

DIRECTOR OF THE REGIONAL WATER MANAGEMENT AUTHORITY IN CRACOW

ZU-430-45/16

Cracow, February 16, 2007

DECISION

Based upon Article 122 (1) item 3 and due to Article 9 (1) item 19a) and item 19f), and (2) item 1b) and item 2), Article 123 (2), Article 123a (9), Article 127 (5), Article 128 (1) item 6), Article 131 (1), Article 140 (2a) of the Act of July 18, Water Law (consolidated text: OJ of 2015, item 469, as amended), and Article 104 and Article 105 (1) of the Act of June 14, 1960 Administrative Procedure Code (consolidated text: OJ of 2016, item 23, as amended), after considering an application of the Małopolski Board of Amelioration and Water Structures in Cracow for provision of water-law permits for the development of water facilities protecting against flood and for the discharge of wastewater from storm drain for the Works Contract titled "Construction of the right embankment of the Biała River in the City of Tarnów", within the framework of the study titled "Expansion of Flood Embankments and Construction of the Right Embankment of the River Biała in Tuchów, Tarnów, City of Tarnów"

I hereby decide as follows

I. I provide the Małopolski Board of Amelioration and Water Structures in Cracow with a water-law permit for the development of the right embankment of the Biała River in the City of Tarnów at chainage km 5+046 – 6+183 of the river, from the embankment of the railway line no. 091 Cracow – Medyka to the embankment running south from Św. Katarzyny Street, along with the development of objects functionally linked with the embankment, i.e.:

1. Development of an earth-fill embankment sealed at the body with an anti-filtration membrane having a depth of 8 m and a minimum thickness of 0.4 m, assembled 1.0 m below the embankment crest having the following parameters:

- Coordinates:
 - beginning, i.e. km 0+000 of the embankment - N: 50°0'21.53"; E: 20°56'35.33",
 - end, i.e. km 0+695 of the embankment - N: 50°0'5.66"; E: 20°56'52.86",
- Elevation of the design flow $Q_{1\%}$ km 0+000 - 196.03 m a.s.l.,
- Elevation of the control flow $Q_{0.3\%}$ km 0+000 - 196.55 m a.s.l.,
- Elevation of the embankment crest km 0+000 - 197.82 m a.s.l.,
- Elevation of the design flow $Q_{1\%}$ km 0+695 - 198.00 m a.s.l.,
- Elevation of the control flow $Q_{0.3\%}$ km 0+695 - 198.56 m a.s.l.,
- Elevation of the embankment crest km 0+695 - 199.02 m a.s.l.,
- Length - 695 m,
- Width of the embankment crest - 3.0 m,
- Riverside slope inclination - 1:2.0,
- Landside slope inclination - 1:2.0;

sown with grass and protected as follows:

- Rip-rap with thickness of about 20 cm over a length of about 10 m from the junction of the designed embankment with the railway embankment,

