

DECISION

Under Article 71 Par. 2 Subpar. 2, Article 75 Par. 1 Subpar. 4, Article 84 and Article 85 Par. 1 and 2 Subpar. 2 of the Act of October 3rd, 2008 *on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments* (Journal of Laws of 2013, item 1235), hereinafter referred to as “the EPA Act”, § 3 Par. 1 Subpar. 60 of the Regulation of the Council of Ministers of November 9th, 2010 *on determining the types of projects which may significantly affect the environment* (Journal of Laws No. 213, item 1397 as amended) and Article 104 of the Law of 14 June 1960 – *Code of Administrative Procedure* (Journal of Laws of 2013, item 267), after considering an application submitted by

Mr. Tomasz Wróblewski, a representative of Hydroprojekt Wrocław sp. z o.o., ul. Wybrzeże Wyspiańskiego 39, 50-370 Wrocław, of November 4th, 2014, concerning issuing a decision on the environmental conditions for the undertaking entitled: *“Construction of “Boboszków” – a dry flood control reservoir on Nysa Kłodzka River in the scope of reconstruction (demolition and construction in a new location) of Boboszków-Pisary municipality road together with construction of the necessary exits to private real properties”*, acting on behalf of the Investor – the Regional Water Management Authority in Wrocław,

I decide

1. To determine lack of the need for conducting an Environmental Impact Assessment for the undertaking entitled: *“Construction of “Boboszków” – a dry flood control reservoir on Nysa Kłodzka River in the scope of reconstruction (demolition and construction in a new location) of Boboszków-Pisary municipality road together with construction of the necessary exits to private real properties.”*
2. To make the characterization of the entire undertaking an annex to this decision.

JUSTIFICATION

On November 4th, 2014, Mr. Tomasz Wróblewski, a general designer at Hydroprojekt Wrocław sp. z o.o., ul. Wybrzeże Wyspiańskiego 39, 50-370 Wrocław, submitted an application to the Mayor of Międzylesie City and Municipality concerning issuing a decision on the environmental conditions for the undertaking entitled: *“Construction of “Boboszków” – a dry flood control reservoir on Nysa Kłodzka River in the scope of reconstruction (demolition and construction in a new location) of Boboszków-Pisary municipality road together with construction of the necessary exits to private real properties”*, attaching the following to the application: the Project Information Card, a copy of the land register map covering the area anticipated for undertaking implementation, a written extract from the land register concerning the anticipated area as well as a written extract and a graphic extract from the land register of the Międzylesie City and Municipality local spatial management plan.

Under Article 71 Par. 2 of the EPA Act, obtaining a decision on the environmental conditions is required for planned undertakings which might always have a significant impact on the environment or which might have a potential significant impact on the environment.

The undertaking covered by the application, under § 3 Par. 1 Subpar. 60 of the Regulation of the Council of Ministers of November 9th, 2010 *on determining the types of projects which may significantly affect the environment* (Journal of Laws No. 213, item 1397 as amended), qualified as *“a road with a hard pavement and a total undertaking length of over 1 km other than those listed in § 2 Par. 1 Subpar. 31 and 32 as well as bridge facilities in the course of a road with a hard pavement, excluding reconstruction of roads and bridge facilities serving power stations and located beyond the areas covered by the forms of environmental protection referred to in Article 6 Par. 1 Subpar. 1-5,8,9 of the Environmental Protection Act of April 16th, 2004,”* has the status of an undertaking which might have a potential significant impact on the environment and for which it might be required to conduct an Environmental Impact Assessment.

