

**ANNEX No. 1
TO THE ENVIRONMENTAL MANAGEMENT PLAN
FINAL VERSION**

ODRA-VISTULA FLOOD MANAGEMENT PROJECT

Loan Agreement no. 8524 PL

Environmental category B – in accordance with WB OP 4.01

Component 3:

Flood Protection of the Upper Vistula

Subcomponent 3A:

Flood Protection of Upper Vistula Towns and Cracow

Works Contract 3A.3

*Section 4 - Right embankment of the Vistula
from the Skawinka estuary to the Kościuszko barrage*

<i>Issue</i>	<i>Date</i>	<i>Authors</i>	<i>Verified by</i>	<i>Client's approval</i>	<i>Description</i>
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ODRA-VISTULA FLOOD MANAGEMENT PROJECT

co-financed by:

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– Loan Agreement no. 8524 PL,

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State Budget

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Works Contract 3A.3

Section 4 - Right embankment of the Vistula

from the Skawinka estuary to the Kościuszko barrage

Environmental category B – according to OP 4.01 WB

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1 Introduction

This document forms Annex no. 1 to the Environmental Management Plan (EMP) for the Works Contract 3A.3 *Section 4 - Right embankment of the Vistula from the Skawinka estuary to the Kościuszko barrage*, as developed in 2019 and approved by the World Bank (“*No objection*”) on June 24, 2019.

Contract 3A.3 remains a part of Subcomponent 3A implemented within *Odra-Vistula Flood Management Project* (OVFMP), co-financed by the International Bank for Reconstruction and Development (World Bank), the Council of Europe Development Bank, by the European Union Cohesion Fund, and by the State Budget.

Detailed information on the: location, specificity, institutional and legal and administrative conditions, and environmental aspects for the Works Contract 3A.3 are given within the contents, as well as in appendices to the aforementioned EMP.

Necessity of developing this annex to the aforementioned EMP results from the issuance of a decision dated May 20, 2020 by the Regional Director for Environmental Protection in Cracow, which modified one of the conditions of the binding decision on environmental conditions (dated May 20, 2015), and it therefore modified contents of one of the mitigation measures given in Appendix 1 to the EMP and relevant monitoring measure included in Appendix 2 to the EMP.

2 Contents of Annex to the EMP for the Works Contract 3A.3

The Works Contract 3A.3 is implemented based upon the decision on environmental conditions issued by the Regional Director for Environmental Protection in Cracow on 05/20/2015 (ref. no.: OO.4233.8.2014.BM). One of the elements given in the aforementioned decision is a condition determined under item I.1.2n, which states the following:

“Prior to the commencement of earthworks within a particular area one shall inspect it in relation to the occurrence of protected animal species (e.g. amphibians, reptiles, birds). The works associated with the removal of top layer shall be done from September to February. Identified specimens shall be transferred to the area beyond the Works Contract site to the location having similar habitat conditions and placed in such a distance from the Works Contract that the animals would not be able to return to the site until the completion of works. The earthworks shall be performed under the Contractor’s environmental supervision.”

That condition has been given in the EMP for Contract 3A.3 through its inclusion within contents of item 21 in Appendix 1 and 2 to the EMP, stating the following:

“In order to protect the layer of topsoil from the Contract area:

- a) prior to the commencement of earthworks on a given area, it should be inspected for the presence of protected species;*
- b) prior to the commencement of construction works in individual parts of the Contract area, a layer of fertile soil (i.e. topsoil) should be removed, with a thickness of not less than 0.1 m (this condition applies to all locations in the Contract area where the existing topsoil layer could be degraded in relation to conducting works, driving and operating vehicles, machinery and equipment, storing materials, etc.);*
- c) works related to the removal of the layer of topsoil shall be carried out from September to February;*
- d) earthworks should be carried out under the supervision of a naturalist”.*

An obligation to transfer the identified animal specimens has been included within contents of item 35 in Appendix 1 and 2 to the EMP, stating the following:

