

**MANAGEMENT RESPONSE TO
REQUESTS FOR INSPECTION PANEL REVIEW OF THE
REPUBLIC OF POLAND:
ODRA-VISTULA FLOOD MANAGEMENT PROJECT (PL47460)**

Management has reviewed the Requests for Inspection of the Republic of Poland: Odra-Vistula Flood Management Project (PL47460), received by the Inspection Panel between June and October 2019 and registered on September 17, 2019 (RQ19/05, 19/06, 19/07, 19/08, 19/09, 19/11 and 19/12), September 26, 2019 (RQ 19/13) and October 10, 2019 (RQ 19/14). Management has prepared the following response.

November 11, 2019

CONTENTS

ABBREVIATIONS AND ACRONYMS	ii
CURRENCY EQUIVALENTS	ii
EXECUTIVE SUMMARY	iii
I. INTRODUCTION	1
II. THE REQUESTS	1
III. PROJECT BACKGROUND	3
<i>Context.....</i>	<i>3</i>
<i>The Project.....</i>	<i>3</i>
<i>Project Implementation Status</i>	<i>4</i>
IV. SPECIAL ISSUES.....	6
<i>Floods and River Management in the EU context.....</i>	<i>6</i>
<i>Design of the Odra/Vistula Floods Management Project</i>	<i>7</i>
<i>Project Approach to Environmental Assessments</i>	<i>8</i>
V. MANAGEMENT’S RESPONSE	9
<i>Specific Issues Raised in the Requests.....</i>	<i>10</i>
ANNEXES	16
<i>Annex 1 - Claims and Responses.....</i>	<i>16</i>
<i>Annex 2 - Other Issues Raised in Background Documents, and Management Response</i>	<i>39</i>
<i>Annex 3 - Timeline of Consultations for Activities under Sub-component 1.B.2</i>	<i>45</i>
<i>Annex 4 - Timeline of Formal Interactions of the Task Team with Complainants.....</i>	<i>48</i>
<i>Annex 5 - Potential Negative Impacts on the Natura 2000 Sites.....</i>	<i>52</i>
<i>Annex 6 - Technical Terminology.....</i>	<i>56</i>
<i>Annex 7 – Overview of disclosed documents.....</i>	<i>58</i>
<i>Annex 8 - Map Showing Project Areas for Components 1 and 2.....</i>	<i>60</i>

ABBREVIATIONS AND ACRONYMS

Common Bank abbreviations are not included

BAW	German Federal Institute for Hydraulic Engineering
DG	Directorate General (<i>of the European Commission</i>)
EA	Environmental Assessment
EC	European Commission
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
ESMF	Environmental & Social Management Framework
EU	European Union
FD	Floods Directive
FRMP	Flood Risk Management Plan
Government	Government of Poland
IPN	Inspection Panel
JASPERS	Joint Assistance to Support Projects in European Regions
KRC	<i>Koncepcja Regulacji Cieków</i> (watercourse regulation concept)
masl	meters above sea level (<i>equivalent to elevation</i>)
MS	Member State (<i>of the European Union</i>)
NGO	Non-Governmental Organization
ORFPP	Odra River Flood Protection Project
OVFMP	Odra-Vistula Floods Management Project
PCU	Project Coordination Unit (<i>coordinating overall Project implementation</i>)
PIUs	Project Implementation Units (<i>implementing specific activities regionally</i>)
POM	Project Operational Manual
RAP	Resettlement Action Plan
RBMP	River Basin Management Plan
RPF	Resettlement Policy Framework
RZGW	Regional Water Management Authority
SEA	Strategic Environmental Assessment
WFD	Water Framework Directive

CURRENCY EQUIVALENTS

(Exchange Rate Effective October 31, 2019)

Currency Unit = Polish Zloty (PLN)

EUR1.00 = PLN 4.26

EUR1.00 = USD 1.12

EXECUTIVE SUMMARY

Background

1. ***The Odra and Vistula Rivers form a transboundary catchment area that is particularly flood-prone.*** The Odra-Vistula Flood Management Project (P147460) (OVFMP) is the third project in a longstanding Bank engagement to support the Government of Poland (Government) in building resilience to floods on the Odra and Vistula following the devastating 1997 floods, which affected over 200,000 people and caused an estimated USD5 billion in damage. A first operation, the Emergency Flood Recovery Project (P053796), was approved shortly after those floods and focused on emergency repairs to damaged infrastructure. A second operation, the Odra River Basin Flood Protection Project (P086768), targeted a set of priority, large-scale interventions to protect key areas and cities. The present OVFMP is the first project to be developed under the framework of the Flood Risk Management Plans (FRMPs) required by the Floods Directive of the European Union (EU) and is aimed at tackling flood challenges in the entire watershed – focusing on low-impact, no-regret measures.¹

2. ***Since the tragic 1997 floods, in which 50 people died, the Government has embarked on a comprehensive program to protect citizens against summer floods.*** However, those activities were not part of a systematic, basin-wide FRMP, and little was done to protect against winter floods, which are caused by ice jams that build up in rivers and can cause flooding upstream as they form, and downstream when they break. The Project seeks to address these issues.

3. ***The OVFMP has a total cost of just over EUR960 million,*** supported through an IBRD loan of EUR460 million (USD504 million), a Council of Europe Bank loan of EUR300 million, an EU grant of EUR200 million and various national funds. The IBRD loan was approved on July 23, 2015. The Project is currently scheduled to close on December 15, 2023.

The Requests

4. The Requesters allege that Project activities on the Odra River at the German-Polish border (border Odra) cause potential harm to biodiversity, increase flood risks and have transboundary impact on Germany. They question the quality of the environmental assessment and also raise concerns about a lack of adequate consultation and participation with nongovernmental organizations and experts in Germany. Finally, they also raise concerns about the proper consultation and compensation of one Project-affected person.

Management Response

5. ***The OVFMP has been developed under the framework of an FRMP,*** as required by the Floods Directive of the EU, and the jointly agreed Polish-German “Concept for the regulation of the border Odra River watercourse,” which was developed by the German Federal Institute of Water Engineering (BAW) and adopted by the Polish and German

¹ Measures identified as being clearly justified for flood protection and not expected to generate significant negative impact – see paragraph 17.

authorities in 2014. The OVFMP focuses on a subset of the FRMP, referred to as “List 1,” which includes low-impact, no-regret measures.

6. ***Management understands the concerns of the Requesters regarding potential impacts that might arise from the Project.*** Management has engaged with stakeholders and civil society organizations on a continuous basis, to discuss their concerns. Management believes that the concerns raised by the Requesters are appropriately and adequately addressed by the Project design and the corresponding mitigation measures developed for the Project. Management remains committed to continue discussing any remaining concerns regarding the Project. Management also notes that a number of the Requests refer to activities under sub-component 1.B.2 (to improve ice-breaking conditions and thereby reduce winter flooding), for which the environmental impact assessment process and related consultations are still ongoing.

7. ***Management believes that the Project is technically sound, and its design is based on thorough studies that were undertaken by reputable international firms under contract by the Polish government, and reviewed by the Bank.*** Management also believes that the Project complies with the Bank’s applicable policies. Management does not believe that there will be significant adverse impacts from the Project. Potential impacts that may occur during construction are likely to be temporary and reversible; they have been carefully analyzed and appropriate mitigation measures are in place. The limited long-term environmental and social impacts have been equally assessed and mitigated through corresponding safeguards measures. These impacts are clearly outweighed by the important benefits to life and the environment offered by the Project.

8. ***Management notes that some of the Requesters’ concerns appear to be based on incorrect information or derived from draft documents which have since been substantially revised.*** Contrary to a widely held misconception, the Project is not a waterway development project and there are no plans under the Project to channel significant portions of the Odra River for commercial cargo shipping. The Project was and continues to be a flood protection project as designed and agreed on between the Government and the World Bank. The Project’s original scope and development objectives have not been modified, and there are no activities that support increased navigation on the Odra beyond what is needed for operating icebreakers to enable increased flood protection.

Conclusion

9. In Management’s view, the Bank has followed the policies and procedures applicable to the matters raised by the Request. As a result, Management believes that the Requesters’ rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement the applicable policies and procedures in the context of this Project.

I. INTRODUCTION

1. On September 17 and 26 and October 10, 2019, the Inspection Panel registered nine Requests for Inspection, IPN Requests, RQ 19/05, 19/06, 19/07, 19/08, 19/09, 19/11, 19/12, 19/13 and 19/14 (hereafter referred to as “the Requests”), concerning the Republic of Poland: Odra-Vistula Flood Management Project (OVFMP / P147460), financed by the International Bank for Reconstruction and Development (the Bank).

2. **Structure of the Response.** This document contains the following sections: Section II lists the Requesters and dates when Requests were received. Section III describes the Project background and status of implementation. Section IV highlights some issues, which were not raised directly by the Requesters, but provide useful background to understand the Project and the context of the associated Requests. Section V presents Management’s responses to the claims made by the Requesters. Annex 1 presents the Requesters’ claims, together with Management’s detailed responses, in table format. Annex 2 presents other issues raised in background documents, and Management’s response. Annex 3 presents the timeline of consultations for activities under sub-component 1.B.2 (an issue in the Request). Annex 4 presents the timeline of formal interactions of the Task Team with complainants. Annex 5 provides a summary of the assessment done to identify the potential negative impacts on Natura 2000 sites, while Annex 6 provides a list of definitions of the technical terminology used throughout the Response. Annex 7 has an overview of the documents disclosed so far. Annex 8 presents a map of the Project area.

II. THE REQUESTS

3. The first Request for Inspection was submitted on June 21, 2019 by representatives of the German League for Nature and Environment and Friends of the Earth Brandenburg, representing five local nongovernmental organizations (NGOs) and 69 individuals in the Project area, both in Germany and Poland. The second Request was received on July 11, 2019 and was submitted by the Oeko Agrar GmbH Lower Odra Valley e.V. Crieven, which is located and operating in the Odra Valley. A third Request was submitted on July 12, 2019, by the International park GmbH, which includes the Brandenburg Academy Schloss Crieven and Wilderness School Teerofenbruecke, both located and operating in the Odra Valley. The fourth and fifth Requests were submitted on July 15, 2019 by the Society of Friends of the German-Polish Europe-National Park Lower Odra Valley and by the National Park Foundation Lower Odra Valley, respectively. On July 30, 2019, a sixth Request was submitted by representatives of the Ecological Association EKO-UNIA, based in Poland. A seventh Request was received on September 4, 2019 from representatives of the Alliance for Klodzko Valley in Poland. An eighth Request was received on September 20, 2019 from members of the Save the Rivers Coalition. Finally, a ninth Request was received on October 7, 2019 from three individuals living in the Project area who asked the Panel to keep their identities confidential. The Panel has decided to treat these nine Requests jointly.

4. Attached to the Requests were lists of signatures, which were redacted as the Requesters have asked for confidentiality. Several supporting documents were also included:

- (i) Ecological Flood Protection in the Oder Catchment Area, with Emphasis on the Model Region 'Lower Oder Valley';

Poland

- (ii) Transforming natural rivers into canals without water? The expensive fantasy of inland water ways in Poland (June-July 2016);
 - (iii) European Commission DG Environment – Complaint about application of Union Law – CHAP (2016)0299.
 - (iv) Letter to the World Bank office in Warsaw dated September 3, 2018 with complaint against conduct of Polish Waters State Holding – Regional Water Management Authority in Wrocław.
5. No further materials were received by Management in support of the Request.

