

**REGIONAL DIRECTOR FOR
ENVIRONMENTAL PROTECTION
IN CRACOW**

OO.40.4.3.2019.BM

Cracow, May 28, 2020

RESOLUTION

Based upon Article 63 (1) and (4), Article 65, Article 66, Article 68, Article 75 (1) item 1 letter i) and 1 letter p) of the Law of October 3, 2008 on the access to information on the environment and its protection, public participation in environment protection and environmental impact assessments (consolidated text: OJ of 2018, item 2081, as amended), as well as upon Article 17 of the Act of July 8, 2010 on the special preparation rules for flood protection investments (OJ of 2019, item 933, consolidated text), and Article 4 (1) and (2) of the Act of July 19, 2019 amending the act on the access to information on the environment and its protection, public participation in environment protection and environmental impact assessments and some other acts (OJ of 2019, item 1712), and Article 123 (2) of the Act of June 14, 1960 Code of Administrative Procedure (consolidated text: OJ of 2020, item 256, consolidated text), as well as Article 3 (2) item 1 in reference to Article 2 (1) item 36 and Article 3 (1) item 65 of the regulation of the Council of Ministers of November 9, 2010 on the investments which may significantly affect the environment (OJ of 2016, item 71, consolidated text), with meaning given under Article 4 of the regulation of the Council of Ministers of September 10, 2019 on the investments which may significantly affect the environment (OJ of 2019, item 1839)

after considering

the application dated 07/31/2019, ref. no.: POPDOW/KR/60549311/18/0708, filed by Mrs. Barbara Chammas, representative of AECOM Polska Sp. z o.o., Odra-Vistula Flood Management Project Office (1. Pokoju Alley, Building K1, 31-548 Cracow), acting in the name of the State Water Holding Polish Waters Regional Water Management Authority in Cracow (22. Marszałka J. Piłsudskiego Street, 31-109), leading to the issuance of amendment to the decision on environmental conditions dated 10/29/2012, ref. no.: OO.4233.13.2012.BM, for the investment titled:

1. **"Construction of a flood storage reservoir "Bieżanów" on the River Serafa at chainage km 7+284 in the City of Cracow",**
2. **"Construction of a flood storage reservoir "Serafa - 2" on the River Serafa at chainage km 9+223 in the City of Cracow",**
3. **"Construction of a flood storage reservoir "Malinówka - 1" on the Malinówka Stream at chainage km 0+220 in the City of Cracow",**
4. **"Construction of a flood storage reservoir "Malinówka - 2" on the Malinówka Stream at chainage km 2+320 in the City of Cracow",**
5. **"Construction of a flood storage reservoir "Malinówka - 3" on the Malinówka Stream at chainage km 3+017 in the City of Cracow and in the City of Wieliczka";** in the range of tasks listed in items 2 and 5 above.

As a result of amending the decision on environmental conditions dated 10/29/2012, ref. no.: OO.4233.13.2012.BM, the name of investment given in the application dated 07/31/2019, ref. no.: POPDOW/KR/60549311/18/0708, shall be as follows:

- ***“Construction of a flood storage reservoir “Serafa - 2” on the River Serafa at chainage km 9+223 in the City of Wieliczka”,***
- ***“Construction of a flood storage reservoir “Malinówka - 3” on the Malinówka Stream at chainage km 2+990 in the City of Cracow and in the City of Wieliczka”;***

I hereby decide as follows:

I. It is necessary to provide an environmental impact report for the investment titled:

1. ***“Construction of a flood storage reservoir “Bieżanów” on the River Serafa at chainage km 7+284 in the City of Cracow”,***
2. ***“Construction of a flood storage reservoir “Serafa - 2” on the River Serafa at chainage km 9+223 in the City of Cracow”,***
3. ***“Construction of a flood storage reservoir “Malinówka - 1” on the Malinówka Stream at chainage km 0+220 in the City of Cracow”,***
4. ***“Construction of a flood storage reservoir “Malinówka - 2” on the Malinówka Stream at chainage km 2+320 in the City of Cracow”,***
5. ***“Construction of a flood storage reservoir “Malinówka - 3” on the Malinówka Stream at chainage km 3+017 in the City of Cracow and in the City of Wieliczka”;*** in the range of tasks listed in items 2 and 5 above.

