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DBM 7.04

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Marshal of the West Pomeranian Voivodeship

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Director of the Maritime Office in Szczecin

Andrzej Borowiec

Ref. No. WOŚ.II.7322.7.21.2015.WI

Szczecin, 30th of March 2016

DECISION

Pursuant to the Article 140(2)(1), the Article 122 (1)(1) of the Act of 18 July 2001 Water Law (Journal of Laws of 2015, item 469) and Article 104, Article 108§1 of the Act of 14 June 1960 - Code of Administrative Proceedings (Journal of Laws of 2013, item 267 as amended) after examination of the motion of **Mr. Marian Suława acting on behalf of the Maritime Office in Szczecin** of 14 April 2015 as supplemented on 28 April 2015

I adjudicate to:

1. Grant the Maritime Office in Szczecin a Water Law Act Permit for surface water intake from Roztoka Odrzańska at the silting harbour at the level of the Świnoujście - Szczecin fairway in the km 44+000 in order to silt the spoil taken from the Świnoujście - Szczecin fairway to the "Mańków" silting field in the quantity of:

$$Q_{\max.\text{hour}} = 340.0 \text{ m}^3/\text{h}$$

$$Q_{\text{aver.day}} = 8000.0 \text{ m}^3/\text{d}$$

$$Q_{\text{aver.annual}} = 1.120.000 \text{ m}^3/\text{year}$$

2. Grant the Maritime Office in Szczecin a Water Law Act Permit for bringing post-silting waters from the Mańków silting field into the surface waters (through a drainage ditch and wasteland) subject to the following technical conditions:

a) quantity of brought post-silting waters:

$$Q_{\max.\text{hour}} = 375.0 \text{ m}^3/\text{h}$$

$$Q_{\text{aver.day}} = 13.600 \text{ m}^3/\text{d}$$

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Q_{aver.annual} = 1.904.000 m³/year

b) receiving body of water for discharged post-silting waters - Krępa river in km 1+500

c) concentrations of pollution of post-silting water discharged through a drainage ditch to the Krępa river must not be polluted to an extent exceeding the values specified below:

- Reaction pH **6.5 - 9.0 PH**
- BOD₅ - **25 mgO₂/l**
- COD - **125 mgO₂/l**
- Total suspended solids - **35 mg/l**
- Total nitrogen - **30 mg N_{tot}/dm³**
- Total phosphorus - **2 mg P_{tot}/dm³**

[stamps]:

Maritime Office in Szczecin
Department of Seaways and Marine Structures
Date: [partly illegible] 04.2016
Ref. No. 75/16

Maritime Office in Szczecin
General Secretary
Received on: 05.04.2016
Ref. No. [illegible]

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d) Measurement and control point: outlets from the "Mańków" silting field to the Krępa river; sampling for analysis should take place:

- after the settling of water in the settling pond at least 1 day after the completion of the silting (with the complete closure of discharge structures - monks),
- places of sampling: all outlets from monks on individual plots of land
- frequency of testing: each time prior to the planned discharge of post-silting waters into the receiving body of water
- after completion of silting works, the quality of water in the Krępa river should be examined and the ordinates of the bottom should be measured over the distance of 0.5 km from the estuary of the river upstream.

3. The procedure to be followed in case of a failure:

- a) the work should be stopped immediately, and the causes of the failure should be eliminated, and the following authorities should be notified:
 - Maritime Office in Szczecin
 - Goleniów Forest Inspectorate
 - Zachodniopomorski Zarząd Melioracji i Urządzeń Wodnych w Szczecinie [*West Pomeranian Management of Land Reclamation and Water Facilities*] in Szczecin and its Regional Branch in Goleniów
- b) in case of detecting pollution of the dredging material deposited in the silting field, the Maritime Office in Szczecin shall be obliged to eliminate the pollution - before discharging the post-silting waters to the receiving body of water.

4. Oblige the Maritime Office in Szczecin to:

- a) keep records of:
 - quantity of water taken
 - quantities of post-silting waters brought into the Krępa river
- b) comply with the requirements of not discharging post-silting waters to the hydrological system of the "Olszanka" nature reserve,
- c) maintain the full efficiency of protective embankments and the permeability of the existing drainage ditches (draining excess water from sedimentary sludge), culverts and discharge equipment,
- d) not to put the spoil into the Olszanka nature reserve from the maintenance works executed in the drainage ditch,
- e) notify the Goleniów Forest Inspectorate and the West Pomeranian Management of Land Reclamation and Water Facilities in Szczecin, the Regional Branch in Goleniów each time the silting works are started and finished,
- f) notify the Goleniów Forest Inspectorate about maintenance works in a drainage ditch,
- g) carry out survey measurements of the Krępa river bed at the discharge of post-silting waters into the river before and after the commencement and completion of works in the river section from km 0+000 to km 2+000,
- h) having regard to the survey measurements of the receiving body of water, restore the depth of the Krępa River to its original state,
- i) remove any damages in the event of occurrence of uncontrolled post-silting discharges,