III. PROJECT BACKGROUND

Context

6. *The Odra and the Vistula are Poland's main rivers, with the Odra also marking the border with Germany (see map on page 58); both are significantly flood-prone.* They rise in the southern Carpathian Mountains and flow to the north across hilly areas first and flat lowlands, thereafter, before discharging into the Baltic Sea. They count among Europe's longest rivers with main stems of 854 and 1,047 km, respectively. The catchment areas of the Odra and the Upper Vistula (comprising about one-third of the total Vistula basin) together cover 168,580 km² or 54 percent of the Polish territory, underscoring the strategic significance of the proposed Project. Significant floods affected different parts of the catchment areas in 1997, 1998 2006 and 2010, including the large cities of Wroclaw (1997), Krakow (2010), the Nysa Kłodzka Valley (1997 and 1998) and the Sandomierz-Tarnobrzeg industrial center in the heartland of the country (2010). The 1997 flood affected over 200,000 people, killing 50, and caused about USD5 billion in damage; the 2010 flood affected about 100,000 people and caused over USD3 billion in damage. Given the increasing frequency of floods, under current conditions, the future annual average population affected by flooding in Poland is estimated at 600,000, with average annual damages of approximately USD7 billion.¹

7. *The OVFMP is the third project in a longstanding Bank engagement to support the Government in building resilience to floods on Odra and Vistula following the devastating 1997 floods.* A first operation, the USD200 million Emergency Flood Recovery Project (P053796), was approved shortly after those floods and focused on emergency repairs to damaged infrastructure. A second, more ambitious program, the USD550 million Odra River Basin Flood Protection Project (P086768) targeted a set of priority, large-scale interventions to protect key areas and cities (including in Raciborz, with over 300 resettled people). The OVFMP, as a third operation, is the first to be developed under the framework of a Flood Risk Management Plan (FRMP)² and is aimed at tackling flood challenges in the entire watershed, focusing on low-impact, no-regret measures.

The Project

Project Objectives

8. The Project development objective is to increase access to flood protection for people living in selected areas of the Odra River and the Upper Vistula River basins and to strengthen the institutional capacity of the Borrower to mitigate the impact of floods more effectively.

¹ Global Fund for Disaster Reduction and Recovery (GFDRR), Poland Disaster Risk Country Profile; World Bank 2019.

² Refer to Section **Error! Reference source not found., Error! Reference source not found.** for more details.

Project Components

9. **The OVFMP has a total cost of just over EUR960 million** financed from an IBRD loan of EUR460 million, a Council of Europe Bank loan of EUR300 million, an EU grant of EUR200 million and various national funds. There are five components to the Project:

- **Component 1 Flood protection of Middle and Lower Odra:** This component aims to enhance protection against both summer and winter floods for the cities of Szczecin and Ślubice, the town of Gryfino, as well as other smaller towns along the Odra River. The activities include the reconstruction of dikes and other bank protective works (revetments, parapets, and so on), dredging in the Odra River as well as in canals and the harbor of Szczecin, and river training works, that is, the recalibration and (re)construction of groynes³ and lateral submerged dams in the river, restoration of bends, and protection of banks.
- **Component 2 Flood protection of Nysa Kłodzka Valley:** This component supports activities that will protect Kłodzko town and other small valley towns, as well as the city of Bardo at the outlet of the valley.
- **Component 3 Flood protection of Upper Vistula:** This component intends to protect the Kraków agglomeration and Nowa Huta industrial area, the Sandomierz-Tarnobrzeg industrial and agricultural area, and selected towns on tributaries in the sub-basins of the San and Raba rivers.
- **Component 4 Institutional strengthening and enhanced forecasting:** This component supports select institutional strengthening in priority areas by improving the emergency preparedness along the main rivers and their tributaries in south and west Poland through enhanced forecasting and operational water management capacity.
- **Component 5 Project Management and Studies:** Finally, the fifth component supports Project management and strategic studies.

Project Implementation Status

10. **Overall status.** Following approval and effectiveness in the fall of 2015, initial progress has been slow and overall disbursements have only reached 15 percent after four years of implementation, largely due to the need to finalize investment selection and design, as well as delays in procurement processing and contract management. The performance of some project implementation units (PIUs) has continued to be slow, causing additional delays in their sub-component implementation. As a result, the Project's development objective and implementation progress ratings were downgraded to moderately unsatisfactory in the most recent mission, completed in June 2019. Improving Project implementation will require continued and stronger efforts from both the Ministry of Maritime Economy and Inland Navigation and Polish Waters, the implementing agencies.

11. **Implementation summary.** Overall, 18 contracts are in place with a total commitment of over EUR354.15 million (including three Technical Assistance consultancies and two for FRMPs), representing 29,5 percent of the total Project cost. In addition, an estimated EUR180 million is

³ Refer to Annex 6 - Technical Terminology for definition of technical terms

currently in ongoing tender procedures, and EUR147.6 million is at the preparation stage and expected to be launched by the end of 2019 (reaching 56 percent of the total Project cost). Almost all Project funds are expected to be committed in contracts by the end of 2020. The Project's mid-term review is planned for November 2019 and will be an opportunity to review and address Project implementation bottlenecks, to ensure that expected outcomes and results are achieved before the projects closing date – December 15th, 2023. This will include reviewing the progress of all Project activities – ongoing and planned.

IV. SPECIAL ISSUES

12. Management would like to highlight the following issues, which are not raised directly by the Requesters but provide useful background to understand the Project and the context of the associated Requests.

Floods and River Management in the EU context

13. *In the EU, floods and river management activities are regulated by a set of EU Directives.* The Water Framework Directive (WFD), adopted in 2000, aims at improving the environmental status (including the avoidance or removal of unnecessary hydro-morphological features such as embankments, dams and dikes) in all of Europe's water bodies. It mandates the preparation of River Basin Management Plans (RBMPs) every six years, outlining how Member States (MSs) intend to reach the Directives' objectives. The latest round of RBMPs was due in 2016 for all MSs. The Floods Directive (FD), adopted in 2007, equally requires MSs to prepare FRMPs on the same cycle as (and in full compliance with) the RBMPs. The FRMPs include a Program of Measures, which identifies all the investments needed to achieve the plans' objective. As for all EU Directives, the WFD and FD are transposed into the national legislation of the various MSs during their accession process – including in Poland – and are therefore relevant for the Borrower's implementation of Project activities, particularly with regard to Component 4 (institutional strengthening for preparation of RBMPs and FRMPs).

14. *The EU water directives are considered international good practice.* The WFD, despite being almost twenty years old, is generally seen as an example of international good practice in the water regulatory regime. It establishes a clear, evidence-based policy objective, and requires water users to contribute to the cost of managing the resources. It requires the preparation of Strategic Environmental Assessments (SEA) for each of the RBMPs and enshrines citizens' engagement and consultations at the core of the process of developing RBMPs. It further mandates individual MSs in transboundary watersheds to establish or designate international mechanisms to coordinate and consult their national plans. Finally, the Directive recognizes the need for specific exemptions, for example when public interest for flood protection makes it necessary to modify the natural course of rivers (so called "heavily modified water bodies"). Similarly, the daughter Floods Directive, adopted a few years after the WFD, relies on the same principles of stakeholder participation and basin-wide planning and is also regarded as an international example.

15. *The European Commission (EC) finances and oversees the implementation of EU Directives.* The primary responsibility to transpose and comply with the EU Directives (and resulting national legislation) rests with the individual MS governments. As part of its overall budget, the EC provides significant grant resources to MSs to support the implementation of the Directives, including the WFD and FD. In the case of the OVFMP, this is the source of the EU co-financing. When its own funds are engaged, the EC requires that those funds be used towards supporting compliance with the Directives (in this case, implementing the RBMPs and FRMPs' Programs of Measures). The EC oversees the implementation of those funds with an ex-ante review of the largest investments, and an ex-post review of a sample of the rest. It also provides technical assistance to new MSs in complying with its requirement, in the form of the Joint Assistance to Support Projects in European Regions (JASPERS) program, which has technical staff in most of the new MSs and reviews projects before they are submitted to the EC.

Design of the Odra/Vistula Floods Management Project

16. ***The OVFMP design is significantly different from earlier flood projects in Poland because it builds on and seeks to support the implementation of the FRMPs.*** Prior to 2015, Poland did not have FRMPs. Earlier projects⁴ therefore followed a traditional approach of pre-identifying a limited set of critical investments, such as the EUR300 million Raciborz dry polder⁵ and EUR200 million Modernization of Wroclaw Floodway System financed under the soon to close Odra River Basin Flood Protection Project. In contrast, the preparation of the OVFMP took place as the country was also preparing its first series of FRMPs. Relevant to this preparation, the Government and the Bank team therefore chose to adopt a more flexible approach allowing the Project to support part of the implementation of the FRMPs.

17. ***The FRMPs prepared under the first cycle had room for improvement, leading the Bank to suggest selecting sub-projects from the FRMPs' Program of Measures using a framework approach based on clear screening criteria.*** The development of comprehensive FRMPs is an iterative process that requires extensive data collection, processing and modeling capabilities, as well as strong decision-support mechanisms to prioritize activities. The EC initially considered the first cycle of Poland's FRMPs to be only partly compliant with the Directive as some of the major investments were insufficiently grounded on technical or economic justification. At the same time, it was widely recognized that developing the proper analytical basis would be a lengthy process best aimed at the following cycle of FRMPs (due in 2021), and the two sides agreed to the development of a "List 1" of investments that had a low-impact and "no-regret" nature – meaning that they were clearly justified regardless of the outcome of follow-up investigations, and were not expected to generate a significant negative impact.

18. ***The Project's screening criteria focus on those activities in the FRMPs' Program of Measures that have a low negative impact and represent no-regret solutions regardless of more in-depth analysis emerging at later stages.*** The total cost of the investments on the "List 1" went much beyond the Government's ability to finance it, and the Bank team therefore agreed to design the OVFMP as a framework project financing a subset of sub-projects from the "List 1" that would further meet stricter screening criteria agreed in the Project Operational Manual (POM),⁶ the rationale being that this would allow for further studies to be conducted during early implementation to assess and accept or reject individual sub-projects. In parallel, the Project also included significant resources to support the Government's ability to model, forecast and manage floods and flood risks (Component 4), to be better equipped to prepare the next cycle of FRMPs.

⁴ Refer to Section III, PROJECT BACKGROUND for more details.

⁵ A *polder* is an artificial flood plain that can be used to temporarily absorb flood water. Refer to Annex 6 - Technical Terminology for more details.

⁶ The basic criteria for projects' selection were: prioritization within the context of the RBMPs and comparison of all possible project options to identify the low cost and low-impact options; results of economic analyses to select cost-effective options including a risk-based approach to investments; projects creating "room for the river" and flood wave retention capacity upstream, rather than constraining the river flow by embankments; integration with environmental values and protection of habitats; flood management plans based on broad consultation with stakeholders; sustained financing from the national or regional budgets as well as outside means.

Project Approach to Environmental Assessments

19. ***Given the Project's design as a framework project and its focus on low-impact, no-regret measures, it was classified as a Category B⁷ and followed a risk-based, phased approach to environmental assessment.*** The FRMPs and RBPMs were subject to a SEA, as required by the FD and the WFD, respectively. These plans were widely consulted upon before their adoption. For the Bank Project itself, it was agreed to develop an Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF) defining the applicable Bank and national policies and resulting environmental (and social) assessment and management processes. The ESMF (in its Preamble and Annex 7) establishes that only those sub-projects can be financed that are on "List 1" and have been further screened as per the POM criteria. This process serves to eliminate any subproject that might be deemed potentially complex and requiring more comprehensive analysis; thus effectively excluding any sub-project that would correspond to a Category A under OP4.01.

20. ***The ESMF requires that all sub-projects be subject to an Environmental Assessment (EA), develop Environmental Management Plans (EMPs) in line with Bank policy requirements, and address additional requirements of Polish legislation.*** The ESMF, which was consulted upon, approved by the Bank and disclosed prior to Project appraisal in conformity with OP4.01, requires all sub-projects to undergo an EA, prepare EMPs to mitigate the impacts identified, and subject these to consultations. Furthermore, the ESMF also refers to the obligations resulting from the Polish environmental assessment legislation, which mandates Environmental Impact Assessments (EIAs) for specific types of activities, including some of those covered under the Project, and leaves to the determination of the relevant environmental authorities whether EIAs are required for other activities of lesser potential impact, in particular if they might affect a Natura 2000 site.⁸

21. ***The ESMF-required EA instruments have been prepared, consulted upon, approved and disclosed for ten sub-projects so far.*** These ten sub-projects have completed their planning stage and moved into implementation. All sub-projects have followed the process outlined in the ESMF and conducted EAs and EMPs, which were consulted upon, approved by the Bank and disclosed.⁹ The outcome of consultations has been reflected and incorporated into the sub-project design and EMPs as needed, and the respective EMPs have been included in the bidding documents and resulting contracts. The consultations, for example, led to the inclusion of an Eagle Owl nesting platform in one of the EMPs, and the cancellation of Project activities in the Miedzyodrze wetland, which was found to be of limited flood retention value. The EA and EMP preparation and disclosure process is ongoing for an additional five sub-projects, and about 15 more will follow as Project implementation progresses. Furthermore, EMP implementation is overseen by the supervising engineer teams comprising environmental and social specialists, under the overall responsibility of the relevant PIU, and no significant issues have been reported so far.

