removal of culverts (embankment locks) through the flood embankment, including development of protection for their inlets and outlets, according to the following summary:

Section	Culvert no.	Embankment chainage km	Condition of culvert	Geographical coordinates	Dimensions of culvert [cm]	Length of culvert [m]	Bottom elevation [m a.s.l.]	
							Inlet	Outlet
Section 1. Left embankment of the River Dłubnia	1.5	0+842	existing, to be extended	50°3'39.8" 20°4'18.0"	fi60	17.7	196.48	196.27
Section 2. Left embankment of the Vistula River (from the Przewóz Barrage to Suchy Jar)	2.1	1+059	existing, outlet to be extended only	50°2'39.8" 20°7'0.2"	2 x (230 x 205) rectangular	60.3	-	191.34
	2.2	1+073	existing, to be removed	50°2'39.6" 20°7'0.8"	2 x (90 x 100)	20.6	192.39	192.15
	2.3	2+813	existing, to be extended	50°2'53.4" 20°8'15.2"	fi100	26.1	191.55	191.44

3) Crossing the flood embankments with gas networks and overhead lines and in-ground cables, according to the following summary:

Section	Embankment chainage km	Type of network	Status	Geographical coordinates		Elevation of wire axis at crossing the embankment [m a.s.l.]
				N	E	
Section 1. Left embankment of the River Vistula (from the Wandy bridge to the estuary of Dłubnia River)	from 0+000	Road lighting with power cable	To be redeveloped	50°3'10.8"	20°3'46.9"	-
	from 0+841			50°3'10.9"	20°3'42.7"	-
	from 0+005	Power cable	To be redeveloped	50°3'12.5"	20°3'0.7"	-
	from 0+822			50°3'10.9"	20°3'41.7"	-
	from 0+108	Power cable	To be redeveloped	50°3'12.4"	20°3'5.9"	-
	from 0+404			50°3'11.8"	20°3'20.7"	-
	0+055	Power cable	To be redeveloped	50°3'12.5"	20°3'3.3"	-
	1+002	IT line	To be redeveloped	50°3'10.7"	20°3'50.8"	-
Section 1. Left embankment of the River Vistula (downstream of the estuary of Dłubnia)	1+105	Power line	To be redeveloped	50°3'11.3"	20°3'55.8"	-
	1+142	IT cable	To be removed	50°3'14.6"	20°4'25.0"	-
	1+558			50°3'14.5"	20°4'44.9"	-
	1+252	Gas pipe Dn250mm W/C	To be redeveloped	50°3'13.0"	20°4'29.8"	195.66
	1+303	Gas pipe Dn250mm W/C	To be redeveloped	50°3'13.0"	20°4'32.3"	195.73
Section 1. Right	1+359	Gas pipe Dn500mm W/C	To be redeveloped	50°3'13.3"	20°4'35.1"	196.43
	0+417	IT line	To be	50°3'24.1"	20°4'5.9"	-

embankment of the River Dłubnia			redeveloped			
	from 0+442	Street lighting, overhead power and IT line	To be redeveloped	50°3'24.8"	20°4'6.5"	-
	from 0+528			50°3'27.3"	20°4'8.3"	-
	1+202	Gas pipe Dn250mm W/C	To be redeveloped	50°3'43.4"	20°3'53.5"	194.65
	1+216	Gas pipe fi125mm N/C	To be redeveloped	50°3'43.6"	20°3'52.9"	198.16
	1+446	Gas pipe Dn200mm PS/C	To be redeveloped	50°3'50.2"	20°3'48.9"	197.89
	1+637	2 x power cable	To be redeveloped	50°3'56.4"	20°3'47.8"	-
	1+691	Gas pipe fi400mm S/C	To be redeveloped	50°3'58.1"	20°3'47.5"	199.30
	1+794	Power cable	To be redeveloped	50°4'1.4"	20°3'47.3"	-
Section 1. Left embankment of the River Dłubnia	0+000	IT cable	To be removed	50°3'14.6"	20°4'25.0"	-
	0+320			50°3'23.0"	20°4'20.0"	-
	0+665	Gas pipe Dn500mm W/C	To be redeveloped	50°3'33.9"	20°4'21.9"	194.70
	0+667	Gas pipe Dn250mm W/C	To be redeveloped	50°3'34.1"	20°4'21.8"	195.00
	0+927	Power line	To be redeveloped	50°3'41.4"	20°4'14.7"	-