- Concrete slabs – type Jumba – on about 20 cm thick subbase made of aggregate, while keeping about 3 cm thick ballast layer, on the crest of the final section at chainage km 0+660 – 0+695,
 - Concrete slabs – type Jumba – on about 20 cm thick subbase made of aggregate, while keeping about 3 cm thick ballast layer, on the crest at chainage km 0+168 – 0+180 (at the embankment ramp).
2. Development of a technological/flood road at the embankment strip footing on the landside, at embankment chainage km 0+060 – 0+168 and km 0+180 – 0+660, including access roads (descend roads) to the embankment crest over a width of 3.5 m, hardened over a width of 3.0 m with about 30 cm thick breakstone, on sand ballast with a thickness of about 10 cm, and with concrete slabs – type Jumba – at descend roads (entry roads) on about 20 cm thick subbase made of aggregate, while keeping about 3 cm thick ballast layer.
 3. Development of an embankment ramp at embankment chainage km 0+168 – 0+180, comprising access roads (descend roads) onto the embankment crest over a width of 3.5 m: two from land on the riverside, over a length of about 59 m and 50 m, respectively; and two from the technological road on the landside, over a length of about 11 m each, hardened with concrete slabs – type Jumba - on about 20 cm thick subbase made of aggregate, while keeping about 3 cm thick ballast layer.
 4. Development of 4 single embankment turnpikes: 1 at the junction with the railway embankment, including fencing – 1.5 m on each side of the slope; and 3 at crossings on the embankment crest.
 5. Development of 7 hectometer post on the embankment crest.
- II. I provide the Małopolski Board of Amelioration and Water Structures in Cracow with a water-law permit, due the development of the embankment discussed under item I, for the following:
1. Demolition of the concrete sewerage outlet from the storm spillway located at chainage km 5+136 of the River Biała, with the following coordinates: - N: 50°0'18.55"; E: 20°56'32.42".
 2. Development of a ditch running from the storm drain to the River Biała at chainage km 5+136, along with slope stairs on the right slope at the beginning of the ditch; reinforced over the entire length: on slopes at to the level of from about 1.5 m to 1.0 m using about 20 cm thick rip-rap on geotextile, sown with grass above that spot, protected at the bottom with open-work slabs 90x60x10 cm, on about 10 cm thick sand ballast, with a support for revetments at the mouth of the ditch made of a wooden palisade over a length of 1.5 m and with a diameter of 10-12 cm, having the following parameters:
 - Coordinates:
 - beginning of the ditch - N: 50°0'17.95"; E: 20°56'34.27",
 - end of the ditch - N: 50°0'18.55"; E: 20°56'32.42",
 - Length - 39 m,
 - Bottom width - 1.55 m,
 - Slope inclination - 1:1.5,
 - Elevation of the outlet's bottom to the river - 190.49 m a.s.l.
 3. Development of a concrete sewerage outlet from the storm spillway, with a return valve including a counterweight D125, to the ditch discussed under item 2, having the following parameters:
 - Coordinates - N: 50°0'17.95"; E: 20°56'34.27",
 - Diameter - 1250 mm,

- Elevation of the outlet's bottom - 190.69 m a.s.l.
- 4. Removal of crossing with an overhead power line 2xAL25mm² at chainage km 5+072 of the River Biała, with the following coordinates for crossing the river axis with an overhead power line 2xAL25mm²:
 - N: 50°0'17.95"; E: 20°56'34.27".
- 5. Crossing of the River Biała with an overhead power line ASXSn 2x35mm² at chainage km 5+069, having the following parameters:
 - Coordinates of crossing the river axis with the power line ASXSn 2x35mm²
 - N: 50°0'21.31"; E: 20°56'32.85",
 - Minimum elevation of wire suspension - 200.58 m a.s.l.
- III. I discontinue a proceeding related to the request on provision of a water-law permit for the:
 1. Discharge of wastewater from the storm spillway through the outlet discussed under item II.3.
 2. Demolition of free-standing objects (garden sheds) and fencing for garden allotments, and internal underground water-supply network and power line for the garden allotments.
 3. Redevelopment of a section of water-supply connection and piping valves.
 4. Assembly of tight manholes at the existing chambers and of a return valve at the existing chamber with a diameter of 1500 mm.
 5. Construction of a fence for the garden allotments on the landside of the embankment.
 6. Construction of protection for the existing tele-technical cables.
 7. Redevelopment of a section of medium pressure gas piping.
 8. Redevelopment of an overhead power and lighting line, except for a section spanning the River Biała, as discussed under items II.4 and II.5.
 9. Redevelopment of a section of storm drain, except for demolition of the outlet for wastewater, as discussed under item II.1, and development of a new outlet, as discussed under item II.3.
- IV. I establish the following conditions and obligations for performance under this water-law permit:
 1. Implementation of the Works Contract shall be synchronized in time with the construction of the left flood embankment of the River Biała at chainage about km 6+680 – 7+700.
 2. Reconstruction of the existing regulation facilities damaged during the performance resulting from this permit.
- V. I state that the water-law permit provided in this decision does not form rights to properties and water facilities necessary for its implementation, and it does not violate ownership rights and titles of third parties to those properties or facilities.