“(…)

If the presence of natural habitats and habitats or protected sites of plant and animal species in the Contract area has been confirmed, it is necessary to do as follows:

- a) (...);*
- b) in the case of habitats or sites of protected species - perform the actions referred to in item 44 (obtaining a decision allowing for exceptions to the principles of species protection of plants, fungi and animals for the habitats and sites of protected species indicated in the EIA and the Investment Data Sheet) and item 45 (obtaining a decision allowing for exceptions to the principles of species protection of plants, fungi and animals for newly detected habitats and sites of protected species);*
- c) identified representatives of protected species (e.g. amphibians, reptiles, birds) should be relocated outside the Works Contract site to a place with similar habitat conditions, far away enough from the Works Contract site, so that animals cannot return to this area until the work has been completed. All work will require an appropriate administrative decision in accordance with the procedure indicated in the above item - b). (before relocating amphibians, you must obtain the permit of the owner or manager of the reservoir, water-course or terrain to which they will be transferred)”.*

The Works Contract 3A.3 was commenced in the first quarter of 2020 (agreement with the Contractor has been signed on January 21, 2020, and the works were commenced on February 5, 2020). Soon after the works have been commenced it turned out that it is necessary to modify the aforementioned condition of the environmental decision and corresponding conditions of the EMP. The condition with such time restrictions (restricting the acceptable time for the removal of top-soil to 6 months a year only – from September to February) disabled the Contractor to perform the works sectionally at modernization of the embankment during the entire year, as it practically blocked the possibility of commencing the works within new sections for 6 months. Yet, due to both: technical reasons, as well as for assuring flood safety for areas beyond the embankment, the works at modernization of the existing flood embankments should be performed in stages through their execution within relatively short sections (over a length of about 100-300 m), with maximal possible reduction of time, when the embankment slopes would be unprotected with grass vegetation (turf), especially on the riverside. Keeping the condition in question in the environmental decision would result in necessary suspension of opening of new sections of works within 6 months a year (from March to August), or in prior removal of top-soil from long sections, which would later be left without protection provided by plant layer for a long time, with reduced elevation of the embankment crest (due to the removal of top-soil from the embankment crest) facilitating spilling of river in spate over the embankment. An effect of such a situation would be incurring a significant risk to areas beyond the embankment protected by the modernized flood embankments, which would be associated with possible failure of unprotected embankments due to bigger and/or longer bankful discharge in the River Vistula.

As a consequence, in March 2020 the Investor applied to the Regional Director for Environmental Protection in Cracow for the issuance of a decision modifying the condition of the binding environmental decision dated 05/20/2015, which refers to the time of removing the top layer of soil (top-soil).

On 05/20/2020, after proceeding on the issuance of a decision on environmental conditions (including provision of the legally required public participation), the Regional Director for Environmental Protection in Cracow issued the decision on environmental conditions (ref. no.: OO.420.4.1.2020.BM – Appendix no. 1 to this Annex), modifying the condition determined under item I.1.2n of the environmental decision dated 05/20/2015.

In accordance with contents of item II.1 of the new decision, the condition determined under item I.1.2n of the decision dated 05/20/2015 has been modified as follows:

“Prior to commencing the earthworks within a particular site one shall inspect it in reference to the occurrence of protected animal species (e.g. amphibians, reptiles, bird). The works associated with the removal of top layer of soil may be done throughout the year provided that ongoing environmental supervision would be assured. Identified specimens shall be transferred to the area beyond the investment site, to the location having similar habitat conditions, placed in a distance sufficient to avoid the return of animals to the site until completing the works. The aforementioned measures shall be implemented under supervision of expert ornithologist. The top layer of soil shall be removed in stages along with the progress of works at the embankment.”