4) Crossing the River Dłubnia with gas pipes underneath its bottom and with an overhead power line, in accordance with the following summary:

Section	Embankment chainage km	River chainage km	Type of network	Status	Geographical coordinates		Elevation of wire axis at crossing underneath the river bottom [m a.s.l.]
					N	E	
Section 1. Left embankment of the River Dłubnia	0+665	1+125	Gas pipe Dn500mm W/C	To be redeveloped; crossing underneath the river bottom	50°3'34.0"	20°4'19.5"	192.40
	0+677	1+138	Gas pipe Dn250mm W/C	To be redeveloped; crossing underneath the river bottom	50°3'34.2"	20°4'19.4"	192.40
	0+927	1+436	Power line	To be redeveloped; crossing over the river with the overhead line	50°3'41.4"	20°4'10.2"	-

III. The Lesser Poland Board of Amelioration and Water Structures in Cracow at 73. Szlak Street is obliged to:

- 1) Assure the compliance for performance of all of the works with design documentation, conditions determined in item I of this decision, and with the binding provisions of law;
- 2) Perform the works associated with implementation of the subject investment in a way not posing risk to the environment;
- 3) Perform the works under supervision of an authorized person;

- 4) Reinstate the land to the proper condition after completing the works;
- 5) Maintain proper technical conditions for facilities and objects covered by this decision;
- 6) Undertake immediate actions to remove failure in case of its occurrence.

IV. An obligation to establish time of validity is not related to water-law permits for the development of water facilities. The water-law permit expires if the enterprise did not commence the development of water facilities within the deadline determined under Article 135 of the Water Law Act.

V. The water-law permit was issued based upon the documentation titled:

1. "Water-law Study.

Completion of redevelopment of flood embankments for the Vistula River in Cracow:

- Section 1 – the left embankment of the Vistula River from the Wandy bridge to the Przewóz barrage with backwater embankments of Dłubnia River,
 - Section 2 – the left embankment of the Vistula River from the Przewóz barrage to Suchy Jar";
- as developed in May 2017 by Sweco Engineering Sp. z o.o., with its registered office in Cracow, at 30. Wielicka Street.

VI. The water law permit does not form rights to properties and water facilities necessary for its implementation, and does not violate the ownership titles and rights of third parties to those properties and facilities.

VII. The Applicant, who did not obtain rights to properties and facilities necessary to implement the water-law permit, cannot claim for returning the expenses borne for the permit provided.

VIII. Not observing the conditions determined in this decision shall cause its limitation or withdrawal without compensation, in accordance with Article 136 of the Water Law Act.

X. A decision on exclusion of data included in the application from publication was not issued during the proceedings.

XI. This decision does not release the unit from obtaining any decision and permits required by law based upon other provisions.

Justification

The Silesian Voivodship Marshal was assigned – through a decision dated 07/25/2017, ref. no.: BAP-po.026.212.2017/MS, which was issued based upon Article 127 (7b) and (7c) of the Act of 18 July 2001 Water Law – by the Chairman of State Water Management Authority to conduct the case determined in the application of Mr. Jarosław Maciaś, acting in the name of the Lesser Poland Board of Amelioration and Water Structures in Cracow, on the issuance of water-law permit for:

- Extension of flood embankment for the River Vistula, along with backwater embankment of the River Dłubnia;
- Redevelopment and construction of piping, culverts, power lines, IT lines, and other facilities through the flood embankments within the framework of task titled: "Completion of redevelopment of flood embankments for the Vistula River in Cracow: Section 1 – the left embankment of the Vistula River from the Wandy bridge to the Przewóz barrage with backwater

embankments of Dłubnia River; Section 2 – the left embankment of the Vistula River from the Przewóz barrage to Suchy Jar”.

