

# REGIONAL DIRECTOR FOR ENVIRONMENT PROTECTION in SZCZECIN

WOPN.670.60.2012.MS

## **DECYSION NO. 23/2012**

Acting pursuant to the Art. 104 of the Act of 14th June 1960 of the Administrative Procedure Code (Journal of Laws of 2009 No. 151, item 1220 as amended) and the Art. 3, Art. 4, Art. 36 section 1, Art. 91 sec. 2a and the Art. 118 of the Act of April 16, 2004 on nature protection (Journal of Laws of 2000 No. 98, item 1071 as amended) after considering the application of the Director of the West Pomerania Board of Amelioration and Hydraulic Structures in Szczecin of August 31, 2012, ref. no.: 10-2233/105/12/PA on issuing a decision establishing the conditions of works implementation for the planned project: "Flood embankment - Chlewice - Porzeczce - backwater embankment of the Odra river at the Mysla River" Boleszkowice commune, Myśliborski county (powiat).

### **we establish the conditions for works implementation:**

- 1) All planned soil works shall be conducted with skipping the breeding season of the animals and plant vegetation i.e. the period between 1st March and 30th September
- 2) In case works are commenced before the above mentioned terms, they may be conducted in the period between 1st March and 30th September after obtaining the permit under the Art. 56 section 1 of the Act of 16th April 2004 on nature protection (Journal of Laws of 2009, no. 151, item 1220 as amended);
- 3) Constant monitoring shall be ensured as well as maintaining good technical order of all devices during operations;
- 4) during investment implementation it is not allowed to use substances that could be lethal for animals;
- 5) actions should be undertaken, during works implementation, aiming at ensuring proper technical condition of equipment and machines used during the project implementation;
- 6) during project implementation it shall not be allowed to have land and soil pollution by oil-based substances;
- 7) Mechanical collection of oil-based substances from the surface of the water shall be used in case of their leaking to the surface waters;
- 8) All materials for the implemented investment shall be stored without violating the bed of the river;
- 9) in case of stating, within a given area, species of plants, animals or fungi covered by strict or partial species protection, a permit in accordance with the Art. 56 sec. 1 and 2 of the Act of April 16, 2004 on nature protection (Journal of Laws of 2009, no. 151, item 1220 as amended);
- 10) the body organ issuing this decision shall be informed about the term of commencement and completion of the said works.

## Grounds

Mr. Tomasz Płowens, Director of the West Pomerania Amelioration and Hydraulic Structures in Szczecin of August 31, 2012, ref. no.: 10-2233/105/12/PA applied to this RDOS for issuing a decision establishing the conditions of works implementation for the planned project: "Flood embankment - Chlevice - Porzecze - backwater embankment of the Odra river at the Mysla River"

During the course of the conducted procedure upon the application submitted on June 16, 2011 by the Director of the West Pomerania Amelioration and Hydraulic Structures in Szczecin concerning issuing a decision on environmental conditions for the above mentioned Project, the Regional Director for Environment Protection in Szczecin, by a decision, ref. no.: WOOŚ-TŚ.4233.7.2011.DK.5 stated the need to conduct environment impact assessment, imposed on the investor the obligation to develop the said report and specified its scope.

In accordance with the information included in the submitted report, the investor prepared variant analysis of the project, and the most favourable variant in terms of environment was selected for implementation.

In relation to the above decision no. 8/2012 ref. no.: WOOŚ-TŚ.4233.7.2011 .DK.16 of February 27, 2012 of the Regional Director for Environment Protection the environmental conditions for the implementation of the above mentioned venture were established.

Taking the above into account, the conditions imposed on the decision result from ensuring peaceful breeding period and development in natural environment for plant and animal species, as well as protection of water eco-system.

Moreover, pursuant to the Art. 1 of the Act of 14th June 1960 of the Administrative Procedure Code (Journal of Laws of 2000, no. 98, item 1071 as amended); the entity informed on September 25, 2012 (letter ref. no.: WOPN.670.60.2012.MS) all the parties about the possibility to express their opinions in the scope of collected evidence and materials in the case.

The duly informed parties did not lodge any remarks or appeals.

The decision was issued on the basis of:

- 1) the Art. 3 and Art. 4 of the Act of April 16, 2004 on nature protection (Journal Of Laws of 2009, No. 151 item 1220 as amended), which read that environment protection goals are implemented, among others, by taking into account the environment protection requirements in (...) commercial and investment activity and public administration organs, legal persons and organisational units and natural persons are obliged to take care of nature;
- 2) the Art. 36 and Art. 1 of the Act of April 16, 2004 on nature protection (Journal of Laws of 2009 No. 151 item 1220 as amended), which read that: within Natura 2000 sites the activity related with maintenance of devices and objects used for flood protection is not subject to limitation (...), if it does not have severe negative impacts on the protection purposes of Natura 2000 sites.
- 3) the Art. 91 section 2a of the Act of April 16, 2004 on nature protection (Journal of Laws of 2009, no. 151, item 1220 as amended), which says that Regional Director for Environment Protection is the entity within the nature protection;
- 4) the Art. 118 and Art. 1 of the Act of April 16, 2004 on nature protection (Journal of Laws of 2009, No. 151 item 1220 as amended ), that says: conducting works concerning water regulations and construction of flood embankments as well as amelioration works, construction drainage and other earth works changing water balances - within the area of special nature assets, especially within the areas where there are clusters of plants with special value in terms of nature, areas with landscape assets and ecological assets, the areas of mass breeding for birds, places where there are concentrations of protected species and spawning grounds, wintering places, fish passages and places of mass migration of fish and other water organisms.

takes place on the basis of a regional director for environment protection, who establishes works implementation conditions;

- 5) Art. 104 § 1 and § 2 of the Administrative Procedure Code (Journal Of Laws of 2000, No. 98, item 1071 as amended), which read that: public administration body handles the issue by issuing a decision unless otherwise stipulated by the provisions of the Code. Decision settle the issue as to its essence as a whole or partially or finish the issue otherwise in a given instance.

#### **Instruction**

A party dissatisfied with the decision, in accordance with the Art. 127 §1 and §2 as well as the Art. 129 §1 and §2 of the Administrative Procedure Code, may, via Regional Director for Environment Protection in Szczecin, lodge an appeal against the decision to the General Director for Environment Protection within 14 days from receiving the said decision.

#### Sent to:

- 1) West Pomerania Board of Amelioration and Water Structures in Wrocław, al. Papieża Jana Pawła II nr 42, 71-415 Szczecin;
- 2) Regional Authority for Water Management in Szczecin Ul. Tama Pomorzańska 13a, 70-030 Szczecin;
- 3) County Office in Mysliborz, Spokojna 22, 74-300 Mysliborz
- 4) Boleszkowice Commune Office, ul. Świerczewskiego 24, 74-407 Boleszkowice.