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- j) execute maintenance and repair work on ditches, embankments and discharge facilities at intervals:
 - from 31st of July to the end of the year on the part of embankments bordering the "Olszanka" reserve
 - from 1st of June to the end of the year in the remaining sections,
- k) comply with the provisions of Ordinance No. 30/2009 of the Regional Director for Environmental Protection in Szczecin of 22 May 2009 on the establishment of a protection plan for the "Olszanka" nature reserve (Journal of Laws of the West Pomeranian Voivodeship No. 49, item 1189 as amended),
- l) carry out once a year the measurements of the water quality in the Krępa river below and above the place of discharge of post-silting waters within the scope specified in paragraph 2 c) of the Decision,
- m) refrain from discharging waters from the silting field during the backwater on the Krępa river and Roztoka Odrzańska at a high water level in the surrounding drainage ditch and in storm conditions on the Szczecin Lagoon,
- n) discharge in a controlled way the post-silting water into a drainage ditch under technical supervision and after sedimentation of solids and after its sufficiently long settling period in the silting field:
 - retention of post-silting waters on the plot after its filling must not be shorter than one day from the moment of completion of the silting,
 - it is possible to discharge approx. 9000 m³ of post-silting water within 24 hours through the monk's discharge structure,
- o) not to store too large quantities of highly hydrated spoil at a time, the size of the spoil stored at a time should be calculated on the basis of the dependence resulting from the strength and consistency of the embankments and the pressure of the dredged material (it should be calculated, and the value should be taken with a reserve),
- p) not to carry out silting works in the field in the period from 1st of January to 30th of June,
- q) use only the water transport for the purpose of silting works carried out and provide the people, equipment and materials necessary for the maintenance of the silting field,
- r) use the materials of the highest quality allowing for a long service life of the field infrastructure,
- s) monitor on ongoing basis the condition of the entire field infrastructure, and in particular the embankments and leachate drainage ditches.

5. Set the date of validity of the Water Law Act permits granted by this Decision until **31st of December 2021**.

6. The Water Quality Impact Assessment and this Decision should be permanently present in the Maritime Office in Szczecin and be available to inspection authorities.

7. Make the Maritime Office in Szczecin responsible for any damages resulting from the implementation of this Decision.

8. The Water Law Act permit does not give rise to any rights to real estates and water facilities necessary for its implementation and does not infringe the property rights and rights of third parties in respect of such real estate and facilities.

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9. Give the decision a rigour of immediate enforceability.

Justification

The administrative proceedings were initiated at the request of Mr. Marian Suława acting on behalf of the Maritime Office in Szczecin. The following have been attached to the motion:

- The Water Quality Impact Assessment for water intake and discharge from Roztoka Odrzańska in order to store the spoil taken from the Świnoujście - Szczecin fairway to the silting field of "MAŃKÓW" (April 2015),
- Description of activities in non-technical language.

An inseparable element of safe navigation is, among other things, continuous care for the dimensions (depth and width) of fairways. It boils down to carrying out dredging works consisting in excavation of excess soil from the bottom of the fairway in the form of a mixture of water and soil. After loading of the excavated material into the hold of a dredger or a dump barge, it is transported to the unloading places, i.e. the silting harbour (trestle bridge) at the silting field of "Mańków". Unloading takes place by pumping out the loaded spoil and pumping it through pipelines to the silting field. If it is an organic aggragate mud, the water is taken only for flushing the cargo holds. However, if there is a mineral soil (sand, gravel or clay) in the hold, there is a need to intake outboard water for the process of silting. In the field there is sedimentation of solids contained in the deposited water-soil mixture. After the sedimentation period, the water is discharged to the Krępa river through the culvert devices - monks - through a drainage ditch or wasteland. Pursuant to §2 par. 1 item 33 of the Regulation of the Council of Ministers of 9 November 2010 *on projects, which may have a significant impact on the environment* (Journal of Laws No. 213, item 1397 as amended), ports or inland fairways allowing navigation of ships with a carrying capacity of not less than 1350 tonnes are classified as projects, which may always have a significant impact on the environment, for which it is obligatory to prepare a report on the impact of the project on the environment. Therefore, pursuant to the Article 140(2)(1) of the Water Law Act, the competent authority to issue this decision is the Marshal of the West Pomeranian Voivodeship.

The Mańków silting field, which is administered by the Maritime Office in Szczecin, is located in the technical zone of the internal sea water shore.