JUSTIFICATION

The Małopolski Board of Amelioration and Water Structures in Cracow – acting through the Proxy, Mrs. Małgorzata Jelonek, applied with the note dated 12/01/2016 for provision of water-law permits for the development of water facilities protecting against floods and for the discharge of wastewater from the storm drain for the Works Contract titled: "Construction of the right embankment of the Biała River in the City of Tarnów" within the framework of the study titled "Expansion of Flood Embankments and Construction of the Right Embankment of the River Biała in Tuchów, Tarnów, City of Tarnów". The application included a hard copy and a digital version of the water-law study, a non-technical description of intended measures, a relevant power of attorney, and a decision of the

Regional Director for Environmental Protection in Cracow dated 11/30/2016, ref. no.: ST-I.4210.1.2015.MB, which established environmental conditions for that Works Contract. The water-law study provided was updated with clarification submitted in the notes dated 01/11/2017 and dated 01/20/2017. Furthermore, in the note dated 01/10/2017 the Applicant withdrew the application in a part referring to the discharge of wastewater from the storm drain.

The Works Contract in question shall be implemented based upon the provisions of the Act of July 8, 2010 on the special preparation rules for implementation of flood protection investments (consolidated text: OJ of 2010, no. 143, item 963, as amended); thus a decision establishing the location of public interest for that Works Contract is not required, in accordance with Article 14, Article 6 (1) item 8) of that Act, and due to Article 131 (2) item 2 of the Water Law Act.

Land properties covered by the Works Contract are register plots no. 15/1, 25, area no. 0274 City of Tarnów, as listed in Appendix to the decision of the Minister of Infrastructure of March 24, 2014 (OJ MliR.2014.25, as amended) on identification of land, where railway lines are located, as closed areas. As a consequence, in accordance with Article 140 (2a) of the Water Law Act, a unit relevant for the issuance of requested water-law permits is the Director of Regional Water Management Authority in Cracow.

The parties have been notified about commencing the subject proceeding and about a possibility of acknowledging the study and of providing remarks. Due to the fact that the Applicant modified the application with the note dated 01/10/2017 and that the aforementioned updates were provided, the parties were notified in the note dated 01/18/2017 on collection of additional evidence. The parties did not submit any remarks during the proceeding (the application contains agreements with owners of land and facilities).

The Works Contract includes development of the right embankment for the River Biała, along with facilities, forming a closure for the flood zone between the railway embankment (Cracow – Medyka line) and the existing embankment (area of Św. Katarzyny Street), what would assure flood safety for adjacent land.

In accordance with the Regulation of the Minister of Environment of April 20, 2007 on the technical conditions for hydraulic structures and their location (OJ of 2007, no. 86, item 579) – Appendix no. 2: “Classification of main hydraulic structures”, the flood embankment of the River Biała to be constructed belongs to Class II hydraulic structures. The embankment has therefore been designed for design water $Q_{1\%}$ and for control water $Q_{0.3\%}$. The freeboard (197.82 – 199.02 m a.s.l.) meets the condition of raising by 1.0 m over the elevation of design water and 0.3 m over the elevation of control water. The earth-fill embankment forming the levee with consolidation rate of $I_s \geq 0.92$ shall be protected with an 8.0 m deep anti-filtration membrane, up to the elevation below 1.0 m underneath the surface of embankment crest. The membrane shall be developed using CDMM, except for sections of crossing with underground facilities, i.e. at embankment chainage km 0+005 – 0+050 and 0+152 – 0+167, where high pressure injection method shall be applied. The embankment shall be sown with grass and – additionally – properly protected at junction of the levee with the railway embankment. It was also planned to develop facilities associated with the embankment’s functions, i.e. a technological/flood road linked with the embankment crest using ramps, entry roads (descend roads), turnpikes, and hectometer posts.

Implementation of the Works Contract requires redevelopment of (e.g.) a power line and a storm drain. The existing crossing through the River Biała by the overhead power line at chainage km 5+072 shall be disassembled, and the line shall be suspended on new power poles to cross the river at chainage km 5+069. The final section of storm drain over a length of about 39 m and the outlet of sewerage shall be removed. The ditch shall be protected over the entire length with rip-rap and open-work slabs, including an additional protection for the river mouth with a wooden palisade. River slope revetments in the area of outlet from the ditch are not necessary, as the river has been protected already. The Contractor shall be obliged to redevelop the existing revetments, if they would be damaged during the works associated with implementation of the Works Contract.