⁷ Refer to the Section - MANAGEMENT'S RESPONSE for a fuller discussion of the Project's category.

⁸ In practice, all ten sub-projects for which the EA process has been completed so far, have undergone an EIA as per requirements of Polish legislation.

⁹ In the case of one sub-project, the activities for sub-component 1.B.2, the EIA preparation and consultation process was initially found to be weak and additional technical work and consultations were requested by the Bank and are currently ongoing. Refer to paragraph 35 for more details.

V. MANAGEMENT'S RESPONSE

22. ***Flood management is an issue of major importance for Poland and its neighbors.*** The Odra and Vistula rivers form a transboundary catchment area that is particularly flood-prone, as exemplified by the severe floods in 1997, which killed more than 50 people and caused more than USD5 billion in damages. Since then, the Government has embarked on a comprehensive program to protect citizens against summer floods, such as raising embankments to contain 200-year flood events.¹⁰ However, until the OVFMP, those activities were not part of a comprehensive, basin-wide FRMP, and little was done, for example, to protect against winter floods, which are caused by ice jams that build up in rivers. These ice jams can cause flooding upstream as they form, because the water cannot flow downstream. They also pose a risk of downstream flooding when the ice jams break.

23. ***The Project is expected to have significant positive impacts on many beneficiaries in Poland.*** Management does not believe that there will be significant adverse impacts from the Project. Any temporary impacts that may occur during construction have been carefully analyzed and mitigated, and the limited long-term environmental and social impacts have been weighed against the overwhelming public interest and properly mitigated through EMPs and Resettlement Action Plans (RAPs).

24. ***Management understands the concerns of the Requesters regarding potential impacts that might arise from the Project. Management has regularly engaged with stakeholders and civil society organizations, to discuss their concerns, which has led to improvements in the Project design.*** From the preparation stage on, the Bank team has had repeated interactions with NGOs and civil society organizations, actively engaging in dialogue both formal (through formal communication – refer to Annex 4 - Timeline of Formal Interactions of the Task Team with Complainants) and informal (during missions). This dialogue has led to a number of improvements to the Project's design and scope. For example, as noted earlier, in the case of the *Miedzyodrze* wetland, which had been considered for use as a flood retention area, technical assessments that included stakeholder consultations confirmed that the wetland could not be used to increase flood protection/retention and consequently the activity was dropped from the Project. Management notes that the complex nature of the Project and misunderstanding or speculation regarding the Government's intentions concerning the Project have sometimes made such discussions challenging. However, Management remains committed to discuss any concerns regarding the Project and what additional mitigation measures could address such concerns. Stakeholder consultations and information disclosure associated with the preparation of the original ESMF and subsequent EIAs and EMPs were prepared in line with Bank policy. When some concerns were raised about the consultation process for one of the EIAs, these consultations were repeated on the basis of improved documents and translations.

25. ***Management believes that the Project is technically sound, and its design is based on thorough studies that were undertaken by reputable international firms and reviewed by the Bank. Management also believes that the Project complies with the Bank's applicable policies.*** The selection of investments under the Project is based on the "List 1" identified under the FRMPs

¹⁰ A one-hundred-year flood is a flood event that has a 1 in 100 chance (1% probability) of being equaled or exceeded in any given year.

prepared prior to Project appraisal. The FRMPs and related “List 1” investments were informed by various technical studies, including, the German-Polish “Concept for the regulation of the border Odra River watercourse,” which was developed by the *German Federal Institute of Water Engineering* (BAW) and adopted by the German and Polish authorities in 2014. The BAW concept is based on the following key decision criteria: decreasing the winter flood risk and maintaining water levels as close as possible to the existing levels to avoid any increase in summer flood risk. Several alternatives for the regulating structures were considered and the alternative selected is considered to provide protection against both, winter and summer floods. The potential risks and impacts pointed out by the Requesters have been identified and analyzed in the Project design and appraisal-stage ESMF, and mitigation measures have been put in place to manage possible impacts through specific implementation-stage EMPs, in line with Bank policies.

26. ***Management notes that some of the Requesters’ concerns appear to be based on incorrect information, including from draft documents which were substantially revised later.*** The Project is not a waterway development project and there are no plans under the Project to channel significant portions of the Odra River. The Project was and continues to be a flood protection project as designed and agreed with the Government and the World Bank during Project preparation in 2015. The Project’s original scope and development objectives have not been modified, and there are no activities that support increased navigation beyond the needs for icebreaking. Management also notes that a number of the Requests refer to activities under sub-component 1.B.2, for which the EIA and related consultations are still ongoing.

Specific Issues Raised in the Requests

27. The nine Requests focus on a few key concerns, which are discussed in more detail below. The Requesters’ claims, accompanied by Management’s detailed responses, are provided in Annex 1 - Claims and Responses.

Project Alternatives

28. ***The Requests erroneously allege that the Project design did not consider more environmentally friendly alternatives following the “room for the river” approach.*** The concept of “room for the river” aims at restoring the river’s natural course and flood plains when feasible.¹¹ This approach is only applicable in circumstances where sufficient land is available, the topography is relatively flat, and no significant human or economic assets are located on the riverbanks. To underline the Project’s commitment to such low-impact approaches, one of the screening criteria for sub-projects mentions explicitly “projects creating room for the river and flood wave retention capacity upstream, rather than constraining the river flow by embankments” (refer to ESMF / Preamble). The preparation of the FRMPs by the Government (prior to Project approval) considered this approach as part of the alternatives analysis, and adopted it for some sections, such as rehabilitation of dike systems (Kraków, Tarnów), while in other river sections – for example in the Klodzko Valley, it was not feasible due to dense urbanization and topography along the rivers, which leaves limited land available for such measures.

¹¹ The concept originated from the Netherlands’ approach to flood management on the Rhine, Meuse and Scheldt rivers.

Navigability, Winter Floods and Icebreakers

29. ***The Project is not a “waterway development program,” as incorrectly alleged in the Requests.*** The Project was designed and prepared as a flood management project. One of the flood risks on the Odra river is the creation of ice jams¹² which can generate significant winter floods. As a result, the Project design incorporated, from the beginning, limited measures to reestablish the navigability of sections of the rivers to Class III¹³ to allow for the passage of the ice-breakers necessary to avoid ice jams. After approval of the Project in 2015, a new Government came into office in late 2015, and in early 2016 the Government announced ambitious plans to expand the country’s fluvial navigation capacity, including on the Odra river, to commercial Class IV. While the Government initially approached the Bank to discuss the feasibility of restructuring the OVFMP to support these plans, the Bank determined this would not be compatible with the Project’s objective, design and environmental category, and clarified to the Government that such adjustments would not be possible. Hence, the Project continued implementation under its original development objective, scope and design focused on flood management. The only navigation-relevant activities supported, are those necessary for the passage of icebreakers to remove the ice jams that can create dangerous winter floods. Those activities were always part of the Project scope and only marginally increase navigability to Class III, rather than the Government’s commercial navigation plans that require at least Class IV.

Works in the Klodzko Valley

30. ***The ongoing works to build four dry polders in the Klodzko Valley follow good international practice. The allegation that these works unnecessarily affect people, the environment, and groundwater is not correct in Management’s view.*** The proposed four polders resulted from extensive technical studies and represent a first set of interventions necessary to protect the valley from flooding. The polders have a limited environmental impact in situ and downstream because of their operation as dry polders (meaning that they are only filled in case of peak flow in the river and otherwise are left in the current, natural condition). EIAs and EMPs were prepared, consulted upon and disclosed for all of the works, and a full EIA was also done for the combined activities in the Klodzko Valley. The ongoing works and compliance with the respective EMPs are supervised by an independent company, and no deviations from the original designs and approved environmental permits have been observed. Management will ensure that specific attention to any risk to local groundwater continues to be monitored carefully. However, to date no adverse impacts on groundwater resources have been observed or reported. Only limited physical resettlement (eight households) was required, and a RAP detailing mitigation and compensation measures was prepared in line with Bank policy requirements and was consulted upon and disclosed.

¹² Refer to Annex 6 - Technical Terminology for more details.

¹³ Inland waterway classes are standardized according to the following criteria: vessels permitted to navigate, maximum size of clearance under bridges and other structures colliding with the waterway. Inland waterways categorized as Class Ia, Ib, II and III have regional importance, whereas inland waterways Class IV, Va and Vb have international importance. Class IV parameters currently represent the minimum standard for international waterways. (Refer to Annex 6 - Technical Terminology for details.)

Project Environmental Categorization

31. ***In Management's view the Project's classification as Category B was appropriate.*** Section III - PROJECT BACKGROUND provides an overview of the rationale for the design of the Project as a framework project focused on those investments from the FRMPs that are identified (under "List 1") as low-impact, no-regret measures. Further screening criteria in the ESMF and POM excludes any investment deemed to have the complex or wide-ranging impacts of a Category A project under the Bank's definition. The Project does not (and cannot) finance any large-impact sub-projects, such as those supported by the earlier Odra River Basin Flood Protection Project. That project was classified as Category A largely because of two large investments with significant technical and social impacts and environmental complexity, which involved the physical resettlement of more than 300 households. The large number of low-impact interventions and need for further technical studies for some of the activities led Management to endorse the design of the OVFMP as a framework project and classify it as a Category B in accordance with OP4.01 requirements. Item 31 in Annex 1 - Claims and Responses provides further information.

Impacts on Biodiversity and Natura 2000 Zones in Poland and Germany

32. ***The Project's EIAs reviewed potential impacts on biodiversity and on the Natura 2000 zones¹⁴ in Poland and Germany. The potential impacts were found to be insignificant, for example, potential disruption of 2.72 ha of habitat, which constitutes 0.99 percent of the area of known habitat resources within the buffer zone.*** The likely negative impact on any biodiversity or habitat, including Natura 2000 sites, was analyzed in detail in relevant EIAs, and described in the report on the potential environmental impact of the investment, as part of the procedure to obtain a decision on environmental conditions. In the case of the border Odra River, the conclusions from the impact assessment were the result of detailed technical analysis and modelling using the concept of regulatory reconstruction of the border Odra River, by BAW and expert opinions by scientists in the field of hydrology. Based on this the potential environmental impacts were defined, and the results showed no significant adverse impact on the environment, including Natura 2000 areas.

33. ***The analysis of the potential impacts of any investment on the environment, including biodiversity and any natural habitats, is based on expert assessments of the investment impact/area.*** This is done through an inventory of natural resources for the investment area and its vicinity as well as consideration of the scale and scope of the investment, both at the construction stage and after completion of construction works (in the operational phase). In addition, the cumulative impact is detailed in accordance with the requirements of the respective environmental assessment legislation and ESMF, and mitigation measures are proposed for any potential negative impacts. Annex 5 provides an example of an assessment done in one of the investment areas. For example, no dredged material or materials to be used for the construction of groynes will be stored in groyne fields; mainly natural materials (stone, fascine, wood) will be used; and to limit the impact of an increased amount of suspended solids and stress factors on fish, construction works will be carried out outside the spawning season.

¹⁴ Natura 2000 is a network of nature protection areas in the territory of the EU. It is made up of Special Areas of Conservation and Special Protection Areas designated respectively under the Habitats Directive and Birds Directive. The network includes both terrestrial and Marine Protected Areas.

