



Warsaw, this day of 01 DECEMBER 2016

[emblem of Republic of Poland]

**DIRECTOR
REGIONAL WATER MANAGEMENT BOARD
IN WARSAW**

TC-U-021-0816-003/2016

DECISION No. 892/D/TC-U/16

Pursuant to Article 104, Article 107 and Article 105(1) of the Act of 14 June 1960, Code of Administrative Procedure /Journal of Laws of 2016, Item 23, as amended/, in conjunction with Article 881(2) of the Act of 18 July 2001 on Law on water management /Journal of Laws of 2015, Item 469, as amended/,

upon consideration

of the application of 15 November 2016 submitted by the Fryderyk Chopin Institute represented by its Director, Mr. Artur Szklener, in relation to issuance of a decision exempting from the prohibition referred to in Article 881(1) of the Law on water management in force in areas of particular flood risk, in relation to the construction of a civil structure with a footprint area of up to 3000 m² together with the necessary technical and transport infrastructure, i.e. the International Centre for Music in Żelazowa Wola, proposed in the area of the property, in plots No. 82/1, 83/1, 87/1, 82/2, 83/2, 87/2, cadastral district 0024 Nowe Mostki, municipality Sochaczew, located on the left side of the undiked channel of the River Utrata, in the region of section km 5+575 - 5+800 of the River in accordance with the maps of particular flood risk (sheet symbol N-34-137-B-a-3),

- I hereby decide to

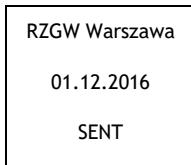
- exempt from the prohibition to conduct works and operations in the area of particular flood risk, including the prohibition to erect civil structures included in the execution of this projects in relation to:
 - o construction of a civil structure with a footprint area of 3,000 m² with the necessary technical infrastructure, the International Centre for Music in Żelazowa Wola,
 - o construction of circulation paths, walkways, in the part of the real property between the proposed civil structure and the River Utrata's channel,
- discontinue the proceedings as pointless in part relating to the works carried out in the area of the property, in plots No. 82/2, 83/2, 87/2, cadastral district 0024 Nowe Mostki, municipality Sochaczew, relating to the locations outside the particular flood risk areas,
- discontinue the proceedings as pointless in part relating to the works carried out in the area of the property, the southern part of plots No. 82/1, 83/1, 87/1, cadastral district 0024 Nowe Mostki, municipality Sochaczew, relating to the locations outside the particular flood risk areas,

determine the conditions necessary for the protection against flooding

- the obligation for the underground part of the civil structure to be executed in the form of a tanked basement,
- the obligation to apply tanked protection both horizontal and vertical to the altitude not less than 78.50 m a.s.l. Kr,
- the obligation to protect the underground part of the civil structure against the risk of rainwater runoff flooding through the application of appropriate technical solutions,
- the obligation to conduct the construction works in the period of favourable hydrological conditions,

[four stamps reading]





REGIONAL WATER MANAGEMENT BOARD
IN WARSAW
03-194 Warszawa, ul. Zarzecze 13B
NIP [TIN]: 526-23-90-341, REGON: 016183991
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Certified as true copy
Date 10.10.2017
Signature [signature]

SENIOR SPECIALIST
of Flood Protection Review and Approval Team
of Middle Wisła Flood Protection Operational
Management Centre Department
Anna Roman

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- the obligation to protect the area of particular flood risk and the surface waters against pollution at the stage of the construction works,
- the requirement to build the walkways, footpaths, with their gradeline adapted to the altitudes of the surrounding area,
- the obligation to construct the walkways surfaces so as to allow water infiltration,
- the obligation to maintain the current terrain in the areas of particular flood risk,
- the obligation to remove the excavation material, including the material from the civil structure's construction, beyond the area of particular flood risk,
- the obligation to locate the construction site installations outside the area of particular flood risk,
- the obligation to remove people and equipment outside the area of particular flood risk for the period of expected flooding.

EXPLANATORY MEMORANDUM

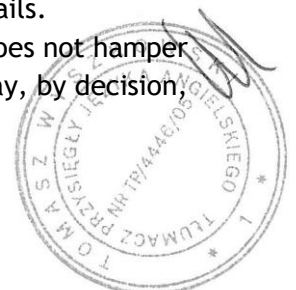
On 16 November 2016, the Regional Water Management Board in Warsaw received an application submitted by the Fryderyk Chopin Institute (hereinafter referred to as the Applicant) for a decision exempting from the prohibition binding in areas of particular flood risk for the proposed investment for construction of a civil structure of up to 3000 m² with the necessary technical and transport infrastructure, i.e. the International Centre for Music in Żelazowa Wola, proposed in the area of the property, plots No. 82/1, 83/1, 87/1, 82/2, 83/2, 87/2, cadastral district 0024 Nowe Mostki, municipality Sochaczew.

With Letter of 22 November 2016, Symbol: TC-U-021-0816-002/2016, the Director of the Regional Water Management Board in Warsaw notified the Parties of the initiation of administrative proceedings in this case, of a possibility to read the documentation on file and to submit their position concerning the collected materials and documents, thus satisfying the legal standard resulting from Article 10 of the Administrative Procedure Code. In view of the fact that within the period known to the parties no additional materials have been received, the complete documentation has been analysed and the following legal status has been determined.