II. The report shall contain and meet the requirements determined under Article 66 of the Law of October 3, 2008 on the access to information on the environment and its protection, public participation in environment protection and environmental impact assessments, and especially the following:

- 1) Description of the preparation method for bowls of designed 2 dry reservoirs.
- 2) Description of the investment impact - on the performance stage – on all environmental components, and of ordering bowls of the reservoirs, including residential buildings located in vicinity, due to modification of parameters for the reservoirs and their boundaries.
- 3) Description and presentation in a graphical appendix of access roads and technological roads for the time of performance, and assessment of nuisance associated with deliveries of construction materials, if those solutions would be modified in comparison to assumptions under the environmental decision dated 10/29/2012.
- 4) Establishment of the needs and of the scope of necessary monitoring on the operational stage for 2 dry reservoirs.
- 5) Analysis of possible social conflicts associated with implementation of the investment.
- 6) Efficiency assessment for development of the dry reservoirs planned as a flood protection.
- 7) Identification of time necessary for maximum filling of the reservoirs, as well as the time in which particular reservoirs would be depleted.
- 8) Provision of the planned scope of regulation works in the Malinówka Stream and in the River Serafa, in a reach running within the area of planned dry reservoirs, or provision of information on keeping the solutions adopted on the stage of decision on environmental conditions dated 10.29.2012, ref. no.: OO.4233.13.2012.BM.
- 9) One shall inform specificity of the investment, including the type of applied engineering technologies (including e.g.: technology for development of the reservoir’s dam and the spillway-discharge facilities).
- 10) One shall provide a description of environmental elements (update) in the range of expected impact of the planned investment (updating data on vegetation and animals). The description shall refer to the area covered by the application on the issuance of amendment to the decision on environmental conditions (area of hydraulic structures,

channels of the River Serafa and of the Malinówka Stream, reservoir's bowl, as well as adjacent areas without investments in progress).

- 11) Description of actions to prevent and limit adverse environmental impact, if such would occur due to implementation of the investment.
- 12) Information on the type of materials applied at development of the planned dry reservoirs (e.g. earth-fill dam), determination of the method and location of its extraction, along with assessment of occurrence possibility for substances in the materials that may cause contamination of waters and water environment, or indication that it has not been modified in comparison to the decision on environmental conditions dated 10.29.2012, ref. no.: OO.4233.13.2012.BM.
- 13) Steps to be undertaken by the Investor to adapt the investment to diagnosed climate changes shall be indicated, and solutions shall be presented to prevent generation of impacts resulting in intensification of climate changes.

The report shall moreover provide a complete list of applied publications and inform methods and dates of site visits. The report shall also contain data of all of the persons being authors of that document, including data of a person (persons), who updated the environmental inventory.

Justification

The State Water Holding Polish Waters Regional Water Management Authority in Cracow, acting through the Proxy, Mrs. Barbara Chammas, representative of AECOM Polska Sp. z o.o., Odra-Vistula Flood Management Project Office (1. Pokoju Alley, Building K1, 31-548 Cracow), filed a motion dated 07/31/2020, ref. no.: POPDOW/KR/60549311/18/0708, to the Regional Director for Environmental Protection in Cracow on modification of the decision on environmental conditions dated 10/29/2012, ref. no.: OO.4233.13.2012.BM, for the investment titled:

1. **"Construction of a flood storage reservoir "Biezanów" on the River Serafa at chainage km 7+284 in the City of Cracow",**
2. **"Construction of a flood storage reservoir "Serafa - 2" on the River Serafa at chainage km 9+223 in the City of Cracow",**
3. **"Construction of a flood storage reservoir "Malinówka - 1" on the Malinówka Stream at chainage km 0+220 in the City of Cracow",**
4. **"Construction of a flood storage reservoir "Malinówka - 2" on the Malinówka Stream at chainage km 2+320 in the City of Cracow",**
5. **"Construction of a flood storage reservoir "Malinówka - 3" on the Malinówka Stream at chainage km 3+017 in the City of Cracow and in the City of Wieliczka";** in the range of tasks listed in items 2 and 5 above.

As a result of amending the decision on environmental conditions dated 10/29/2012, ref. no.: OO.4233.13.2012.BM, part of the investment name under the application dated 07/31/2019, ref. no.: POPDOW/KR/60549311/18/0708 shall be as follows:

- ***"Construction of a flood storage reservoir "Serafa - 2" on the River Serafa at chainage km 9+223 in the City of Wieliczka",***
- ***"Construction of a flood storage reservoir "Malinówka - 3" on the Malinówka Stream at chainage km 2+990 in the City of Cracow and in the City of Wieliczka".***

In the course of proceeding the Investor's Proxy updated and corrected the investment data sheet with essential elements in the notes dated 12/23/2019, ref. no.: POPDOW/KR/60549311/19/1363, dated 01/09/2020, ref. no.: POPDOW/KR/60549311/20/0031, and dated 04/01/2020, ref. no.:

POPDOW/KR/60549311/20/0727 (elements listed in the call of the Minister of Maritime Management and In-land Navigation).