In accordance with contents of the justification (page 5) for the new decision dated 05/20/2020, the subject amendment for the condition referring to the time and to the performance conditions related to the removal of the top layer of soil does not affect other actions and mitigation measures determined for the performance stage and for the use, as given in the binding decision dated 05/20/2015. As given on pages 5 and 6 of the new decision:

- *“Other impacts and mitigation measures remain unchanged and have been described and analyzed in the issued decision on environmental conditions”.*
- *“The investment in question – comprising modification of the assignment to be implemented in the condition referring to the time and to performance conditions related to the removal of the top layer of soil – shall not result in changing the scope of assumed volume of gas and dust pollution emission to the air, pollution emission to water, and volume of waste emission, as well as shall not result in changing the volume of applied, water, raw materials, fuel, and power. It is also not expected to modify solutions applied to protect the environment. Except for the modified condition referring to the time and performance conditions related to the removal of the top layer of soil, any other assumption remain coherent with those, which have been adopted on the stage of obtaining the decision on environmental conditions dated 05/20/2015, ref. no.: OO.4233.8.2014.BM.”*
- *“Analysis of conditions listed under Article 63 (1) of the Act of 3 October 2008 on access to information on the environment and its protection, public participation in environment protection and environmental impact assessments allows for stating that modification of the conditions analyzed during this proceedings does not refer to modification of the investment impacts in relation to water and mud areas and other areas with shallowly occurring ground water, shores, mountainous and forest areas, areas under protection, areas requiring special protection due to occurrence of plant species and animal species and their habitats, as well as natural habitats under protection – including Natura 2000 sites – where environmental quality standards have been exceeded, areas of direct protection for water intakes, areas of health-resort protection, and areas with landscape of historic, cultural or archaeological significance.”*
- *“It shall be additionally emphasized that due to the type of investment, the impacts shall be of local reach, without a risk of transboundary impact. Due to the range of planned investment there is no possibility of impact accumulation, and application of natural resources, emission risk, occurrence of other nuisance, or occurrence of a serious industrial failure is minor. Implementation of the investment in question shall also not cause not reaching the environmental objectives included in the water management plan for the Vistula river-basin. All those and other required aspects determined under Article 63 (1) of the Act of 3 October 2008 on access to information on the environment and its protection, public participation in environment protection and environmental impact assessments have been analyzed in details on the stage of obtaining the decision of the Regional Director for Environmental Protection in Cracow dated 05/20/2015, ref. no.: OO.4233.8.2015.BM, and they are still binding.”*

A detail description referring to the aforementioned issues is given within contents of the justification to the environmental decision dated May 20, 2020, which forms Appendix no. 1 to this Annex.

3 Changes to the EMP for the Works Contract 3A.3 resulting from the Annex

Due to the issuance of a decision by the RDOŚ in Cracow on 05/20/2020, which modifies the condition determined under item I.1.2n of the decision of the RDOŚ in Cracow dated 05/20/2015 (see: description in Chapter 2), it is necessary to implement the aforementioned changes to the Environmental Management Plan (EMP) for the Works Contract 3A.3.

3.1 Amendments to contents of the EMP

Amendments to Chapter titled Summary

- Description given in item titled *Legal context of the Contract* (page 16) shall be updated with the following sentence:

On May 20, 2020 the RDOŚ in Cracow issued a decision on environmental conditions modifying the condition determined under item I.1.2n of the previously issued environmental decision in the scope referring to the time and to the performance conditions related to the removal of the top layer of soil (top-soil).

Amendments to Chapter 3.5 titled *The current condition of EIA procedures for the Works Contract*

- In the end of Chapter 3.5 (page 31) add the following paragraph:

Furthermore, based upon the Investor's application filed in March 2020, the RDOŚ in Cracow issued a decision on Environmental conditions dated May 20, 2020 (ref. no.: OO.420.4.1.2020.BM – Appendix no. 1 to this Annex), modifying the condition determined under item I.1.2n of the previously issued decision (dated May 20, 2015) in reference to the time and to the performance conditions related to the removal of the top layer of soil (top-soil). Issuance of that decision was preceded with a procedure on the issuance of a decision on environmental conditions, which assured the legally required public participation. Description of the aforementioned procedure is given within contents of the justification for the decision (see: Appendix no. 1 to this Annex).