Downstream and Cumulative Impacts

34. ***The technical and environmental studies underpinning the Project's Component 1 in the Lower Odra catchment considered downstream and cumulative impacts.*** All activities under the Project are part of the approved FRMPs, and more specifically its "List 1" of low-impact, no-regret measures – meaning that any complex or wide-range measure requiring full basin-level assessment was screened out. The FRMP involved extensive modeling of the cumulative flood impact over the entire watershed. In cases where the Government considered it necessary to evaluate the combined flood impact of sub-projects financed under the Project at sub-basin level (for example for packages of investments in the Klodzko Valley or the lower Odra valley), it launched further, comprehensive modeling work at sub-basin level. Those studies were conducted by various reputed international companies and thoroughly vetted by both the Borrower and the Bank's technical experts. Environmental assessments were conducted for the FRMP as a whole through a SEA, prior to the Bank's formal involvement. EIAs were conducted to evaluate environmental impact as required by the ESMF and Polish legislation, and the resulting EMPs were consulted upon, reviewed by the Bank, and disclosed as per OP4.01. Concerns were raised by NGOs regarding the initial draft of one of the EIAs, related to sub-component 1.B.2,¹⁵ such as: limited consultations and communication, weak translation of documentation into German, and limited analysis of the short- and long-term impacts on protected elements within Natura 2000 sites. As a result, the implementing agency was requested to redo the EIA to meet the required quality standards for clearance by the Bank and the Regional Directorate of Environmental Protection. A second round of consultations was subsequently organized and is currently ongoing; it is expected to be completed during November 2019.

Consultations

35. The consultation processes for the Project and related safeguard instruments were extensive, and concerns raised by participants were taken into consideration. The FRMPs and subsequent sub-project EIAs and RAPs were subject to extensive consultations over the years, in Poland and Germany (for the transboundary activity). European Union (EU) Directives mandate extensive consultations for FRMPs and RBMPs, and the Government conducted such consultations in 2014-2015. Subsequently, as part of the Project's preparation and in accordance with OP7.50, riparian countries were notified in September 2014, and by the stated deadline for responses of January 31, 2015 or after, no country (Germany, Czech Republic, Belarus, Slovakia and Ukraine), submitted objections. The Project Information Document (PID) and ESMF were consulted upon and published in February 2015. The RPF was consulted upon between February 2015 and March 2015, and the final RPF was disclosed in April 2015. All Project EIAs/EMPs and RAPs prepared to date have been properly consulted upon and disclosed with Polish and, when relevant, with German counterparts. When concerns about the quality of translation into German emerged from the consultations on sub-component 1.B.2 EMP, the Bank requested the Government to commission a new translation and another round of consultations was subsequently organized, which is still ongoing. In parallel, the Bank team has had an extensive dialogue, in person during missions and through formal and informal communication, with many of the

¹⁵ Project tasks are numbered following the sub-components, for example, 1.A.3 refers to the Miedzyodrze wetland activity which was later dropped; while 1.B.2, which has been the focus of several NGO queries, refers to the proposed dredging of critical Lower Odra River sections between Slubice and Szczecin cities, to improve ice-breaking conditions and thereby reduce winter flooding.

institutions and Project-affected people who have raised concerns, starting during the preparation phase of the Project and continuing to date (refer to Annex 4 - Timeline of Formal Interactions of the Task Team with Complainants). Those various channels have allowed the Project to significantly benefit from stakeholder inputs, and a number of adjustments were made to the scope and design of activities, including, for example, the cancelation of works planned in the Miedzyodrze wetland, the improvement of the EIA for activities under sub-component 1.B.2 and the comprehensive mitigation measures proposed and implemented for each of the four polders in Klodzko Valley.

Compensation of One Person Affected by Construction of One of the Dry Polders in Klodzko Valley

36. ***A RAP was prepared, consulted upon, approved and disclosed prior to the start of works in the Klodzko Valley in conformity with Bank policies and the Project's RPF. Agreed compensations have largely been processed already¹⁶.*** This included cash compensation, land-for-land, and/or priority right to lease the expropriated lands that were not occupied for the purposes of polder construction after the completion of works. The final RAP was approved and disclosed on March 2, 2017. One of the Requests alleges that an affected person whose property was near the Szalejow polder was not appropriately consulted or compensated for the impacts of the Project.

37. ***Following the beginning of construction in the fall of 2018, one person (whom Management understand to be the subject of the Request) requested that her entire property be purchased, rather than just the affected portion as agreed under the RAP.*** Private land affected by the Szalejow polder mostly consisted of meadows, pastures, arable agricultural land, and wooded areas. A plot co-owned by three persons required partial expropriation, and the corresponding compensation was included in the RAP. However, once works started and their impact on daily life became evident, one of the co-owners – the person in question - rejected the partial compensation and requested instead compensation for the full value of the land and residential unit, due to negative impacts from the ongoing construction works, including loss of land of aesthetic and environmental value directly adjacent to the household unit and perceived concerns over health and safety.

38. ***The implementing agency agreed to the principle of full compensation as requested and is currently seeking the appropriate legal, budgetary and institutional mechanism to purchase the property.*** In May 2019, following further field visits and discussions with the affected person, the Bank and Government found that the person's additional compensation claims were not unreasonable and requested the PIU to investigate how to acquire the entire property of the affected person, while other co-owners would remain in the property as per their wishes. The matter is administratively challenging since the purchase consists of only one share of the co-owned property. A possible solution has been identified and discussions are still ongoing within Government and with the affected person. Annex 1 (Item 17) provides further detail on the process and the efforts of the PIU and Government to resolve the grievance.

¹⁶ To date, 96% of the compensations for the people identified to be affected by the Szalejow dry polder construction in the RAP, has been paid. This includes the person subject of the Request. The remaining 4% are appeals currently being processed by the Voivode.

Conclusion and Next Steps

39. ***In Management's view, the Bank has followed the policies and procedures applicable to the matters raised by the Request.*** As a result, Management believes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.

40. As part of the upcoming Mid-Term Review process for the Project, Management will review opportunities to further improve the Project's implementation and final impact, including:

- *Continuing to strengthen the capacity for communication and community outreach of the Project Coordination Unit (PCU) and PIUs.* Following the concerns raised regarding the consultation process for one of the sub-components (1.B.2), the Bank team has been working with the PCU and PIUs (implementing units), providing information and guidance on how to improve consultations, communications and related documentation for all Project activities. Additional staff have been hired by the PCU/PIUs to support stronger communications and stakeholder engagement within the investment areas and beyond. Two senior communications and stakeholder engagement specialists have been recruited; one for the PCU and another for the PIU in Wroclaw and these are expected to report on November 1, 2019. These two specialists will work in liaison with social development specialists in other PIUs.
- *Further clarifying the POM and ESMF screening criteria for EMPs and EIAs.* The Bank team will work with the implementing units to update/refine the POM and ESMF to further clarify and provide clear guidance on the EIA/EMP process.
- *Continuing to monitor any groundwater impact closely in the four dry polders of Klodzko Valley.* While there is no indication that groundwater resources have been affected by any activities under implementation to date, nor are any negatively impacts anticipated, the Bank team will work with the implementing units to ensure that environmental and construction supervision continues to pay close attention to this concern and closely monitors and tracks through the EMP implementation reports shared with the Bank quarterly/semi-annually.
- *Following up with the Government to swiftly finalize the agreement on and compensation of the person affected by dry polder works in the Klodzko Valley.* The Project Steering Committee consisting of the Ministry of Internal Affairs and Administration, Ministry of Maritime Economy and Inland Navigation, Ministry of Infrastructure, Ministry of Finance, Ministry of Investments and Development, President of Polish Waters (KZGW), Ministry of Environment, National Fund for Environmental Protection and Water Management, the six Voivodes in which the Project is active, and the PCU, will meet in November 2019 and will discuss this issue among others, with the aim of taking a final decision on this case. The Bank team will meet with the Steering Committee on November 21, 2019 during its upcoming implementation support mission.

ANNEXES

Annex 1 - Claims and Responses

* Numbers in [brackets] indicate the Requests in order of submission. The table below is a summary of the various Requests, consolidating their common concerns into single topics.

Claims	Response	Reference documents
Project and EU legislation		
<i>General</i>		
<p>1. The project infringes on EU environmental legislation and Natura 2000 and WFD directives [1, 2, 3, 4, 5, 8]</p>	<p><i>The obligation to ensure compliance with national and EU legislation is the responsibility of the Borrower (Poland).</i> The Polish Environmental Authority confirmed compliance with national legislation, as evidenced in the environmental decisions issued for the respective activities. Furthermore, EU MSs have the obligation to ensure that their national legislation is compliant with EU legislation. Any infringement procedure in that regard would be launched by the relevant Directorates-General of the EC and eventually decided by the European Court of Justice. The Bank's mandate is to ensure Project alignment with Bank operational policies and to monitor Borrower compliance with Project safeguard instruments. Project due diligence processes, including the Bank's review of the Project's safeguard documents, have detected no compliance issues with Bank policy.</p>	
<p>2. Poland has a poor track record in following EU legislation, including the Bird directive, and was found to have infringed on WFD by ECJ on June 30, 2016. [6]</p>	<p><i>See response to Item 1 above.</i></p>	

Claims	Response	Reference documents
Component 2 / Nysa Klodzko Valley		
3. The interventions in Klodzko might not be compliant with WFD article 4.7. [7]	<i>The Klodzko interventions meet the requirements of the Bank's safeguard policies. The obligation to ensure compliance with EU legislation is the responsibility of the Borrower (Poland).</i> EIAs and EMPs have been prepared, consulted upon, approved and disclosed for these sub-projects. The EU WFD aims at achieving good ecological status in the water bodies of each Member State. Article 4.7 of the WFD deals with allowable exceptions, such as new human activities or new alterations responding to public interest (such as flood protection). Extensive EU-level guidance notes exist on the accepted practices followed by individual MSs on when to grant those exceptions, and the EC's relevant DG would formally launch an infringement procedure against a MS if it considered that its granting of exceptions deviated from the Directive. At present, the Bank is not aware that infringement procedures of this type have been launched against the Project's interventions.	
4. The derogations to Birds Directive and Habitat directives were granted unnecessarily, representing a threat to the rare eagle owl specie Buba bubo [7]	<i>The obligation to ensure compliance with EU legislation and accepted practices, including in granting derogations, is the responsibility of the Borrower (Poland).</i> Management notes that during the EIA process for one of the Project sub-components, which was completed in August 2016, no breeding sites of the eagle owl <i>Buba bubo</i> were found within the planned construction sites. However, following feedback received during consultations held early in 2016, a breeding platform for the eagle owl was built within the Szalejów dry polder area, as a precautionary mitigation measure.	Szalejów EIA/EMP, 2016
Project's technical soundness		
Component 1 / Middle and Lower Odra		
5. The project's Component 1 increases flood risks [1, 2, 3, 4, 5, 8]	<i>The construction works planned under the Odra-Vistula Flood Management Project will not increase the risk of flooding; on the contrary, they will reduce it (see study report referenced in next column).</i> The selection of investments under the Project is based on the joint German-Polish "Concept for the regulation of the border Odra River watercourse," which was developed by BAW and adopted by the German and Polish authorities in 2014.	Concept for the regulation of the border Odra River watercourse. Study on the conditions for

Claims	Response	Reference documents
	<p>Since the devastating summer flood of 1997, which killed more than 50 people and caused more than USD5 billion in damages, much has been done to protect citizens against summer floods (such as raising many of the embankments to contain 200-year flood events). However, little was done to protect against winter floods, which are caused by ice jams.¹</p> <p>To prevent these ice jams, and/or to break them up when they occur, Poland and Germany operate jointly a fleet of icebreakers at the Odra River, which in some stretches forms the border between the two countries. These icebreakers need a continuous minimum water depth of about 1.8 meters to operate, which was maintained in the past by structures such as groynes and embankments. Sufficient depth for the icebreakers improves their buoyancy, allowing for safer and faster ice disposal and reducing the risk of flooding. These structures also regulated the water flow. In many sections of the Odra, however, these groynes and embankments are dilapidated and need to be rehabilitated or rebuilt, based on the concept developed by BAW, to ensure that the water is deep enough for the icebreakers. This activity, which will be partially financed by the Project to improve and sustain icebreaker operations, is not expected to cause an increase in the risk of summer floods.</p> <p>The BAW concept is based on the following key decision criteria: decreasing the winter flood risk and maintaining water levels as close as possible to the existing levels to avoid any increase in summer flood risk. As part of the concept development, several variants for the regulating structures were considered, each of which received a <i>Koncepcja Regulacji Cieku (KRC-W)</i> “number”. The variants differed in terms of their geometric parameters, that is, the design height of the regulatory structures and the spacing between them. The variants shown in the graph below (taken from the BAW Concept) indicate the water levels for different investments to ensure the operation of the icebreakers and to avoid another catastrophic flood event. The KRC-W5 variant, which was selected for investment under the Project, is characterised by only a slight increase of the water table at summer flood stage.</p>	icebreaking on the border Odra River

¹ Refer to Annex 6 - Technical Terminology for definitions of technical words.