The investment assignment in question is qualified to contracts, which may potentially affect the environment significantly, in accordance with **Article 3 (2) item 1**, and due to **Article 2 (1) item 36**, as well as according to **Article 3 (1) item 65** of the regulation of the Council of Ministers of November 9, 2010 on the investments which may significantly affect the environment (OJ 2016, item 71, consolidated text) in the meaning of Article 4 of the Regulation of the Council of Ministers of September 10, 2019 on the investments which may significantly affect the environment (OJ of 2019, item 1839).

In conformity with provisions Article 75 (1) item 1 letter i) and letter p) of the Act of October 3, 2008 on the access to information on the environment and its protection, public participation in environment protection and environmental impact assessments, the Regional Director for Environmental Protection is responsible for the issuance of an amended decision on environmental conditions for the investment in question.

The Regional Director for Environmental Protection informed the parties in the notification dated 09/27/2019, ref. no.: OO.420.4.3.2019.BM, about commencement of the proceeding and about the possibility of acknowledging the case documentation. The notification has efficiently been put on a noticeboard of the RDOŚ in Cracow and on a noticeboard of the City Office of Cracow and the Town and Commune Office of Wieliczka. The aforementioned notification informed that on the following proceeding stages, in accordance with Article 49 (1), the parties shall be notified through publication of notes (announcements, notifications) in the Public Information Bulletin of the RDOŚ in Cracow. Furthermore, information on the commencement of proceeding has been published in the Public Information Bulletin, at websites of the Regional Directorate for Environmental Protection in Cracow, and in a publicly accessible data list at the website of the Center of Information on the Environment.

In the note dated 01/31/2020, ref. no.: OO.420.4.3.2019.BM, the Regional Director for Environmental Protection in Cracow notified the parties that it applied for an opinion on an obligation to provide environmental impact assessment for the contract in question and to establish a potential range of a report to the State District Sanitary Inspector in Cracow and to the Minister of Maritime Management and In-land Navigation, as well as about the possibility of reviewing the case documents by the parties.

The State District Sanitary Inspector in Cracow forwarded the application on the issuance of opinion to the State District Sanitary Inspector in Wieliczka, which is the authority responsible for the issue, with a note dated 02/17/2020, ref. no.: NZ-PG-421-25/20 ZL/2020/02/24.

As a consequence, the State District Sanitary Inspector in Wieliczka issued a sanitary opinion on 02/21/2020 (reception date: 03/02/2020), ref. no.: PSSE.ZNS-420-II-8/20, in which it stated that the contract in question does not require provision of an environmental impact assessment.

After calling the Investor's Proxy to update the investment data sheet (through the Regional Director for Environmental Protection) and receiving relevant clarifications, the Minister of Maritime Management and In-land Navigation issued an opinion in the note dated 04/23/2020 (reception date: 05/04/2020), ref. no.: DOK.DOK2.9750.1.3.2020.PK PW:122376, in which he stated that the contract in question does not require provision of an environmental impact assessment, and identified that it is necessary to include – within the framework of amended decision on environmental conditions – conditions and requirements for the stage of investment implementation, as given in its opinion.

Considering standpoints of authorities providing opinions, as well as screening done by this Authority, taking into account the scope of investment given under the application on modification of the decision, based upon Article 63 (1) of the Law of October 3, 2008 on the access to information on the environment and its protection, public participation in environment protection and environmental impact assessments, the authority responsible for amending the decision on environmental conditions has obliged the Investor – through a resolution – to provide an environmental impact assessment and develop a report.

The proceeded amendment to the environmental decision refers to the construction of two dry flood storage reservoirs: one at km 2+990 of the Malinówka Stream, and the other on the at the River Serafa at km 9+223. The Malinówka 3 reservoir and the Serafa 2 reservoir remain a continuation for the investment related to improvement of flood safety in the River Serafa valley. The reservoirs shall operate within a cascade of 5 dry flood storage reservoirs: two at the River Serafa and three at the Malinówka Stream. The first stage of implementation was development of the "Biezanów" flood storage reservoir on the River Serafa at chainage km 7+284, which was completed in October 2015. In order to reduce the impact on the Malinówka Stream, the reservoir shall be developed separately. The reservoirs shall be developed from the mouth of the stream to the River Serafa (Malinówka 1 Reservoir), then Malinówka 2 reservoir, and finally Malinówka 3 reservoir. Development of the reservoirs shall not result in breaking the continuity of the water-course.