Amendments to Chapter 6.8.1 titled *Natural habitats, flora and fauna*

- In the part of chapter 6.8.1 referring to mitigation measures on the performance stage, the previous contents under item eight of an unnumbered list of mitigation measures marked with reference marks (i.e. in the second paragraph from the top on page 63) shall be amended as follows:
 - prior to commencing the earthworks within a particular site one shall inspect it in reference to the occurrence of protected animal species (e.g. amphibians, reptiles, bird). The works associated with the removal of top layer of soil may be done throughout the year provided that ongoing environmental supervision would be assured. Identified specimens shall be transferred to the area beyond the Contract site, to the location having similar habitat conditions, placed in a distance sufficient to avoid the return of animals to the site until completing the works. The aforementioned measures shall be implemented under supervision of expert ornithologist. The top layer of soil shall be removed in stages along with the progress of works at the embankment.

Amendments to Chapter 7.1.6 titled Nature

- In the first paragraph of chapter 7.1.6 (page 73), in the fourth line of the paragraph remove the following words:
“removal of soil layer,”.

Amendments to Chapter 8.1 titled Public consultations on EIA stage

- Before the first paragraph of chapter 8.1 (page 75) add the following heading:
8.1.1 Public consultations for the environmental decision dated May 20, 2015
- Furthermore, in the end of chapter 8.1 (page 76) add another sub-chapter stating the following:
8.1.2 Public consultations for the environmental decision dated May 20, 2020
Furthermore, based upon the Investor’s application filed in March 2020, the RDOŚ in Cracow issued a decision on Environmental conditions dated May 20, 2020 (ref. no.: OO.420.4.1.2020.BM – Appendix no. 1 to this Annex), modifying the condition determined under item I.1.2n of the previously issued decision (dated May 20, 2015) in reference to the time and to the performance conditions related to the removal of the top layer of soil (top-soil). Issuance of that decision was preceded with a procedure on the issuance of a decision on environmental conditions, which assured the legally required public participation. Description of the aforementioned procedure is given within contents of the justification for the decision (see: Appendix no. 1 to this Annex).

Amendments to Chapter 11 titled Source materials

- In the end of chapter 11 (page 96) add the following item under numbered list as follows:
17. Decision on environmental conditions dated May 20, 2020 (ref. no.: OO.420.4.1.2020.BM) modifying the condition determined under item I.1.2n of the previously issued environmental decision (dated May 20, 2015, ref. no.: OO.4233.8.2014.BM), in the scope referring to the time and to the performance conditions related to the removal of the top layer of soil (top-soil)

Amendments to Chapter 12 titled Appendices

- List of elements under Appendix 4, as given in Chapter 12 (page 97), shall be updated with another sub-item marked with reference mark as follows:
 - Appendix 4f Decision on environmental conditions dated May 20, 2020.

3.2 Amendments to Appendices to the EMP

Amendments to Appendix 1 titled Plan of mitigation measures

- In the table of mitigation measures, under item no. 21 (page 14 in Appendix 1 to the EMP), implement the following changes:
 - ➡ In the second column titled *Item in Environ. Decision* one shall:
remove the words “I.1.2.n”
and replace them as follows:
II.1 of the ED dated 2020

- In the fifth column titled *Mitigating action* one shall implement the following changes:
 - ⇒ previous item a) shall be replaced as follows:
 - a) prior to commencing the earthworks within a given site one shall inspect the site in reference to the occurrence of protected species. In case of identifying specimens of the protected species one shall implement measures described under item 35 (c);
 - ⇒ previous item c) shall be replaced as follows:
 - c) the works associated with the removal of the top layer of soil (top-soil) may be performed throughout the year. The works shall be done in stages along with progress of works at modernization of the following embankment sections;
 - ⇒ previous item d) shall be replaced as follows:
 - d) measures described under item b shall be implemented under ongoing environmental supervision (including supervision by an expert ornithologist).
- In the table of mitigation measures, under item no. 35 (page 22 in Appendix 1 to the EMP) implement the following changes:
 - In the second column titled *Item in Environ. Decision* one shall: remove the words “1.1.2.n” and replace them as follows:
II.1 of the ED dated 2020