Claims	Response	Reference documents
	<p data-bbox="653 266 1623 919"> </p> <p data-bbox="653 938 1623 1040"> Illustration 6-80 Differences in water levels at flow Q(WW) in variants KRC-W1, KRC-W2, KRC-W2b, KRC-W3, KRC-W4 and KRC-W5 compared to KRC-W0 after 40 years ($Q_{ww} = 1300\text{m}^3/\text{s}$ relatively $2050\text{ m}^3/\text{s}$) </p> <p data-bbox="558 1065 1717 1466"> The selected KRC-W5 variant is presented in black. Based on one of the supporting documents (“Ecological Flood Protection in the Oder Catchment Area, with emphasis on the Model Region ‘Lower Oder Valley’, page 6) contained in the Request, it appears that the Requesters may have particular concerns regarding increased flood risk at km 661 on the German side. This issue was raised already during the consultations for the still-ongoing EIA; in order to examine the impact of the Project on the flood risk level, additional calculations and analysis of the cross-section at km 661 were carried out as part of the EIA. Based on the spatial model of the Odra River from 2015, developed by the Regional Water Management Board in Szczecin on the basis of laser scanning, the level of the top of the flood embankment on the German side at km 661 is 9.00 m above sea level (masl). Data concerning water levels from the last few decades from the nearest water level gauge (in Hohenwutzen) were then analysed. According to these data, the highest water levels, recorded during the extreme floods in 1997 and 2010, were, respectively, +7.13 masl and +6.81 </p>	

Claims	Response	Reference documents
	<p>masl. As the graph above shows, the maximum increase of the water table in this variant is about 12 cm at km 661.</p> <p>The current embankment thus has a height reserve in relation to the extreme water levels of 1997 and 2010 of approximately 2.00 m, whereas the BAW concept predicts only a 0.12 m rise in the flood water levels. The embankment height reserve thus provides a high level of protection against flood levels similar to 1997 and 2010. In addition, the Project's investments will significantly lower the risks of winter floods by ensuring the water depth necessary for the icebreakers.</p> <p>Other concerns raised in the supporting documents, including the use of alternatives to the existing joint Polish-German icebreaker fleet, are addressed in Section V of the main text.</p>	
<p>6. The project is actually a waterway development project channeling significant portions of the Odra river, and disguised as floods protection. Concrete examples include demolition and construction of a railway bridge in Podjuchy and dredging of the river between Kluz-Ustowo [1, 2, 3, 4, 5, 8]</p>	<p><i>The Project is not a waterway development project and there are no plans under the Project to channel significant portions of the Odra River. Nor is there any plan for demolition of the old bridge in Podjuchy but rather consideration of construction a new bridge parallel to the old one. The activities supported under the Project are neither intended, nor sufficient to provide for Class IV navigability of the Odra.</i></p> <p>The Project was and continues to be a flood protection project as designed and agreed with Government and the World Bank during Project preparation in 2015. With regard to dredging, it is correct that following the November 2015 elections in Poland, the new Government signaled publicly its commitment to increase navigation on the Odra River, among others. At that time, discussions took place between the Bank and the new Government regarding this commitment in relation to the Project. It was confirmed that the Project's original scope and development objectives would not be modified, and any activity in support of an increase in navigability beyond the needs of Class III for icebreaking (see Item 5) would not be financed under this Project.</p> <p>Further, the Project activities reflect the measures agreed to in the Polish-German Transboundary Agreement for the Odra River. These include:</p> <ul style="list-style-type: none"> • Dredging of the Klucz-Ustowo Canal; • Reconstruction of groynes on the sections of the Odra that act as a border; and • Reconstruction of dilapidated groynes on the so-called "free flowing Odra," which is within the Polish section of the river from the Nysa Łużycka mouth upstream to the Malczyce barrage. <p>These activities (most of which fall under component 1) have been designed using the BAW concept for regulatory reconstruction (see Item 5). The BAW concept starts from the assumption that there are some errors in the existing river regulation system that need to be corrected. These concern</p>	<p>The BAW Concept and the Polish-German Transboundary Agreement for the Odra River</p>

Claims	Response	Reference documents
	<p>regulatory widths, locations of regulating structures, restoration of current meandering within the existing riverbed by slightly shortening or lengthening the groynes.</p> <p>For decades, the poor condition of the regulating structures in Poland has had an adverse effect on the river's flow profile and has increased the likelihood of ice jams on the river in winter. The BAW concept data assessment showed that the Odra River in the border region had not achieved its regulatory objectives for almost its entire length and that the water was not deep enough to allow the use of icebreakers. The BAW concept document clearly indicates that the purpose of the analytical and research work is to ensure that the adopted target water depths meet the requirements for using icebreakers effectively.</p> <p>As part of this work, several variants for the system of regulatory structures were developed, as noted above in Item 5. This included one based on a mixed regulation system that would allow the 1.8 m depth required for the icebreakers to function, while preserving the meandering character of the riverbed. The BAW concept aims at reaching or exceeding the required depth of 1.8 meters during 80 percent of the year in the border Odra upstream from the confluence with the Warta River, and 90 percent of the year for the Odra river section from the confluence with the Warta River downstream to the Odra estuary.</p> <p>Application of the BAW concept guidelines in implementation of Project activities will result in the creation of a stable riverbed, which will reduce the probability of ice jams and gradually eliminate areas where the river had become too shallow for icebreakers to operate, while maintaining the water table at levels close to the existing ones.</p> <p>While the Project activities would improve navigation conditions for Class III navigation by maintaining the 1.8 m depth, Class IV navigation or higher, as used for commercial navigation, requires deeper water (2.7 to 3 m). As noted earlier, this is not a part of Project activities.</p> <p>Regarding the old bridge in Podjuchy, plans are for construction of a new bridge to run parallel to the old one. Discussions are still ongoing between Polish Waters; Polish Railways and the office that manages historic assets in Szczecin, to agree on the technical concept and implementation approach for this activity, and certainly no plans for demolition of the part of the old bridge under monument protection are being considered.</p>	
<p>7. The cancelation of the works on the Międzyodrze wetland following consultations, is only</p>	<p><i>There are no plans to revive investment in Międzyodrze, since technical studies have shown that it would not contribute to significant increase in flood protection.</i> The Międzyodrze activities were dropped from the Project after consultations and detailed analytical studies that confirmed that the wetland has no meaningful retention capacity for flood protection. Therefore, these activities will</p>	

Claims	Response	Reference documents
temporary and Government will pursue it again [8].	not be reintegrated into the Project as they would not meet the Project’s development objective. Nor does Management have any indication that the Government might revive this investment.	
Component 2 / Nysa Klodzko Valley		
<p>8. The Implementing agency stopped plans for 9 dry polders because of population resistance, but 4 are still ongoing that do not have technical, economic, social and environmental sense [6].</p>	<p><i>The four polders under construction were selected following a series of comprehensive analyses and consultations over many years, to ensure their technical, economic, social and environmental viability, and this selection remains valid to date.</i></p> <p>After the devastating 1997 floods, the Wrocław Regional Water Office (RZGW) initiated a flood protection master planning process for the Klodzko Valley. Those plans, as well as the FRMPs, were the basis for the design of the Project. Through this process, comprehensive technical, economic, social and environmental analyses were undertaken, including the required hydrologic and hydraulic modeling, to decide on the optimal flood risk reduction options that should be implemented in the short- to medium-term.</p> <p>A systematic approach was taken to evaluate the alternatives. Out of 30 possible options, the four dry polders to be developed within the Nysa Klodzko Valley were selected. The final selection was subject to the following criteria:</p> <ol style="list-style-type: none"> 1. Possibility of protecting areas of large human habitation that suffered in previous floods, in particular in 1997 and 1998, 2. Size and nature of catchment areas, expressed by proportion of capacity of the polder to the catchment area, indicating reduction capacity of the given polder, 3. Topographic possibility for locating the polder with as little land use conflict as possible, 4. Positive attitude of local governments expressed by their inclusion of the investment in local spatial development plans. <p>This selection was approved in 2004 by the local government in the Klodzko Valley (Powiat/district authority). In 2009, an economic analysis was done as part of a feasibility study (Sogreah-led consortium), and an update done in 2017 (Feasibility Study “Klodzko Valley flood protection, including Klodzko City” – SWECO/DHI 2017) which was confirmed by JASPERS (the EC verification instrument for large projects above EUR50 million) in 2017.</p> <p>The four polders make social and environmental sense. A primary benefit (ref. Klodzko Valley FRMP and Flood Control Study) of these structures is the reduction in flood risk to the downstream communities, preventing adverse impacts on the lives and livelihoods of people who live there. Additionally, since they are to function as dry polders, their ecological impact is significantly lower</p>	<p>Klodzko Valley Master plan and FRMP (2016)</p> <p>Study on Flood Control of the Klodzko Valley (Hydroprojekt Wroclaw, 2003-2004)</p> <p>JASPERS Action Completion Note (2017)</p>

Claims	Response	Reference documents
	<p>than that of wet polders. The permanent environmental impact has a small footprint because the polders will only retain water during brief periods of flash flooding. This approach also offers benefits from a social perspective because areas upstream of the polders can continue to provide economic benefit to the community outside of the periodic flooding (e.g., areas can continue to be used for grazing).</p>	
<p>9. The SEAs of the FRMPs adopted by Poland that served as basis for project in Klodzko assume a different number and modus operandi for the dry polders, and did not look at cumulative impact; they missed the existence of the stream lamprey in the river [7]</p>	<p><i>The selection and design process for the four dry polders currently under construction did consider cumulative impacts and analyze alternatives.</i></p> <p>Several assessments (Klodzko Valley FRMP – 2016; chapter 4 of the Attachment A2 to Strategic Impact Assessment for FRMP), including modeling, were undertaken to inform the selection of the four polders in the Nysa Klodzko Valley. These assessments did consider cumulative impacts and analyze alternatives. The valley is subject to very severe flash floods that are characterized by both high volumes and high velocity of runoff. These conditions expose numerous communities within the valley to high flood hazards and extreme risks to life and property. The four polders were designed to reduce local flood risks for the city of Klodzko, the Bardo cross-section on the Nysa Klodzko River, including within the communities upstream of the confluence with the Odra River, and ultimately reduce flood hazards within the greater Odra River basin.</p> <p>It is important to note that because of the significant quantity of runoff that results during extreme rainfall in the watersheds, the polders will not by themselves suffice to managing flood hazards in the valley. They function as part of an overall system comprised of both natural and man-made retention measures, which also includes passive protection measures such as modifications to bridge openings, and improvements to levees/embankments, among other components. The fact that these other components are included in conjunction with the construction of the polders indicates that the cumulative impacts of the Project were inherently considered at the feasibility and design stages. Upon completion of all the works, there will be a significant and measurable reduction in the flood hazards within the Nysa Klodzko Valley.</p> <p>Additionally, these polders provide a critical start to a series of investments that are needed to further mitigate flooding in the valley. Recent hydrologic and hydraulic modeling that has been performed by SWECO/DHI indicates residual flood hazards exist, although lower than before, even with the four polders constructed. SWECO/DHI has been studying numerous alternative scenarios to identify a variety of additional design alternatives for supplemental infrastructure and flood risk reduction strategies, including “room for the river” options (also see Item 10 below).</p> <p><i>With regard to biodiversity, for each dry polder, field inventories of protected flora and fauna species, as well as habitats protected under the EU Habitat Directive, were carried out.</i> Outcomes</p>	<p>Klodzko Valley FRMP.</p> <p>FRMP Odra basin (KZGW) - 2016</p> <p>Flood protection study for Klodzko Valley – 2004</p> <p>Boboszków decision WPN.6401.221.2019.MH.1 of 26th of July 2019</p> <p>Roztoki decision DOW-O.IV.7143.11.2018 of 19th June 2018</p> <p>Szalejów decision WPN.6401.268.2016.II of 26th of August 2016</p> <p>Krosnowice decision WPN.6401.194.2016.MR of 13th of June 2016</p>