The aim of the investment, for which the decision on environmental conditions was issued, is direct improvement of flood protection for areas located downstream of the Biezanów Reservoir, and – along with other planned objects and measures – improvement of flood protection in the Serafa river valley, including protection of Złocień Estate and Stary Biezanów Estate.

The Serafa 2 reservoir is entirely located in the Town of Wieliczka. The Malinówka 3 reservoir is located in the City of Cracow and in the Town of Wieliczka.

Bowls of the Serafa 2 reservoir and of the Malinówka 3 reservoir are formed by a natural deep valley. A damming element for the reservoir is an earth-fill front dam with a reinforced-concrete discharge-spillway structure. The structure comprises two bottom discharge facilities with rectangular section, assuring unconstrained flow of water in the channel. During flood flows the discharge facilities reduce the flow in the water-course to the level of water kept in the channel. For the purpose of accommodating design water and control water, surface spillway and bottom discharge facilities shall be applied. It is not expected to provide gates at spillway-discharge facilities.

Due to operations of the cascade of reservoirs, the flow of water with probability of Q1% in the River Serafa shall be reduced to the flow of 10 m³/s downstream of the Biezanów reservoir, which corresponds with capacity of a natural channel. The designed reservoirs shall periodically dam the water and store it only during flood levels. In the remaining time the reservoirs shall be left dry, while assuring natural flow of water in the channel only.

The range of modifications to the decision on environmental conditions issued by the RDOŚ in Cracow (dated 10/29/2012, ref. no.: OO.4233.13.2012.BM), as requested by the Investor, for the Malinówka 3 and the Serafa 2 reservoirs results from the following:

- a) Changes resulting from necessary provision of details on the location for the Malinówka 3 and the Serafa 2 reservoirs in administrative range,
- b) Modification of chainage for the Malinówka 3 damming reservoir, resulting from regulation works on the Malinówka Stream done during construction of A4 motorway,
- c) Update of capacity and flooding area for the Malinówka 3 and the Serafa 2 reservoirs resulting in the change of the total for the capacity and for the flooding area of all of the reservoirs listed under the aforementioned ED,
- d) Changes in the system discharging rainfall water from the area protected with a side dam of the Serafa 2 reservoir,
- e) Necessary update of technical parameters for the Malinówka 3 and the Serafa 2 dams affecting specificity of the discussed investment,
- f) Necessary extension of the range of applicable technologies for development of anti-seepage shutters, including technical development and current know-how referring to durability of particular solutions,
- g) Necessary update of data associated with intake of soil, which shall be applied during the implementation, and site grading for bowls of the reservoirs,
- h) Necessary update of data associated with necessary works in water-courses at the Malinówka 3 reservoir and the Serafa 2 reservoir, as results from the necessary accommodation and transfer of water to discharge facilities.

While analyzing provisions under Article 63 of the Law of October 3, 2008 on the access to information on the environment and its protection, public participation in environment protection and environmental impact assessments, it shall be stated that the planned investment may be a source of pollution emission to air, soil, and ground water and surface water, and source of noise on the performance stage, and it shall also provide waste. The analyzed investment is located beyond the boundaries of the European Ecological Network Natura 2000.

Just after the Malinówka 3 reservoir there is an ecological use site Krzyszkowicki Forest. The closest Natura 2000 site is Łąki Nowohuckie PLH120069, which is located about 6.5 km north from the planned contract site.

The areas designated for the planned investment are mainly formed by wasteland grown with grass, shrubs, and self-sown trees, and areas transformed by human; however, protected species of plants and animals are present there.

Considering the above, due to the range of implemented amendments to the decision in question, including parameters of the Malinówka 3 reservoir, damming level of which qualifies it to the 1st group investment (Article 2 (1) item 36), and taking into account the range of impacts possible due to implementation of the contract in question, and especially on water relations, the Regional Director for Environmental Protection in Cracow deemed that it is necessary to provide an environmental impact assessment and determined the required scope of environmental impact report for the subject investment.

As a result it was decided as given in the conclusion.

Instruction

One may appeal against this resolution to the General Director for Environmental Protection in Warsaw (00-922 Warsaw, 52/54. Wawelska Street) through the Regional Director for Environmental Protection in Cracow (25. Mogilska Street, 31-542 Cracow) within 7 days from its serving date.

**Regional Director
for Environmental Protection
in Cracow**

Rafał Rostecki, MSc
/electronic signature/

Recipients:

1. Mrs. Barbara Chammas – Investor's Proxy,
2. Remaining parties of the proceeding notified in the mode under Article 49 APC,
3. OO.BM file.