Pursuant to Article 881(1) of the Law on water management in the areas of particular flood risk, it is forbidden to perform construction works and operations impeding flood protection or increasing flood risk, including:

- 1) to construct water installations and other civil structures, with the exception of cycle trails;
- 2) to plant trees or shrubs, with the exception of plantations of wicker for water course improvements and of vegetation being part of the river channel plant consolidation or serving to strengthen riverbanks, dikes or outwashes;
- 3) to alter the terrain, store materials and perform other works, except for works relating to improvement and maintenance of sea waters and shores, to construction, reconstruction or renovation of bike routes, as well as to maintenance, reconstruction, expansion or reconfiguration of dikes together with structures connected with them functionally, and to operations related to establishment of tourist tracks such as hiking or cycle trails.

Moreover, pursuant to Article 881(2) of the Law on water management, if it does not hamper the flood risk management, the Director of the Regional Water Management Board may, by decision,



exempt from the prohibitions laid down in Article 881(1) of the Law, determining the conditions necessary for the protection against flooding.

In the light of the above law, it is necessary to stress the prohibition applicable in the in areas of particular flood to execute works and operations which hinder

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protection against flooding or increase flood risk. At the same time, the regulatory scope of the legal provisions clearly indicates that only in a specific case, the director of the Regional Water Management Board, as the competent authority, may issue a Decision exempting from the above prohibitions. Furthermore, pursuant to the current legal status, in the case of projects which impede flood risk management, the authority may not issue a Decision exempting from the prohibitions.

Therefore, referring the current legal status to the case under discussion, it is unquestionable that the investment project referred to in the application of the party requires a decision exempting from the above prohibitions referred to in Article 881(1) of the Law on water management, because it is concerned with the activities clearly indicated as prohibited in the areas of particular flood risk.

The parties in the proceedings for a decision exempting from the prohibitions applicable in the areas of particular flood risk are designated by the provisions of the substantive law, including Article 881(5) of the Law on water management, under which the attribute of a party is had by the Applicant, the owner of the dike and the owner of the water. Referring to the above provision, it should be clarified that it clearly designates a limited number of parties to the proceedings relating to the issuance of a Decision exempting from the above prohibitions.

In accordance with the findings of the first instance authority, the real property site for the proposed project is located in the area of km 5+575 - 5+800 of the River Utrata on the left side of the undiked river channel, therefore, the parties of the procedure are only the applicant and the owner of the water.

The substantive basis for the decision exempting from the prohibition applicable in the areas of particular flood risk are the provisions of the Law on water management. According to the text of Article 9(6c) of the above Law, the areas of particular flood risk are among others the areas in which the likelihood of a flood event is average and occurs once every 100 years (water 1%).

In the case under analysis, the documents permitting an interpretatively clear determination of the location for the real property site for the proposed project in the context of particular flood risk are the flood risk maps prepared by the President of the National Water Management Board. According to the information presented in these maps, the works related to the execution of the project shall be carried out partially in the area of particular flood risk within the water range of 1% with the altitude between approximately 77.95 - 77.89 m a.s.l. Kr, which is determined on the basis of the map sheet) marked with symbol N-34-137-B-a-3 applicable on the date of issue of this Decision.

Analysing the submitted application documentation, it has been found that only part of the works connected with the implementation of the project is to be executed in the area of particular flood risk. In this respect it was found that the works proposed in the property, plots No. 82/2, 83/2, 87/2,



cadastral district 0024 Nowe Mostki, municipality Sochaczew, shall in full be located outside the areas of particular flood risk, as well as the works in the area of the property, the southern part of plots No. 82/1, 83/1, 87/1, cadastral district 0024 Nowe Mostki, municipality Sochaczew.

In the absence of a legal basis for this decision to include the works carried out outside the said areas, in accordance with Article 105(1) of the Administrative Procedure Code, the administrative proceedings in this scope have been terminated as irrelevant. Therefore, the authority has considered only the works carried out within the area of particular flood risk. Based on the above procedural findings and in view of the complete documentation, the following legal status has been determined.

[three stamps reading]

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The subject of the proposed investment is construction in the area of the property, plots No. 82/1, 83/1, 87/1, 82/2, 83/2, 87/2, cadastral district 0024 Nowe Mostki, municipality Sochaczew, of a civil structure of up to 3000 m² with the necessary technical and transport infrastructure, the International Centre for Music in Żelazowa Wola.

Pursuant to the topographic map accompanying the application, the site altitudes are determined in the area of the proposed works, which are approximately 76.4 - 79.4 m a.s.l. Kr and in the area of the proposed location of the civil structure, they are approximately 77.6 - 79.4 m a.s.l. Kr, and pursuant to the information in the map of the flood risk, the water altitude of 1% is within the range between approximately 77.95 - 77.89 m a.s.l. Kr. The analysis of the flood risk maps shows that the proposed civil structure is to be located completely outside of the water 10% and only the northern part of the civil structure, including a strip with a width of about 20 m is to be located in the areas of particular flood risk.