The intake of surface water for silting the spoil to the silting field of Mańków and bringing of post-silting water to the Krępa river were based on the Water Law Act permits granted to the Maritime Office in Szczecin by the decision of the Marshal of the West Pomeranian Voivodeship of 26 November 2010, reference no. WRiOŚ-II/6250/1-14/2010. In connection with the renunciation of the rights established by the aforementioned decision as of the date of granting new Water Law Act permits, a separate decision stated that the permits in question had expired.

During the proceedings, the authority fulfilled the statutory obligation resulting from the Article 127(6) of the Water Law Act and made public the information about the initiated proceedings in the subject case by posting the aforementioned information on the notice board of the Marshal's Office of the West Pomeranian Voivodeship and placing it on the website of the said authority.

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On the 4th of May 2015, in the presence of representatives of the Maritime Office in Szczecin and the Goleniów Forest Inspectorate, a reconnaissance was carried out in the Mańków silting field, during which the following were observed:

- gaps and holes in some places of embankments caused by beavers' existence in this area,
- growth of vegetation in some places of the drainage ditch, which may cause sodding of the ditch and, as a consequence, blocking the free flow of water.

The representative of the Maritime Office in Szczecin informed that works were being carried out in order to repair the damage.

The Parties to the Water Law Act proceedings with the notification of 5 May 2015, reference no. WOŚII.7322.7.3.2015.WI were informed about the initiation of the proceedings. In accordance with the Article 10 of the Code of Administrative Procedure, the Parties were given the opportunity to express their opinions on the evidence and materials collected, prior to the issuance of the decision.

During the proceedings, the Goleniów Forest Inspectorate presented its position (a letter dated 21.05.2015, reference no. ZG.7212.11.2015). Moreover, on 20.05.2015, a request for explanation of why the Regional Director for Environmental Protection in Szczecin was not included as a "party" in the conducted proceedings was received (or as the Authority receiving the subject document for information). In the letter dated 22 May 2015, the Regional Director for Environmental Protection in Szczecin was informed that the list of parties to the proceedings concerning the issuance of a Water Law Act permit was specified in the Article 127(7) of the Water Law Act and constitutes a closed catalogue. The Regional Director for Environmental Protection has not been mentioned in it.

By the decision of 12 June 2015, reference no. WOŚI.7322.7.9.2015.WI, Water Law Act permits were granted to the Maritime Office in Szczecin for

- the intake of surface water from Roztoka Odrzańska at the silting harbour at the level of the Świnoujście - Szczecin fairway in km 44+000 in order to restore the spoil taken from the Świnoujście -Szczecin fairway to the silting field of "Mańków
- bringing of post-silting waters from the Mańków silting field to the surface waters (through a drainage ditch and wasteland).

Mr. Marian Suława, acting under the authority of the Maritime Office in Szczecin, lodged an appeal against the above decision in a letter dated 22 June 2015, indicating that he does not agree with the provision of the item 4(s) of the decision, as such a provision will prevent the Maritime Office in Szczecin from efficient carrying out the dredging works necessary to maintain appropriate technical parameters of the Świnoujście - Szczecin fairway, which is an element of the infrastructure providing access to the ports in Szczecin and Świnoujście (ports of fundamental importance for the national economy).

The Chairman of the National Water Management Board - as an appeal body - overruled the above mentioned decision of the Marshal of the West Pomeranian Voivodeship and referred the case for re-examination. In order to enable the parties to the proceedings to comment on the case, on 1 December 2015 a Water Legal Act hearing took place, in which representatives of the Goleniów Forest Inspectorate and the Maritime Office in Szczecin participated. During the hearing, issues concerning the location of the field in relation to the vicinity of the nature reserve "Olszanka" and the white-tailed

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eagle nesting and living area, as well as the protection of these areas, were analysed. Moreover, the proposed conditions and obligations, which will be introduced into the decision on granting the Water Law Act permits applied for were discussed and verified. While establishing the conditions and obligations, the requirements concerning the protection of the above-mentioned areas were also taken into account, including those resulting from the Regulation of the Minister of the Environment of 6 October 2014 on the protection of animal species - Journal of Laws of 2014, item 1348 - with reference to the protection periods of the white-tailed eagle and the Regulation No. 30/2009 of the Regional Director for Environmental Protection in Szczecin of 22 May 2009 on the establishment of a protection plan for the "Olszanka" nature reserve. – Journal of Laws of the West Pomeranian Voivodeship No. 49, item 1189 as amended.