Claims	Response	Reference documents
	<p>of these field inventories were incorporated in Environmental Impact Reports and the overall EIA/EMP process (Boboszew EIA pp: 34-57; Roztoki EIA: pp: 42-73, Szalejów EIA: 64-99, Krosnowice EIA pp:47-79. Reports publicly available on the Project website). For the Roztoki, Szalejów, and Krosnowice polders, lampreys were detected during live trapping and appropriate mitigation measures were incorporated in the environmental decision and EMPs for each dry polder (Boboszew EMP, item 54; Roztoki EMP, item 44, Szalejów EMP, item 55, Krosnowice EMP, item 52). Activities involving the trapping of fish and lampreys and removing them to habitats outside the area of works were carried out according to administrative decisions issued by the Regional Directorate of Environmental Protection in Wrocław.</p>	
<p>10. The FRMPs and EIAs have not considered other alternatives in “room for the rivers” style [7, 8]</p>	<p><i>Alternatives using the concept of “room for the river” were considered as part of the preparation of the FRMPs but found not feasible in the Nysa Klodzko Valley.</i> Because of the proximity of villages and development on the river banks, it was concluded that “room for the river” alternatives in this case were not feasible. A “room for the river” alternative would be one where the floodplain is allowed to widen by moving embankments/dikes away from the river. Implementing such a solution is feasible only where there is space to do so; in the case of the Nysa Klodzko Valley, especially around the villages near Klodzko, this would require major resettlement of existing communities. Because of these circumstances, dry polders were selected for implementation (refer to selection process/criteria listed in Item 8 above).</p>	<p>Odra Basin FRMP</p>
<p>11. The dry polders in Klodzko are being built to unnecessary high specifications allowing them to be converted to wet polders for political or recreational roles [7, 8].</p>	<p><i>The dry polders in Klodzko Valley are being built to the required technical specifications of such polders. Converting them to wet polders, as alleged in the Request, would require significant redesigning and upgrading of the infrastructure and serve no meaningful purpose.</i></p> <p>The four dry polders have been designed as single-purpose reservoirs, with the sole function of serving as flood control reservoirs. The polders are being constructed to the technical standards necessary for them to function as such. Operating these four polders as wet polders would defeat the purpose of reducing flash flood hazards and would require significant redesigning and upgrading of the infrastructure. The design volumes of the polders are insufficient to simultaneously manage the flood hazards that are known to exist in the watershed and retain/store water (i.e., function as a wet polder). Based on the storage volumes alone, the four dry polders are not being built in a manner that would allow them to be converted into wet polders and operated as such in any impactful way.</p> <p>Additionally, reports from the supervising engineer of the contract confirm that the technical solutions adopted for the waterproofing of the embankment are not consistent with what would be required for a polder intended to hold water for long periods of time (i.e., wet polder). The polders</p>	<p>Design reports</p>

Claims	Response	Reference documents
	were designed and are being built to store water for <i>short periods of time</i> and their conversion into wet polders would require significant further transformations. The Bank team has no indication that Government intends to conduct such transformations.	
12. There is a danger that the pressure of the society against the dry reservoirs will be turned over to even greater interference in the river beds [8]	<i>The Government has no plan to abandon the construction of the dry polders, which are the result of a long series of studies and consultations (see Item 8).</i> Construction on several of the dry polders is already ongoing, as the technical, social and environmental due diligence was completed (including all necessary EMPs and RAPs and their related consultation and disclosure) and all permits were obtained. There are no plans to abandon these and the resistance to their construction stems largely from a small number of individuals rather than a broad portion of the local population. That said, the FRMPs and subsequent technical studies (see Item 9) have confirmed that further flood protection measures will be necessary to fully manage the flood risks for the city of Klodzko. Their respective scope and impact will be subject to the same technical, social and environmental scrutiny as all activities under the Project.	
13. Gravel is being extracted from the bed of the dry polders, making them deeper than needed and threatening groundwater [7, 8]	<i>The depth of the polder beds is consistent with the design specifications as well as approved EMPs and is not a threat to groundwater resources. It is not correct that they have been made deeper than needed.</i> The polder sites have been excavated to build the foundations of the polder embankments. These excavations are warranted (and expected) to allow the polder embankments to be built to the required technical specifications. They are fully consistent with the approved technical designs and EMPs. Groundwater quality and quantity is not expected to be negatively affected by the construction of the polders. For Boboszów and Roztoki, the gravel needed for construction gravel is being brought in from outside the polder locations. For Krosnowice and Szalejów, part of the gravel needed will be extracted from the dry polder area, but not from the polder bed. It will come from the slopes of the valley after limited widening of the valley upstream of the dam and with appropriate reconstruction of the external layer. While groundwater quality and quantity are not expected to be negatively affected, Management will follow up with the Borrower to ensure that environmental supervision pays particular attention to this issue and closely monitors any potential impact on groundwater. Each site has an established EMP with quarterly/semiannual reports that are prepared and shared with the Bank. In addition,	

Claims	Response	Reference documents
	<p>routine visits to these sites are undertaken as part of supervision missions to ensure that all incidents of whatever nature are addressed in a timely and effective manner.</p> <p>Lastly, there is an active independent dam safety panel comprised of highly respected and experienced global experts who have been visiting these dry polder sites during the past three years to ensure that construction is proceeding in accordance with the approved designs; any proposed changes are required to be reviewed and approved by that independent dam safety panel.</p>	
<p>14. The construction of dry reservoirs would significantly interfere with the local landscape and cultural values and integrity of some towns in the Kłodzko region [8]</p>	<p><i>The dry polders in Kłodzko are being constructed in line with agreed design specifications that were reviewed, verified and approved in consultation with the Bank. In addition, detailed EIAs and EMPs were undertaken and several mitigation measures recommended and implemented to ensure limited interference with the local landscape and cultural values.</i> The Bank will work with the implementing units to ensure strict supervision and compliance with approved EMPs.</p>	<p>Dry Polder EMPs – Annex 1</p>
<p>15. In the Kłodzko Valley and some locations in the Upper Vistula people must be involuntary resettled and social protests appeared [8]</p>	<p><i>As of June 30, 2019, only eight households were physically resettled/relocated for different sub-projects in the entire OVFMP. Prior to resettlement a detailed RAP is undertaken for each affected Project area and as part of this assessment, extensive consultations are undertaken involving all potential Project-affected persons.</i></p> <p>In April 2019 there were some community protests held in response to some technical studies (launched in 2018) to undertake conceptual and design analysis aimed at determining the necessary additional scope of work that will be required to achieved improved flood protection for the Kłodzko Valley. The main concerns of communities then included; poor stakeholder communications and consultations; potential loss of cultural assets and livelihoods; large scale of potential resettlement of Project-affected persons; and inadequate analysis of alternatives and potential negative impacts from operation of the basins. The safeguards assessments had not been undertaken yet because the technical studies to explore potential passive flood protection measures were still ongoing.</p> <p>In May 2019, the Bank team visited the affected areas and established that indeed there had been weak and limited stakeholder communications and engagement undertaken as part of the technical studies. As a result, incomplete/wrong information was shared through social media that caused a lot of anger and mistrust among the Kłodzko Valley communities. Some of the incomplete misinformation included the statement that another nine dry polders – two on the Nysa Kłodzka River, five on the Biała Łądecka River, and two for the Ścinawka River – were to be built under this same Project. This information was not correct, as the analysis of possible options was still ongoing and secondly no funds were allocated for these additional interventions under this Project.</p>	

Claims	Response	Reference documents
	Consequently, the Government decided to pause the technical studies and plans to continue stakeholder engagement on the need for complementary passive flood protection in Klodzko Valley before any further technical studies can be undertaken.	
Project's economic soundness		
<i>Component 2 / Nysa Klodzko Valley</i>		
16. No reliable cost-benefit analysis was performed, for example for the four dry polders under construction will only reduce floods by 14 cm in Klodzko City – and even that is doubtful; the scale and costs of investments is disproportionate to actual impact and might not justify public interest [6, 7]	<p><i>A comprehensive cost-benefit analysis for the Project was carried out and was reviewed by the Bank and subsequently verified by JASPERS.</i></p> <p>As part of the FRMP (2016), which is a strategic document prepared in conformity with the EU FD (2007/60/EC), different investment scenarios focused on reducing the flood hazard and risk in Klodzko Valley were analyzed using multiple criteria, including a cost-benefit analysis. This resulted in the recommended active (four dry polders) and passive (maintenance and reconstruction works along rivers) measures to reduce flood risk. Another economic analysis was done as part of Project preparation/appraisal, which confirmed that the scale of the selected investments is commensurate with their actual impact and that they are in the public interest.</p> <p>According to the recent SWECO/DHI study (Appendix to the Feasibility Study “Klodzko Valley flood protection, including Klodzko City” - 2017) the four dry polders will reduce floods by 41 cm in Klodzko. This study also included an in-depth economic analysis developed in accordance with the standards set by the EC, that was verified by experts of the JASPERS Initiative and finally endorsed by the EC. Efficiency of implementation of the four dry polders—expressed as ENPV = PLN131 million, ERR = 7.28 percent—confirmed the decision to construct them as economically sound.</p>	<p>JASPERS Action Completion Note (2017)</p> <p>SWECO/DHI Modelling Report (2017)</p> <p>Revised feasibility study for Klodzko Valley flood protection (SWECO) - 2017</p>
Project's compensation of Project Affected Persons		
17. One Person living close to one of the polders under construction in the Klodzko valley was not appropriately informed and compensated [9].	<p><i>All Project Affected Persons living within the construction areas of the four polders in Klodzko Valley were appropriately informed and compensated as per the approved RAP. In one case, which Management understands to be the subject of the ninth Request, the affected person determined once construction started that the originally agreed compensation was insufficient. Discussions are ongoing to assess all possible options for implementing this compensation; the process has been delayed due to the fact that the property is co-owned and only one party (referred</i></p>	Section 9 and Annex 8 of LA&RAP for task 2A.2/1

Claims	Response	Reference documents
	<p><i>to as “the Requester” below) is requesting that their entire residential unit and associated ownership in land be expropriated.</i></p> <p>Consultations and information sharing began in 2013 with regards to planned construction of Szalejów Górny – dry polder on Bystrzyca Dusznicka River (task 2A.2/1). In March 2015 the Regional Director for Environmental Protection in Wrocław issued an announcement regarding planned Project activities. On September 30, 2015, the Regional Director for Environmental Protection in Wrocław issued a decision on the environmental conditions for the construction of the “Szalejów Górny” polder.</p> <p>From November 2015 and through 2016, individual consultations were conducted with directly affected persons regarding RAP preparation. During individual consultations the inhabitants were presented with the requirements stemming from OP 4.12, including issues pertaining to scheduling polder construction works, possibility of leasing land in the polder basin and acquiring replacement properties. An information leaflet was developed and provided to the local community which provided an overview of the Project, property acquisition procedure, compensation disbursements, and policy for acquiring land remnants.</p> <p>A draft RAP was submitted to the Bank in July 2016 for review and cleared in September 2016, for public consultations. The draft RAP was publicly disclosed September 23, 2016 for public review and comment. Local public consultations on the draft RAP were conducted on October 17, 2016 at Klodzko Municipality and City office. (see annex 8 of RAP for minutes of meeting). Minutes show that the Requester was part of the consultations.</p> <p>The final draft RAP, based on public consultations, was submitted to the Bank for review and approved in February 2017, after which the PIU began implementation. The RAP covered 50 Project-affected people, with one household physically resettled. The Requester was listed as one of the affected people whose land would be partially affected, and cash compensation was to be provided.</p> <p>On September 15, 2018, after construction started, the Bank and PCU Social Specialists met with the Requester in Szalejów Górny to clarify concerns that had been shared through the PCU regarding impacts of construction on the Requester’s part of the co-owned property. On March 19, 2019, further technical assessments were done to assess the impact of the polder construction on the property of the Requester. On April 24, 2019, the PIU received another complaint from the Requester who requested the PIU to immediately assess other concerns, in particular the drainage of her property. In May 2019, the Bank and PCU team conducted a site visit to the sub-project area to better understand the impact of civil works on the Requester’s quality of life. On July 3, 2019 the Requester sent a reminder to Polish Waters Regional Water Management Authority in Wrocław</p>	