The investment identified in the water-law study is classified as an investment listed in Article 3 (1) item 65 of the Regulation of the Council of Ministers of 9 November 2010 on investments which may significantly affect the environment (OJ of 2016, item 71, uniformed text), which lists: *flood defenses, except for redevelopment of flood embankment including sealing of the embankment bodies and their substructure, to limit the possibility of their washing-out and failure during the flow of flood water, and also regulation of water or its channeling understood as water management allowing for its use for navigation purposes*. It shall be implemented in the mode determined in the Act of 8 July 2010 on special rules for preparation of flood protection investments for implementation.

In accordance with the disposal under Article 140 (2) item 2 of the Water Law Act, a unit proper for consideration of the application in question is the voivodship marshal.

In case of the subject investment the Regional Director for Environmental Protection in Cracow issued a decision dated 01/27/2017, ref. no.: OO.4233.4.2016.BM, on environmental conditions for implementation of the assignment titled: “Completion of redevelopment of flood embankments for the Vistula River in Cracow: Section 1 – the left embankment of the Vistula River from the Wandy bridge to the Przewóz barrage with backwater embankments of Dłubnia River; Section 2 – the left embankment of the Vistula River from the Przewóz barrage to Suchy Jar”, which became final on 03/03/2017. The investment does not require obtainment of a decision releasing from bans determined in Article 88I (1) items 1 and 3, and Article 40 (1) item 3 of the Water Law Act.

The proceeding related to the filed application was commenced on 08/16/2018, as referred in a note dated 08/22/2017, ref. no.: OS-WS.KW-485/17. Due to the fact that the number of parties in the water-law proceedings exceed 20, in accordance with Article 49 of the Administrative Proceeding Code, the remaining parties have been notified about the proceedings through an announcement submitted to the City Office of Cracow with a note dated 08/22/2017, ref. no.: OS-WS.KW-488/17.

Furthermore, information on the proceedings was published in the office of the local authorities.

The announcement dated 08/22/2017, ref. no.: OS-WS.KW-487/17, referring to the commencement of water-law proceedings in the subject case was place on a notice board of the City Office of Cracow from 08/25/2017 to 09/11/2017.

In conformity with Article 10 (1) of the Act of 14 June 1960 Administrative Proceeding Code (OJ of 2017, item 1257, uniformed text), the parties of proceedings were instructed that they have a right to actively participate on every stage of the proceedings, and – prior to the issuance of the decision – they have a possibility to refer to the collected evidence and materials and to informed demands.

Due to the notification on the commencement of proceedings, as informed in the note dated 08/22/2017, ref. no.: OS-WS.KW-485/17, and to the announcement given in the note dated 08/22/2017, ref. no.: OS-WS.KW-487/17, the local Office did not receive any remarks or applications. Considering the above it was decided as given in the conclusion.

Instruction

The party may appeal against the decision to the Chairman of State Water Management Authority through the Marshal of Silesian Voivodship within 14 days from serving date.

In accordance with Article 127a of the Administrative Proceeding Code, in the course of time for appealing the party may relinquish the right to appeal against a public administration unit, which issued the decision. On the day of providing the public administration unit with a statement of relinquishing the right to appeal by the final of the parties of proceedings, the decision becomes final and binding.

pp. Voivodship Marshal

Witold Klimza

Deputy Director of

Environmental Protection Department

Recipients:

1. Mr. Jarosław Maciaś
Sweco Engineering Sp. z o.o.
30. Wielicka Street, 30-552 Cracow
2. Director of the Regional Water Management Authority in Cracow
2. Piłsudskiego Steet, 31-109 Cracow
3. Lesser Poland Board of Amelioration and Water Structures in Cracow
73. Szlak Street, 31-153 Cracow
4. Polishing Fishing Association – Branch
43. Bulwarowa Street, 31-751 Cracow
5. Silesian Voivodship Management Board Service Department
6. OS-WS – file

Other parties of the proceedings notified about the decision in accordance with Article 49 of the APC through announcement published in the Municipality Office of Cracow.

In accordance with Articl 7 (2) of the Act of 16 November 2006 on the administrative fee (uniformed text: OJ of 2016, item 1827) a budgetary unit is released from the administrative fee for this water-law permit.