The applicant intends to construct a civil structure with a footprint area dimensions of approximately 34 m x 68 m, with a gross covered area of 3,000m², with a height of about 27 m and with an irregular building shape locally projecting outside of the footprint area at its base. The proposed civil structure shall consist of the following service levels:

- the garage level with the floor altitude at 76.00 m a.s.l. Kr and with a height of approx. 4 m, built in the form of a tanked basement,
- the level of the finish floor altitude 80.00 m a.s.l. Kr for the conference rooms and technical rooms,
- the level of the finish floor altitude 85.00 m a.s.l. Kr on which the central part of the civil structure is to be located, i.e. the concert hall with a usable area of approximately 1,000 m² and with a height of approximately 18 m,
- two levels with a mezzanine and non-habitable rooms serving as office and welfare facilities of the proposed civil structure.

Because of the location of the proposed civil structure, partly in the areas of particular flood risk, it is necessary to apply tanked protection both horizontal and vertical to the altitude of not less than 78.50 m a.s.l. Kr. At the same time, the proposed construction of the underground garage at the finished floor altitude of 76.00 m a.s.l. Kr results in the necessity of particular technical solutions in order to secure of the civil structure against the risk of rainwater runoff flooding.



In the area of particular flood risk, there are also to be located structural elements of the civil structure in the form of pillars supporting the structural levels outside the outline of the civil structure at its base.

In part of the area between the proposed civil structure and the River Utrata's channel, i.e. over the strip of about 70 m from the left shore of the River's channel, a construction of circulation paths, walkways, is planned. Bearing in mind that the proposed walkways are to be built in the area of particular flood risk, it is necessary to maintain the current terrain and to tie in the gradeline of the walkways with the altitudes of the surrounding area and their surface is to be built so as to allow infiltration. It is not allowed to construct local embankments for the walkways, as such a technical solution may cause their washout and damage the structure, as well as create closed depressions where flood water may stagnate. The maintenance of the current terrain and the tying-in of the walkways gradeline to the altitudes of the area shall not impact the flood water flow conditions.

In consideration of the complete documentation, it is found that the proposed project will result in a temporary alteration of the terrain, which will only occur at the stage of excavation works with the excavation materials to be removed

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outside the areas of particular flood risk, as this Decision does not exempt from the prohibition to alter the site topography. In view of the location within the area of particular flood risk, it is reasonable to conduct the construction works in the period of favourable hydrological conditions. Upon the completion of the works under analysis, the site is to be cleaned up and restored to the state which will not hinder the management of flood risk, and in the area of particular flood risk, no additional works beyond the scope of this Decision are to be carried out.

The assessment of the facts conducted by the first instance authority indicates that the implementation of the proposed project in the area of particular flood risk will not obstruct the flood risk management, for both the technology of the works, as well as their nature, will not affect the implementation of activities related to the protection against flooding. The real property intended for the proposed project are outside the area of great waters' flow, and the proposed civil structure is only partially located within the reach of water 1%. In the text of this Decision, the conditions necessary for the protection against flooding are determined, whose observance is necessary for the proper implementation of the project. Therefore, the prerequisite condition is fulfilled for a Decision exempting from the prohibitions referred to in Article 881(1) of the Law on water management.

In line with the above explanations, the Decision is issued as in the above.

Note

1. This Decision is subject to appeal to the President of the National Water Management Board through the Director of the Regional Water Management Board in Warsaw within fourteen days of the date of its delivery.
2. This Decision shall expire if, within two years from the date on which it becomes final, the consent for water engineering works has not been obtained, if required.

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Poland reading]
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Acting DIRECTOR
of Regional Water Management Board
in Warsaw
[signature]

Dariusz Tomczak

REGIONAL WATER MANAGEMENT BOARD
03-194 Warszawa, ul. Zarzecze 13B

REGIONAL WATER
MANAGEMENT BOARD
IN WARSAW

FINAL DECISION of 22.12.2016

[handwritten annotation]

I have received this day of 17.01.2016

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LEGAL COUNSEL
Piotr Krzysztof Rat
WA-5626

This is served:

1. Fryderyk Chopin Institute, ul. Tamka 43, 00-355 Warszawa,
2. Voivodeship Board of Land Improvement and Water Installations in Warsaw, ul. Ksawerów 8, 02-656 Warszawa,

For the attention of:

NZW

In accordance with Article 1(1)(1)(a) and Article 6(1)(1) of the Act on stamp duty /Journal of Laws of 2012, Item 1282/ a stamp duty is collected of PLN 10.

[four stamps reading]

MANAGER
of Flood Protection Review and Approval
Team
of Middle Wisła Flood Protection
Operational Management Centre
Department
Adrian Kotczewiak

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[Reg. No.: 2017-0177; this day of 02 November 2017.]

I, Tomasz Wyszowski, the undersigned sworn translator/interpreter of English, entered on the register of Minister of Justice of sworn translators/interpreters under number TP/4446/05, hereby certify that the foregoing translation complies with the **copy** of the presented **Polish** document.]