The Water Law Act states that the development of flood defenses and ditches and outlets for the sewerage requires the water-law permit. The permit was also provided for crossing of the water-course with an overhead power line. In accordance with Article 123 a (3) of that Act, crossing water other than in-land water route with overhead power lines does not require a permit, but only a notification submitted to the relevant authorities (River Biała does not remain a navigable river); however, in accordance with Article 123a (9): "If the Works Contract includes measures requiring obtainment of a water-law permit and a notification, applications related to those measures are addressed within the framework of one proceeding finalized with the provision of a water-law permit."

The application additionally included provision of a water-law permit for the discharge of wastewater from the storm drain. As the Applicant withdrew the application on the special use of water with the note dated 01/10/2017, the related proceeding was groundless and has been discontinued.

A proceeding on the issuance of water-law permits for demolition, development or redevelopment of engineering objects and facilities located within the Works Contract site, i.e. free-standing objects (garden sheds) and fences of garden allotments, underground and overhead power lines (except for a plot with surface water), underground water-supply network, sewerage system and gas piping, and development of protection for the existing tele-technical cables was also deemed as groundless. Those objects and facilities do not remain water facilities (development, redevelopment, demolition or liquidation of which requires a water-law permit). The planned measures are necessary, as the objects and the facilities collide with the construction of embankment, and they would not be used for flood protection and would not be associated with functions of the embankment. Provisions of the Water Law Act – Article 9 (2) item 1 b) stating that provisions of the Act related to water facilities are applied respectively to bridges spanning over surface water and flood embankments of bridge objects, piping, power lines, telecommunication lines, and other devices – do not also apply in that place. Devices, which are located underneath the embankment course, shall be developed prior to the construction of the embankment. Development of fencing for the garden allotments – as stated in the application – shall be done after completion of the embankment, on its landside.

All of the planned objects and all of the measures under the application shall be implemented within the site under particular flood hazard, where bans determined under Article 40 (1) item 3 and Article 881 (1) of the Water Law Act apply. In accordance with Article 881 (1) item 3, the extension of flood embankments and their infrastructure does not require obtainment of a decision releasing from the aforementioned bans, and therefore any measures associated with the Works Contract do not require them either. Therefore, the related proceedings required discontinuance.

An analysis of impact for the planned embankment on the opposite bank proved that its development would increase the flood hazard for the Koszyckie Estate in Tarnów, which is located on the left bank of the River Biała and does not provide embankments. As a result, item IV.1 of this decision determined a condition for implementation of the Works Contract in reference to the development of an embankment on the left bank. Such a condition is also provided in the decision of the Regional Director for Environmental Protection in Cracow dated 11/30/2016, ref. no.: ST-I.4210.1.2015.MB, establishing environmental conditions for that Works Contract.