Claims	Response	Reference documents
	<p>concerning the response to her letter of April 24, 2019 and requesting a copy of the analysis results. On July 18, 2019 Polish Waters Regional Water Management Authority in Wrocław responded to her questions and made available all the analyses.</p> <p>On July 23, 2019, the PIU/PCU placed a formal request for the Government to purchase the Requester's property shares and residence. Subsequently, numerous communications took place between the Ministry of the Interior and Administration, the Ministry of Maritime and Inland Navigation, the Management of Polish Waters and the PIU to identify the most suitable option for completing this purchase. To date however, due to the complexity of the case, involving multiple co-owners in disagreement, no final resolution has been reached. The PIU is currently working with the PCU to find a solution as there is no legal basis in Polish Law by which Polish Waters can purchase the property. The only Polish legal option is for the Voivode to authorize the Starost (Local Administrative Authority) to purchase the property, in which case the Voivode must allocate budget to the Starost to complete this transaction. The Starost, as a representative of state treasury, would be responsible for purchasing this asset on behalf of the latter.</p> <p>Poland held national elections on October 13, 2019, which has implications for resolution of this case. The current Voivode was elected to be a Member of Parliament. The Voivode position is appointed by the central government, which will not be formed until after the first assembly of the newly elected Parliament, which takes place on November 12, 2019. During the Bank mission in November, the team will meet with the Steering Committee to request an immediate resolution by requesting the Voivode office to acquire the affected person's remaining land, and residential unit.</p>	
Project's environmental soundness and EIA		
<i>Component 1 / Middle and Lower Odra</i>		
18. The quality of the EIA is low [1, 2, 3, 4, 5, 8]	<p><i>All ten EIAs / EMPs for ongoing civil works contracts have met the requirements of Bank operational policies.</i> Project implementation follows the approved ESMF prepared for the Project, and the Bank team has not observed any deviation or quality issue in the ten approved, final environmental documents and EMPs presented so far.</p> <p>The first <i>draft</i> EIA for sub-component 1.B.2, which was flagged by some of the Requests, did face some challenges, namely the need to strengthen the quality of the report and review the translation into the German language; and the limited consultations. These challenges were highlighted by several organizations during the first consultations held in 2018 and have been addressed through</p>	

Claims	Response	Reference documents
	<p>the revised draft EIA, which currently is still undergoing additional revisions. For the revised draft EIA, a professional translation firm contracted, and a second round of consultations was scheduled with timely invitations.</p> <p>The concerns raised about the initial draft EIA for sub-component 1.B.2 led the team to agree with Government during the last Implementation Support mission in spring 2019 on a series of measure to proactively improve the Project's communication and consultation capacity. Those measures, including the recruitment of additional Project staff, are in the process of being implemented. Annex 2 presents the timeline of consultations for the 1.B.2 EIA process.</p> <p>The Bank will continue working with the Government to ensure the quality of EIA reports and related consultations is improved.</p>	
<p>19. The EIA disregards the impacts on German and Polish protected areas / Natura 2000 sites of the Odra valley [1, 2, 3, 4, 5, 6]</p>	<p><i>The transboundary EIA for sub-component 1.B.2 (Lower Odra Valley, which is the focus of the Request) is still ongoing and includes a detailed assessment of the potential impacts on the downstream German and Polish protected areas, including Natura 2000 sites.</i> It is not clear from the Requests which specific impacts are allegedly disregarded; however, some of the impacts identified are described in Section IV of the main text. Annex 5 - Potential Negative Impacts on the Natura 2000 Sites summarizes the information on the potential negative impacts on the Natura 2000 sites and the respective mitigation measures.</p> <p>The Bank will continue working with the Government to ensure that negative impacts, if any, are minimal and the conservation status as well as the integrity of these habitats is maintained – this includes any potential impacts on groundwater levels and biodiversity.</p>	<p>Brief on Natura 2000 sites</p>
<p>20. The authors of EIA might have falsified the real threats [6]</p>	<p><i>As mentioned above, the transboundary EIA for sub-component 1.B.2 is still ongoing.</i> It is not clear, however, to which threats the Request is referring, but the Bank will continue working with the Government to ensure that the EIA meets the requirements of the Bank's safeguard policies and due diligence/validation is undertaken to ensure quality and accuracy of findings. In its review and clearance of the EIA and resulting EMP, the Bank will specifically check against legitimate concerns and issues raised by the Requesters.</p>	
<p><i>Component 2 / Nysa Kłodzko Valley</i></p>		
<p>21. The quality of the EIA is low as it doesn't identify all impacts,</p>	<p><i>All EIAs/EMPs completed to date have met the requirements of Bank operational policies. Assuming this particular complaint refers to the Kłodzko Valley dry polders, these were subject</i></p>	

Claims	Response	Reference documents
and doesn't look at the cumulative impact [7]	<p><i>to EIAs in accordance with the approved ESMF and Polish legislation (see response in Item 8 above).</i></p> <p>It is not clear to which particular EIA the Request is referring (an independent EIA/EMP was done for each of the four polders in Nysa Klodzko Valley), but as mentioned above, all EIAs are required to be prepared in line with the Bank's safeguard policies and national procedures. The EIAs did identify potential impacts in detail and related mitigation measures were detailed in the EMPs, as required by the ESMF.</p> <p>For the cumulative impacts, the EIAs were informed by the previous studies that were undertaken in this regard as outlined in Item 8 above.</p> <p>It is important to note that the overall Project environmental assessment (ref. ESMF) includes a screening mechanism/criterion that ensured that no activities with significant impacts were included for implementation under the Project (refer to Section IV of the main text for a full list).</p>	
22. A separate environmental permit was granted for the construction road for the dry polder, even though it is part of the same project [7]	<p><i>Environmental permits are issued in accordance with national legislation.</i> To Management's knowledge, there is no specific requirement for a single environmental permit to be issued per project activity. According to Polish regulations, segments of the roads (within dry polders Bobosów and Roztoki), which had to be relocated to the outside of the polders, needed separate EIAs. This was decided by the Environmental Authority mandated to issue environmental decisions for road construction in Poland. However, the respective EMPs for these polders cover the whole individual investment, including any necessary roads.</p>	
Consultations		
<i>General</i>		
23. We request that the project is suspended to allow for meaningful debate [6]	<p><i>A suspension of the Project would be the decision of the Government of Poland. For the Bank there are currently no grounds to justify a suspension of its financial support to the Project.</i></p>	
24. The project team in Wroclaw has good connections in	<p><i>It is correct that the Bank has been working with the Government of Poland on flood protection for more than 20 years in three different projects, but that does not imply any relaxation of its supervision practices.</i> Such a long relationship is common for many Bank borrowers, and in no</p>	

Claims	Response	Reference documents
Washington and don't know if there can be retaliation [6]	manner an indication of relaxed oversight on the part of the Bank team. The composition of the Bank team has also changed over time, and different Task Team Leaders have had the lead on the dialogue with the Government and the implementing agencies.	
Component 1 / Middle and Lower Odra		
25. There has been lack of consultations especially with NGOs and experts on the German side [1, 2, 3, 4, 5, 6, 8]	<p><i>The Project has been subject to extensive consultations; concerns were raised about the consultation process for the transboundary EIA in sub-component 1.B.2, which is of particular interest to the Requesters. The process is still ongoing, and after the concerns were raised by participants in early consultations, these were quickly addressed and new consultations are currently ongoing on the basis of strengthened documents.</i></p> <p>The design of the OVFMP was informed by the FRMPs and RBMPs which were prepared through comprehensive multi-stakeholder consultations at all levels: national, regional, local government as well as NGOs, as mandated by the relevant EU legislation (WFD and FD). During Project implementation, the location and design of the investments has been and will continue to be subject to public information and consultation, and all relevant environmental and social safeguard documents have been and will continue to be consulted upon and disclosed as required by the Project's ESMF.</p> <p>Under this component, several public consultations have been carried out for different EIA/EMP reports, with Polish and German authorities, and representatives from technical institutions and NGOs. Through this process extensive comments were received raising concerns about the initial documentation, which led to reports being greatly revised to incorporate stakeholder concerns. An example of this is the ongoing EIA process for sub-component 1.B.2.</p> <p>In the case of sub-component 1.B.2, the first draft EIA was completed in Autumn 2018, and public consultations conducted thereafter. Consultative meetings included the following:</p> <ul style="list-style-type: none"> • <i>September – October 2018</i> – with Polish authorities and representatives from different institutions, for example: WIOŚ Szczecin, mayors of local communes, West-Pomeranian Technical University in Szczecin, individuals, and NGOs, e.g., Save the Rivers Coalition, West-Pomeranian Nature Society, EKO–UNIA, Klub Przyrodników, Stepnickie Stowarzyszenie Turystyczne, Rada Kapitanów; and • <i>October – November 2018</i> – with German authorities, for example, LFU Brandenburg, Nationalpark Unteres Odertal, MLUL Brandenburg and representatives of the NGOs Deutscher Naturschutzring (DNR), represented by Bund für Umwelt und Naturschutz Deutschland 	Management Letter, June 2019

Claims	Response	Reference documents
	<p>(BUND) e.V., Deutsche Umwelthilfe e.V. (DUH), Heinz Sielmann Stiftung Naturschutzbund Deutschland e.V. (NABU), Verein der Freunde des Deutsch-Polnischen Europa-Nationalparks Unteres Odertal e.V., WWF Deutschland (WWF).</p> <p>Based on the feedback received, on January 18, 2019 the RDOŚ in Szczecin requested the PIU in RZGW Szczecin to revise the EIA documentation and address all concerns raised by stakeholders. The extensive comments received from the Polish and German sides necessitated revision of the EIA Report. This was done, and the updated EIA Report was submitted (May 2019) to the Regional Directorate of Environmental Protection for Szczecin for review and clearance for a second round of transboundary public consultations, which were completed end of August 2019. The environmental decision is expected by end of October 2019. A full overview of the consultations is included in Annex 3 - Timeline of Consultations for Activities under Sub-component 1.B.2</p> <p>Furthermore, the experience of sub-component 1.B.2 has been taken as an important lesson learned and, in its implementation support mission in June 2019, the Bank raised to the Borrower the importance of strengthening further its consultation, communication and outreach efforts, as noted earlier in Item 18 (Management Letter June 2019). The Government of Poland has since recruited two communication and stakeholder engagement specialists to support this process.</p>	
<p>26. Documents for consultations were not provided in a timely manner and non-technical German version [1, 2, 3, 4, 5]</p>	<p><i>The Bank team has worked with the Borrower to ensure that EIA documents of satisfactory quality are provided in a timely manner. Polish national and EU legislation require the investor to provide a translation of relevant sections of the EIA report to enable the affected party to assess the potentially significant cross-border environmental impacts.</i> Following feedback from the first round of consultations (October 2018), the Bank noted that the translation of the first draft EIA report for sub-component 1.B.2 into German required strengthening and communication regarding the consultations had not been done in a timely manner. Both concerns have been corrected as part of the revised EIA review process, which currently is still ongoing. The public consultation period on the revised draft EIA and response matrix commenced in the last week of July 2019 in Germany and Poland. The revised EIA report, with annexes, was translated and posted on the website of RZGW Szczecin and of the General Directorate for Waterways and Navigation (GDWS) in Magdeburg, which is responsible for the consultation process in Germany, is (https://www.gdws.wsv.bund.de/SharedDocs/Planfeststellungsverfahren/DE/700_UVP_Polen_Mo dernisierungsarbeiten_Oder.html).</p>	<p>Include Annex describing remaining milestones in the ESIA process for sub-component 1.B.2</p>