The administrative proceedings concerning the case in question were instituted on January 12th, 2015. Under Article 33 of the EPA Act, the notification of instituting the proceedings was publicly announced by putting it on a publicly accessible list of data on the website of the Bulletin of Public Information of the Międzyzlesie City and Municipality Office (bip.miedzylesie.pl) as well as placing it on the notice board of the Międzyzlesie City and Municipality Office. All parties to the proceedings were informed about their rights stemming from Article 10 of the CAP and Article 33 Par. 1 of the EPA Act, active participation at every stage of the proceedings (including submission of motions for evidence in clarification proceedings) and the possibility of familiarizing themselves with the documentation of the present case in the Międzyzlesie City and Municipality Office, Plac Wolności 1, 57-530 Międzyzlesie, room No. 17, within 21 days of publishing the announcement.

Under Article 63 Par. 1 and Article 64 Par. 1 of the EPA Act, the relevant body issuing the decision on the environmental conditions determines the necessity for conducting an Environmental Impact Assessment after seeking an opinion of an environmental protection body and the National District Sanitary Inspector.

Therefore, the body conducting the proceedings submitted letter No. ITiG.603.1-2.2015 of January 13th, 2015 to the Regional Director for Environmental Protection in Wrocław and letter No. ITiG.603.1-3.2015 of January 13th, 2015 to the National District Sanitary Inspector in Kłodzko, applying for issuing an opinion concerning the necessity of conducting an Environmental Impact Assessment for the planned undertaking and, should such necessity be established, for defining the scope of the environmental impact report.

In letter No. WOOS.4240.30.2015.JS.1 of January 19th, 2015, the Regional Director for Environmental Protection in Wrocław called the applicant to adjust the submitted documentation to the requirements defined in Article 64 Par. 2 Subpar. 3 of the EPA Act. After receiving the supplemented documentation, it submitted letter No. WOOS.4240.30.2015.JS.2 of February 9th, 2015, in which it expressed an opinion that it was not necessary to conduct an Environmental Impact Assessment for the planned undertaking.

The National District Sanitary Inspector in Kłodzko did not take a stand on the case in question after receiving the documentation required by law.

The investment in question shall be located in Boboszów, Międzyzlesie Municipality, Kłodzko district, Lower Silesian Province, beyond the boundaries of the Natura 2000 site and beyond the areas subject to environmental protection. In connection with the type and location of the undertaking, the possibility that the planned undertaking shall have an impact on the areas subject to statutory environmental protection is excluded. It is not necessary to conduct the proceedings concerning the Environmental Impact Assessment in the cross-border aspect, either.

After analysing the detailed conditions related to classifying an undertaking which might have a potential significant impact on the environment as the one subject to the obligation of conducting an Environmental Impact Assessment, given the scale, type, location and possible environmental impact of the undertaking as well as taking into account the opinion of the Regional Director for Environmental Protection in Wrocław, **the Mayor of Międzyzlesie City and Municipality recognized that the case did not require conducting an Environmental Impact Assessment required by Article 63 of the EPA Act for the undertaking.**

Under Article 72 Par. 3 of the EPA Act, the decision on the environmental conditions has to be attached to the application for issuing the decisions referred to in Article 72 Par. 1 of the abovementioned Act. The application should be submitted no later than within four years of the day the decision on the environmental conditions becomes final provided that before the expiration of the deadline referred to in Par. 3, the party which submits the application for issuing the decision on the environmental conditions or the entity to which the decision is assigned receives an opinion from the body issuing the decision on the environmental conditions and the opinion states that the implementation of the planned undertaking takes place according to the stages and the conditions defined in that decision have not changed.

This decision is subject to public announcement by putting it on a publicly accessible list of data on the website of the Bulletin of Public Information of the Międzyzlesie City and Municipality Office (bip.miedzylesie.pl) as well as placing it on the notice board of the Międzyzlesie City and

Municipality Office.

In the light of the above, it was ruled as in the sentence.

INFORMATION

The parties may lodge an appeal against the present decision to the Local Government Appeal Court in Wałbrzych via the Mayor of Międzyzlesie City and Municipality within **14 days** of receiving the decision.