Amendments to Appendix 2 titled *Plan of monitoring measures*

- In the table of monitoring measures, under item no. 21 (page 8 in Appendix 2 to the EMP) implement the following changes:
 - In the second column titled *Item in Environ. Decision* one shall: remove the words “1.1.2.n” and replace them as follows:
II.1 of the ED dated 2020
 - In the fifth column titled *Mitigation measure* one shall implement the following changes:
 - ⇒ previous item a) shall be replaced as follows:
 - a) prior to commencing the earthworks within a given site one shall inspect the site in reference to the occurrence of protected species. In case of identifying specimens of the protected species one shall implement measures described under item 35 (c);
 - ⇒ previous item c) shall be replaced as follows:
 - c) the works associated with the removal of the top layer of soil (top-soil) may be performed throughout the year. The works shall be done in stages along with progress of works at modernization of the following embankment sections;
 - ⇒ previous item d) shall be replaced as follows:
 - d) measures described under item b shall be implemented under ongoing environmental supervision (including supervision by an expert ornithologist).

- In the table of monitoring measures, under item no. 35 (page 13 in Appendix 2 to the EMP)
implement the following changes:
 - In the second column titled *Item in Environ. Decision* one shall:
remove the words “1.1.2.n”
and replace them as follows:
II.1 of the ED dated 2020

Amendments to Appendix 4 titled *Decisions, resolutions, permits, notices*

- Appendix 4 to the EMP shall be updated with another element (number 4f)¹, in the form of the Decision on environmental conditions dated May 20, 2020 (including contents of *Specificity of the Investment*, forming Appendix no. 1 to the decision).

¹ The new appendix 4f to the EMP in question also forms Appendix no 1 to this Annex.

4 Summary

This Annex no. 1 to the Environmental Management Plan (EMP) for the Works Contract 3A.3 has been developed for the purpose of issuing a decision dated May 20, 2020 by the Regional Director for Environmental Protection in Cracow (ref. no.: OO.420.4.1.2020.BM), which modified one of the conditions of the binding decision on environmental conditions (dated May 20, 2015, ref. no.: OO.4233.8.2014.BM), and it therefore modified contents of one of the mitigation measures given under item 21 in Appendix 1 to the EMP and corresponding monitoring measure included in Appendix 2 to the EMP.

The amendment in question to the condition of the environmental decision refers to the time and to the performance conditions related to the removal of the top layer of soil (top-soil) only – see: information given in Chapter 2 of this Annex. The amendment shall not result in changing the scope of assumed volume of gas and dust pollution emission to the air, pollution emission to soil and water, and volume and specificity of waste emission, as well as it shall not result in changing the volume of applied water, materials, fuel, and power. It shall also not result in changing the scale or the specificity of forecasted impact on abiotic environment and on biotic environment (including protected resources of the natural environment) or the forecasted impact on heritage and material goods. The amendment does not also refer to modification of the Contract impacts in relation to water and mud areas with shallowly occurring ground water, areas under protection, areas requiring special protection due to occurrence of plant species and animal species and their habitats, as well as natural habitats under protection, including Natura 2000 sites, and areas with landscape of historic, cultural or archaeological significance.

A list of modifications in the contents and in the Appendices to the binding EMP for the Works Contract 3A.3, associated with the issuance of the RDOŚ decision in question, is given in Chapter 3 of this Annex.

5 List of Appendices to the Annex

- Appendix 1. Decision of RDOŚ in Cracow on environmental conditions dated May 20, 2020
(ref. no.: OO.420.4.1.2020.BM)