

DECISION

Pursuant to Article 72, sections 4 and 4a of the Act of October 3, 2008 on access to information on the environment and its protection, public participation in environment protection and environmental impact assessment (Journal of Laws of 2017, item 1405, as amended) and pursuant to Articles 124 and 125 of the Act of 14 June 1960 - The Code of Administrative Procedure (Journal of Laws of 2017, item 1257, as amended),

having reviewed

the request of 09/06/2018 - registered as: POPDOW/KR160549311/18/0400 submitted by Ms. Barbara Chammas of AECOM Polska Sp. z o.o., 1. Pokoju Street, 31-548 Cracow, acting under the authority of the Investor, that is State Water Holding Polish Waters – Regional Water Management Authority in Cracow, 22. Piłsudskiego Street, on taking a position on the staged implementation of the planned project and the lack of changes in the conditions for its implementation specified in the decision of the Regional Director for Environmental Protection in Cracow on the environmental conditions of 10/29/2012, ref. no.: OO.4233.13.2012.BM for the following Works Contracts:

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”**, which became final on 12/03/2012

I hereby resolve

to state that the implementation of the planned contract is taking place in stages and that the requirements specified in the above-mentioned environmental decision of the Regional Director for Environmental Protection in Cracow dated 10/29/2012, ref. no.: OO.4233.13.2012.BM have not changed for the following projects:

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”.**

Justification

Ms. Barbara Chammas of AECOM Sp. z o.o. (1. Pokoju Alley, 31-548 Cracow), acting on behalf of the Investor, that is State Water Holding Polish Waters – Regional Water Management Authority in Cracow (22. Piłsudskiego Street), has requested for a position in the form of a decision regarding the staged implementation of the following Works Contracts:

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”.**

The requirements for the implementation of the contract were specified in the environmental decision of the Regional Director for Environmental Protection in Cracow dated 10/29/2012, ref. no.: OO.4233.13.2012.BM, issued at the request (dated 05/08/2012) of the-then Investor, i.e. Małopolskie Board of Amelioration and Water Structures in Cracow, represented by a proxy, Mr. Piotr Radziecki, of AdEko. This decision became final on 12/03/2012.

Pursuant to the Act of July 20, 2017 (Journal of Laws of 2017, item 1566, as amended) as of January 1, 2018, the existing tasks of the Małopolskie Board of Amelioration and Water Structures in Cracow were taken over by the State Water Holding Polish Waters – Regional Water Management Authority in Cracow.

Pursuant to Article 72, sections 3 and 4 of the Act of October 3, 2008 on access to information on the environment and its protection, public participation in environment protection and environmental impact assessments, the Investor, within 6 years from the date on which the environmental decision became final, may apply for the issuing of the decision referred to in paragraph 1 and the notification referred to in paragraph 1(la), of the same Article. However, in case of obtaining the position of the Regional Director for Environmental Protection on the staged course of the implementation of the planned project and the validity of the requirements for the implementation of the project, specified in the final environmental decision, the Investor may extend the period of applying for the issuance of relevant construction decisions for up to 10 years.

In her application, the Proxy informed the local body that the contract covered by the environmental decision of 10/29/2012, ref. no.: OO.4233.13.2012.BM, consists of five

independent engineering structures, the implementation and construction of which can be independent of each other because it can be undertaken on the basis of separate decisions on flood protection investment project implementation permits. An independent construction design and an open autonomous construction process can be prepared for each of the reservoirs. Therefore, on 09/30/2013, i.e. within the period of validity of the environmental decision of 10/29/2012, ref. no.: OO.4233.13.2012.BM, a decision of the Małopolskie Governor No. 8/13 was issued, ref. no.: WI-IX.7840.1.6.2013, on the investment project implementation project for the contract titled: *“Construction of a flood storage reservoir “Bieżanów” on the Serafa River in the City of Cracow”*. (The aforementioned decision is attached to that application). The decision on the investment project implementation permit became final on 11/08/2013. In accordance with the information provided in the application, the official commencement of construction of the “Bieżanów” Reservoir on the Serafa River in the City of Cracow took place in September 2014. On 01/05/2016, the Małopolskie Province Construction Supervision Inspector in Cracow, by decision No. 7/2016, ref. no.: WIB.771.1.131.2015.EESZC, granted the Investor a permit to use the construction facilities including hydraulic damming, discharge and regulation facilities on the Serafa River and water management facilities built pursuant to the decision of the Małopolskie Governor No. 8/13, ref.: WI-IX.7840 dated 06/01/2013 and granting an investment project implementation permit for the contract titled: Construction of the “Bieżanów” flood storage reservoir on the Serafa River in the City of Cracow.