In conformity with Article 125 (1) of the Water Law Act, “the water-law permit cannot violate establishments under the water management plan for the river basin (...) or establishments under conditions for the use of water of the water region or conditions for the use of water from the river basin”. The Water Management Plan for the Vistula River Basin was implemented with the Regulation of the Council of Ministers of October 18, 2016 (OJ of 2016, item 1911), and it came into force on December 13, 2016. A section of the River Biała in a reach of the Works Contract in question was classified as the Body of Surface Water BSW Biała od Rostówki do ujścia, PLRW 200014214899. The subject BSW has a status of natural water body in bad condition, remaining under risk of not achieving environmental objectives, and for which derogations were established due to the lack of technical possibilities. The environmental objective for that body of water is the achievement of at least good ecological condition and good chemical condition. The construction works to be performed shall comprise development of shallow excavations, development of engineering objects, application of construction equipment; however – due to the distance from the rivers (except for development of a ditch): about 20 m from the initial section of the River Biała, about 150 on average; about 70 m from the Wątok Stream – they shall not adversely affect the status of BSW. Any impact shall be temporary (e.g. temporary silting up of river water) and it shall not modify the physical status and the chemical status of the river, and development of an outlet at the slope shall not result in changes to the channel’s morphology. The embankment – remaining an earth-fill structure – and the ditch – about 2.60 – 1.60 m deep – would not affect groundwater, although the anti-filtration membrane shall be driven underneath the land surface. As a consequence, the impact on BGW – code: PLGW2000150, good quantitative status and good chemical status – was analyzed, and the environmental objective is the maintenance of the status at established derogations resulting from new modifications (transformation of physical characteristics, new balanced development of human activity). It was finally stated that the development of anti-filtration membrane shall not affect the quantitative status and the chemical status for the BGW. The membrane shall not reach non-permeable layers; thus, it shall not disturb the natural flow of groundwater. Materials applied contain a mix of cement, pozzolan additions, and fillers containing bentonite loam. The bentonite-cement mix is flexible, stable, resistant to washing-out, resistant to corrosion, has low filtration rate, and does not form hazard to the natural environment. All of the aforementioned materials do not contain harmful chemical features and they shall have relevant documents allowing for their application in water and amelioration engineering, hydraulic engineering, and geotechnics.

Nonetheless, the planned Works Contract shall not disturb the status of water body and shall not for a risk for achievement of environmental objectives; thus, it is compliant with establishments and requirements of the Water Management Plan for the Vistula River Basin. It shall also not violate conditions for the use of water from the water region, as determined in the Regulation no. 4/2014 of the Director of Regional Water Management Authority dated January 16, 2014 on the conditions of use for water from the Upper Vistula water region (OJ of Małopolskie Province of 2014, item 317, OJ

of Podkarpackie Province of 2014, item 262, OJ of Śląskie Province of 2014, item 371, OJ of Świętokrzyskie Province of 2014, item 269, OJ of Lubelskie Province of 2014, item 262).

Furthermore, the Works Contract in question has been included in the MasterPlan and in the uWMP under number ID_635_W and in the Flood Risk Management Plan for the Vistula River Basin (OJ of 2016, item 1841 – no. 3.206, ID 74484). It shall be therefore stated that the permit in question does not violate provisions under Article 125 items 1, 1a, and 3 of the Water Law Act.

In conformity with Article 135 item 3 of the Water Law Act the permit expires, if the development of water facilities would not be started within 3 years from the day, when the water-law permit for the development of those facilities became final.

Considering the aforementioned establishments and deeming the application as justified, it was decided as given in the conclusion.

Instruction

One may appeal against this decision to the President of the State Water Management Authority, 80/82. Grzybowska Street, 00-844 Warsaw, through the Director of Regional Water Management Authority in Cracow within 14 days from its serving date.

DIRECTOR

Eng. Małgorzata Owsiany MSc

Recipients:

1. Investor's Proxy: Mrs. Małgorzata Jelonek, 1/411. Rzemieślnicza Street, 30-363 Cracow,
2. Małopolski Board of Amelioration and Water Structures in Cracow, 73. Szlak Street, 31-153 Cracow,
3. Proxy of the President of KZGW in Warsaw, Mr. Tomasz Sądag, w/m,
4. PKP S.A. Properties Management Department in Cracow, 1. Rondo Mogiłskie, 31-516 Cracow,
5. Regional Board of Małopolski Association of Gardeners, 1. Makowskiego Street, 31-325 Cracow,
6. Municipality of Tarnów, 2. Adama Mickiewicza Street, 33-100 Tarnów,
7. PZW Branch in Tarnów, 24. Ochronek Street, 33-100 Tarnów,
8. Tarnowskie Wodociągi Sp. z o.o., 37. Narutowicza Street, 33-100 Tarnów,
9. Tauron Dystrybucja S.A., Branch in Tarnów, 72/96b. Lwowska Street, 33-100 Tarnów,
10. File.

THIS DECISION BECAME FINAL

on March 7, 2017

date: 03/14/2017, signature:

Stamp duty is not collected for the issuance of this permit – release from the charge in accordance with Article 7 item 3 of the Act of November 16, 2006 on the stamp duty (i.e. OJ 2006.1827).