In accordance with the Article 10 of the Code of Administrative Procedure, the Parties were given the opportunity to express their opinions on the evidence and materials collected, before issuing a decision. Polska Spółka Gazownictwa Sp. z o.o. [*Polish Gas Company Ltd*], the Branch in Poznań - which received correspondence addressed to the Wielkopolski Okręgowy Zakład Gazownictwa [*Wielkopolski Regional Gas Company*], the owner of the extract from the land register, owned by the State Treasury - expressed its opinion on the matter in question informing that in the area of the silting field in question it does not have a gas network and does not plan its development. The other parties to the proceedings did not raise any objections to the case. Since a high-pressure gas pipeline runs through the 437/2 plot in the Bogusławie precincts adjacent to the field, the authority has taken actions aimed at determining the entity having the right to own the aforementioned real estate.

To this end, telephone conversations took place with the representatives of the Polska Spółka Gazownictwa Sp. z o.o. [*Polish Gas Company Ltd*], Branch in Poznań, during which it was established that the company named Wielkopolski Okręgowy Zakład Gazownictwa [*Wielkopolski Regional Gas Company*] - despite the fact that it is listed in the land register as the owner - did not exist and the high-pressure networks running through the plot could be managed by the Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. company [*Gas Pipeline Transmission Operator*]. Moreover, it was pointed out that the property could have been transferred to the PGNiG's resources in Warsaw. In connection with the above, the authority undertook the following actions in order to determine the landowner of the plot no. 437/2 Bogusławie precincts:

- Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. company [*Gas Pipeline Transmission Operator*], the Branch in Poznań was contacted (letter of 15 January 2016, reference no. WOŚ.II.7322.7.16.2015.WI), with the inquiry whether the gas pipeline running through the plot no. 437/2 Bogusławie precincts was its property and whether the company had a legal title to this area. As the company - despite telephone reminders - did not respond to the letter, the letter was repeated (letter of 3 March 2016, reference no. WOŚ.II.7322.7.19.2015.WI) indicating that the lack of response would be treated as if the Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. company, the Branch Poznań had no legal title to own the aforementioned real estate. The company has not responded with regards to the above mentioned issue within the set deadline.
- A telephone conversation was held with the Property Management Manager at PGNiG in Warsaw, who informed that the plot no. 437/2 Bogusławie precincts was not mentioned in the company's resources.

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- The Starost of Goleniów (letter of 15 January 2016, reference no. WOŚ.II.7322.7.17.2015.WI) was requested to provide the land and mortgage register number of the plot no. 437/2 Bogusławie precincts, indicating that these data were necessary to apply to the District Court in Goleniów, Land and Mortgage Registers Department, in order to check the records contained in the aforementioned document. In response (letter of 25.01.2016, reference no. WGK.6621.224.2016.PO) an information was provided that in the land, buildings and premises register kept by the Starosty for the plot no. 437/2 Bogusławie Precincts the Land and Mortgage Register number was not mentioned.

Despite the actions taken, it was not possible to identify the entity that currently has the right to own the aforementioned real estate. As on the plot no. 437/2 Bogusławie precincts silting of the dredged material is not planned, and in the extract from the land register the State Treasury is indicated as the owner, it was decided that the decision would be addressed to the Starost of Goleniów, who, pursuant to the Article 11 of the Act of 21 August 1997 on real estate management (Journal of Laws of 2010 No. 102, item 651, as amended) is the authority representing the State Treasury in matters of real estate management, performing tasks in the field of the government administration (performing ownership rights on its behalf).

The term of validity of the Water Law Act permits granted by this Decision has been set for 31st of December 2021.

Pursuant to the Article 37(3) of the Act of 21 March 1991 on maritime areas of the Republic of Poland and maritime administration (Journal of Laws of 2013, item 934, as amended), a draft decision on granting the requested Water Law Act permits was agreed upon by the Director of the Maritime Office in Szczecin by decision of 18 December 2015, reference no. GPG-I-5010-Port Szcz-27/6/15.

Pursuant to the Article 123(3) of the Water Law Act, an applicant who has not obtained rights to real estate or facilities necessary for the execution of the Water Law Act permit is not entitled to a claim for reimbursement of expenditures incurred in connection with obtaining such a permit.

Pursuant to the Article 108§1 of the Code of Administrative Proceedings, the decision is immediately enforceable due to the exceptionally important interest of the Maritime Office in Szczecin.

Considering the above, it was ruled as in the sentence.

This decision may be appealed by the Party to the Chairman of the National Water Management Board through the Marshal of the West Pomeranian Voivodeship within 14 days from the date of its receipt.

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Marshal of the
West Pomeranian Voivodeship

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By authority of the Marshal of the Voivodeship
Mariusz Adamski
[illegible signature]
Director for Environmental Protection

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3. Goleniów Forest Inspectorate
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4. West Pomeranian Management of Land Reclamation and Water Facilities
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3. WOŚ.I. [*Department of Environmental Protection*]

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