The request and this decision were issued before the specified deadline of 6 years.

Furthermore, the Investor’s Proxy declared that the requirements for the implementation of the contract specified in the environmental decision are valid. Indicating that the entity planning the implementation of the contract maintains its intention to implement the contract in respect of the remaining flood storage reservoirs in accordance with the provisions of the decision. All the reservoirs serve the same purpose, i.e. to protect the public interest by providing flood protection for local residents.

The issuing of the environmental decision in 2012 was preceded by an environmental impact assessment, and an environmental impact report was developed for the contract for this purpose, in which both environmental and natural requirements of the location of the contract were identified, as well as technical, organisational and spatial requirements relating to the construction phase, operation and completion of the contract. Analysing the circumstances accompanying the implementation of other works contracts specified in the decision as independent stages, the Investor indicates that in connection with their planned implementation, no natural conditions accompanying the location of the remaining activities in accordance with the obtained environmental decision have arisen or changed.

Conclusions in this respect were made on the basis of a new analysis and assessment of natural conditions prevailing in the location and vicinity of the planned contract. The analysis was carried out through the preparation of a natural inventory and field investigation, which were performed between May 14 and May 17, 2018. The area of investigation was the area of location of the planned dry flood storage reservoirs to be implemented in further stages of the contract in the Serafa river basin, i.e. Serafa 2, Malinówka 1, Malinówka 2, and Malinówka 3 reservoirs. The inventory did not cover the Bieżanów Reservoir because the reservoir already exists, and its construction was the initial stage of the whole project.

The inspection of the area where the work is to be undertaken as part of subsequent stages (construction of subsequent reservoirs) was carried out three times: at night, in the morning

and during the day (in the afternoon) using typical and effective methods for this area and conditions. The subject of the investigation in the abovementioned area were species of fungi, plants and animals that could potentially be found in that area, with particular emphasis on those subject to legal protection. The collected information was analysed and compared with the provisions of the environmental decision for the contract in question.

The analysis shows that the environmental conditions set out in the decision, as well as requirements specified in relation to those conditions, are sufficient and appropriate to the current state of the environment. The provisions of the environmental decision are established in accordance with the precautionary principle and guarantee favourable rules of implementation of the contract for the natural environment of this area, also assuming that the investment is staged.

As far as natural issues are concerned, it should be noted that there are no new forms of natural protection or natural elements in the place of execution of the contract, value and significance of which would indicate that changes have taken place which would make the findings of the above-mentioned environmental decision obsolete.

As far as environmental conditions are concerned, it should be noted that the rules of environmental protection, including environmental quality standards, have not changed, which would cause a change in the conditions specified in the decision. No new intentions appeared in the vicinity or in the contract location which would change the conditions due to the accumulation of impacts.

Based on the above information, it should be stated that the current environmental decision may be an attachment to applications to issue decisions referred to in Article 72(1) or notifications referred to in Article 72(1a) of the Act of October 3, 2008 on access to information on the environment and its protection, public participation in environmental protection, and on environmental impact assessments by 12/03/2022.

Having analysed the evidence gathered before issuing the decision, the Regional Director for Environmental Protection in Cracow took into account the conditions referred to in Article 72 (4) of the Act on access to information on the environment and its protection, public participation in environment protection and environmental impact assessments, and therefore has decided as stated in the operative part of the decision.

Instruction

The Parties are entitled to lodge a complaint against this decision to the General Director for Environmental Protection (52/54. Wawelska Street, 00-922 Warsaw), through the Regional Director for Environmental Protection in Cracow, within seven days of the date of delivery of the decision.

This decision shall be subject to the right to waive any complaint against the public administrative body that issued the decision. As of the date of delivery of the statement of waiver of the right to lodge a complaint by the last party to the proceedings to the public administration body, the decision becomes final and binding.

Regional Director for Environmental Protection in Cracow
Rafał Rostecki MSc

CC:

1. Ms. Barbara Chammas, AECOM Polska Sp. z o. o., 1. Pokoju Alley, 31-548 Cracow,
2. Other parties in the proceedings, notified under Article 49 of the Administrative Proceedings Code,
3. OO.BM file.