Recipients:

1. Hydroprojekt Wrocław sp. z o.o., ul. Wybrzeże Wyspiańskiego 39, 50-370 Wrocław
2. File.

Copies to:

1. Regional Director for Environmental Protection in Wrocław
2. District Sanitary-Epidemiological Station – Kłodzko

The case is conducted by:

Dariusz Kosacz, tel. 74 812 63 27 ext. 27

[stamps:]

HYDROPROJEKT WROCLAW SP. Z O.O.

Received on: 24.02.2015

Ref. No.:

Signature: /illegible signature/

Międzyzlesie City and Municipality Office

MAYOR Tomasz Korczak

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LEGAL COUNSEL Piotr Masalski, M.Sc.

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***Annex to the decision on the environmental conditions
No. ITiG.603.1-D.2015 of February 17th, 2015***

In Boboszów, Międzyzlesie Municipality, in the upper course of the Nysa Kłodzka River, it is designed to construct "Boboszów" dry flood control reservoir (the dam shall be located at chainage km 180+100 of the river) with a maximum volume of 1.418 M m³ and a flooding area of 21.35 ha. The designed undertaking consists in constructing a new section of a municipality road with a length of 1.2 km, which shall be led along the right (northern) edge of the reservoir basin, above the maximum damming level of waters in the basin. The investment shall be located in the area of Boboszów and Pisary village administration units.

A 1.2 km long section of the municipality road currently runs through the area of the dam and the basin of "Boboszów" dry flood control reservoir planned for implementation, joining Boboszów and Pisary. It is a one-lane road with a bituminous pavement and a 3.0 m wide roadway; it features shoulders (0.5 m wide each) and two bridges crossing the Nysa Kłodzka River. The part of the municipality road colliding with the area where dam construction is designed shall be demolished (an approx. 0.5 km long section) and the part running through the area of the designed reservoir basin shall be transformed into an internal road constituting reservoir infrastructure (an approx. 0.7 km long section).

Investment implementation shall allow one to maintain road availability in all conditions of reservoir operation and preserve the connection between Boboszów and Pisary. The new road is designed as a one-lane road with a bituminous pavement, with a width of 3.5 m and shoulders (0.75 m wide each). It is anticipated to construct passing places on the designed section.

The following emission types can be anticipated at the construction stage: gaseous pollutions coming from exhaust systems of the engines of machines and devices, emissions of petroleum derivatives penetrating into the ground from leaking fuel systems or lubrication systems of devices, noise coming from construction equipment at work. If the construction works are planned correctly, the abovementioned implementation stage shall not pose a hazard to the soil-aquatic environment.

According to the Project Information Card, the undertaking shall consist in the following:

- as a part of soil environment protection, a topsoil layer shall be collected from the designed excavations (the construction route of the road and its shoulders, the construction site backyard) and used for reinstating after works completion;
- the earthworks and the construction and assembly works shall be performed in the daytime, from 6:00 a.m. to 10:00 p.m.;
- the removal of trees and shrubs shall be performed in winter, from November 1st to March 15th; trees not anticipated for removal shall be protected against damage;
- the construction works related to road construction shall be performed in a continuous manner, also during the breeding seasons of birds (from March 15th to August 15th), with a reservation that they have to begin before the breeding season of birds, i.e. from August 15th to March 15th;
- the grounds on which construction site backyards and access roads are located as well as the grounds on which earthworks are performed shall undergo agricultural practices (scarifying and fertilization) afterwards and then they shall be covered with a topsoil layer and sown with appropriate grass species;
- as part of the environmental compensation related to the removal of trees and tree stands, it is anticipated to perform planting on a total surface area of approx. 1.5 ha on both sides of the new road section.

The new section of the Boboszów – Pisary municipality road was designed in such a way as to prevent its route from colliding (wherever possible) with sites of rare, protected plant and animal species or with protected natural habitats from Annex I to the Habitats Directive. The investment should not have a significant negative impact on the elements of natural environment or the Natura 2000 sites. The investment shall not exert a cross-border impact, either, because the state border with the Czech Republic is approx. 1.7 km away.