Claims	Response	Reference documents
<p>27. The participation of NGOs in consultations for the transboundary impact assessment did not result in change of plan on the Polish side [5]</p>	<p><i>Based on feedback and comments received from different stakeholders, including NGOs, a number of initially proposed Project activities have been refined or dropped altogether.</i></p> <p>The consultations under Component 1 led to significant adjustments of the Scope of Work under the Project. For example: in the case of the Miedzyodrze wetland, detailed technical assessments of the flood retention potential of this wetland were undertaken, building on several stakeholder comments; the results of these studies confirmed that the wetland could not be used to increase flood protection/retention; consequently, this activity was dropped from the Project. In the case of sub-component 1.B.2, following stakeholder comments, the Borrower agreed to the creation of eight additional habitats (coves with surface area 220-1,320 m², a total of approx. 5,300 m²) similar to open oxbow lakes, in sections of the Odra from Nysa Łużycka to Warta, as compensation for habitats of spined loach, European bitterling, Unionidae mussels and macrophytes that were affected by the Project. These eight additional habitats have been included in the technical designs. However, not all inputs stemming from consultations can be incorporated into the final Project design.</p> <p>Management would like to emphasize that the EIA process for sub-component 1.B.2 is still ongoing. The Bank has not yet received the revised EIA report because the consultation process is still ongoing.</p>	
<p>28. The Bank has not taken action on our previous letters and interactions incl. to Pres. Kim three years ago [3, 5, 6, 8]</p>	<p><i>The Bank has maintained a proactive engagement with a wide set of nongovernmental stakeholders from the beginning of Project preparation and has repeatedly taken action on the feedback and concerns expressed in that context when appropriate.</i> Starting in 2015, the Bank established and maintained both formal and informal contacts with a wide range of stakeholders, including some of the Requesters. Attached in Annex 4 is a table showing the correspondence with various stakeholders. Those exchanges have led the preparation and implementation support teams to consider a number of adjustments. These include: reviewing different activities to ensure stakeholders' comments are incorporated, e.g., through site-specific EIAs/EMPs; encouraging the Borrower to undertake more comprehensive and inclusive stakeholder consultations, e.g., ongoing sub-component 1.B.2 consultations; and dropping activities altogether if proved not to be technically, environmentally or socially viable, e.g., the Miedzyodrze wetland retention.</p> <p>The Bank has reached out to NGOs during missions to discuss various concerns and possible actions; responded to letters providing clarity on Project objectives and actions being taken; and worked with the Government and Project implementation teams to strengthen and improve the EIA process with particular focus on the stakeholder consultations.</p>	<p>Annex showing record of different stakeholder correspondences</p>

Claims	Response	Reference documents
29. The reality of project implementation looks different from what has been promised [4].	<i>The Project is being implemented in line with the Bank’s operational policies and procedures, as well as the agreed Financing Agreement and related safeguards instruments.</i> The Project development objective remains to increase access to flood protection for people living in selected areas of the Odra River and the Upper Vistula River basins and to strengthen the institutional capacity of the Borrower to mitigate the impacts of floods more effectively.	
29.1. By the Bank, in its response from Oct. 29, 2015 to NGO letter from Sept. 15, 2015 and June 15, 2016;	<i>The Bank’s commitment made in its response of October 29, 2015 still stands today.</i> In this letter, the Bank explained that activities selected for implementation under the Project were largely of a “no-regret” nature and would be screened accordingly. The screening criteria mentioned in the letter were subsequently refined and formalized as part of the Project’s ESMF, published in February 2015. The letter also further clarified that every specific activity to be funded under the Project would have its specific EIA and EMP prepared and fully disclosed in line with national legislation and Bank standards, which remains true to date. Regarding the Miedzyodrze wetland, the Bank clarified that technical details were not yet available at that time and as mentioned above in Item 7, those technical studies have been completed and results therein confirmed that this wetland could not be used to increase flood protection/retention and consequently, this activity was dropped from the Project.	
29.2. By the German Federal Ministry of Economic Cooperation and Development on August 1, 2016 in its response to NGO letter from June 15, 2016.	<i>The referenced communication was not addressed to the World Bank, nor was the response issued by the World Bank, hence the Bank is not in a position to comment on this concern.</i>	
Compliance with Bank policies		
30. Bank policies have not been followed, in particular [1, 2, 3, 4, 5, 8]	<i>Management has carefully reviewed the issues raised in the Requests and is of the view that the Project meets the requirements of applicable Bank policies and procedures, including OP 4.01; OP 4.04; OP 4.12, OP 4.37 and OP 7.50.</i> A number of EIAs are still underway or not started yet, and the Bank is committed to working with the Government to ensure policy compliance of the remaining instruments.	


Claims	Response	Reference documents
30.1. OP4.01 Environment Assessment	<p><i>The Borrower prepared and disclosed the Project ESMF prior to appraisal on February 9, 2015, and followed its requirements thereafter, as overseen by the Bank.</i> The Bank's OP 4.01 requires the Borrower to carry out an environmental assessment to ensure that the Project mitigates any potential negative environmental impacts. The assessment evaluates a project's potential environmental risks and impacts in its area of influence; examines project alternatives; identifies ways of improving project selection, siting, planning, design, and implementation by preventing, minimizing, mitigating, or compensating for adverse environmental impacts and enhancing positive impacts. Accordingly, a detailed ESMF was prepared that assessed the environmental and social impacts of the Project. Beside the Project-wide ESMF, separate EIAs/EMPs have been prepared, consulted upon and approved by the Bank (all approved EMPs are available on the Project website – http://odrapcu.pl/) and will continue to be prepared as part of Project implementation for all agreed investments, as per the requirements of the Project's ESMF.</p>	
30.2. OP4.04 Natural Habitats	<p><i>All proposed investments were screened during Project preparation to identify any potential impacts on natural habitats.</i> The Bank's OP 4.04 requires the Borrower to apply a precautionary approach to natural resource management to ensure opportunities for environmentally sustainable development. During Project preparation, it was noted that in spite of the significant positive environmental impacts in terms of protecting flood plains and aquatic ecosystems, there were potential threats associated with some specific activities related to change of water regime, and consequently impacts on flora and fauna in the periodically flooded areas, which if not managed well could create significant changes to local habitats. To mitigate this, strict selection criteria were included in the Project's ESMF and applied to all investments proposed for implementation under the Project. Those that were deemed to have potentially larger than low or negligible impact were excluded. In addition, in the EMPs, special emphasis has been placed on reducing and mitigating potential negative impacts during implementation.</p>	
30.3. OP7.50 Projects on International Waterways	<p><i>The Borrower issued a Notification to the Riparians in September 2014.</i> The Bank's OP 7.50 requires any Borrower located completely or partly within an international waterway to formally notify the other riparians (Belarus, Czech Republic, Germany, Slovakia and Ukraine) of the proposed Project. This was done in September 2014. By January 31, 2015, the stated deadline for responses, Germany, Czech Republic, Belarus and Ukraine had not submitted objections, while Slovakia had sent a letter supporting the project but requesting information sharing in case there would be works on the upper part of the Dunajec (however, the Project is not implementing any activities in that sub-basin). For all transboundary activities, the Borrower is also required to involve</p>	

Claims	Response	Reference documents
	and consult with the other affected riparians and this has been done to date, an example of which is the ongoing EIA process for sub-component 1.B.2.	
30.4. Involuntary Resettlement OP/BP 4.12,	<p><i>The Borrower has prepared, consulted upon and disclosed RAPs for the limited resettlement (eight households) required by the Project so far.</i> The Bank's OP 4.12 requires the Borrower to manage all impacts related to land acquisition and involuntary resettlement in accordance with the Project's RPF. An RPF or RAP is prepared by the Borrower depending on the specific activities being implemented and related impacts. To date site specific RAPs have been prepared, consulted upon and disclosed in accordance with OP 4.12 for the eight households requiring resettlement. No further large-scale resettlements are expected.</p> <p>One grievance is yet to be resolved, involving co-ownership for which only one party disagrees with the proposed (and paid) compensation. Discussions are underway to ensure an amicable solution is sought and agreed to by all parties. Refer to Item 17 for more details.</p>	
30.5. Safety of Dams OP/BP 4.37	<p><i>The Borrower has setup a dam safety panel and is implementing the measures resulting from the Project's dam safety assessment.</i> The Bank's OP 4.37 requires the Borrower to adopt and implement specific dam safety measures for the design, bid tendering, construction, operation and maintenance of dams and associated works. It also requires that these be supervised by experienced and competent professionals, including for cases involving significant and complex remedial work. The Bank requires that a panel of independent experts be employed. The Borrower in this case has employed an independent panel of experts for the four polders in Klodzko and this team has provided technical support for over three years now.</p>	
31. The project should have been classified as a category A like the earlier ORFPP project [8]	<p><i>Management does not agree that the Project should have been classified as Category A. The Project was categorized as environmental Category B because it is financing only a portion of the overall FRMPs comprised of carefully selected low-impact and no-regret investments that were initially prioritized by the EC as such and subjecting them to further screening to eliminate any complex impact, as described in the ESMF. In comparison, the Odra River Flood Protection Project (ORFPP) was classified as Category A due to the large singular investments, including the relocation of an entire village of over 300 households.</i></p> <p>The Project comprises a selection of first-priority investments and measures that were selected from the overall FRMPs prepared after many years of basin-wide analysis and studies that started in 2000, complemented by detailed case-by-case analysis of each selected item. These flood protection investments and measures were based on the policy and regulatory documents that are required</p>	

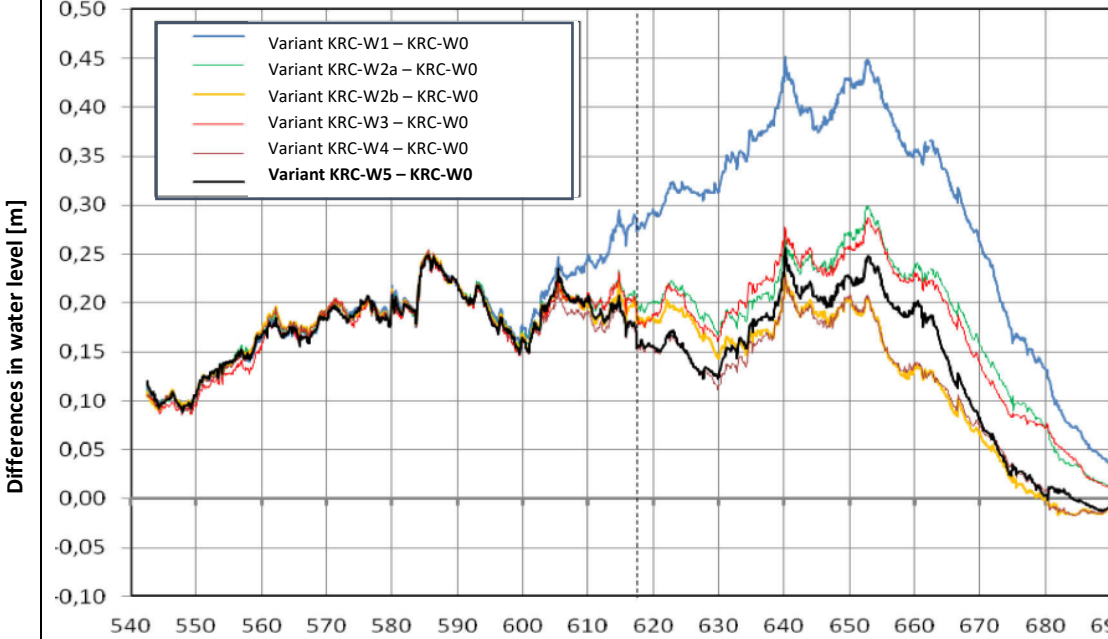
Claims	Response	Reference documents
	<p>under the EU WFD, including the RBMPs, which are fully compatible with EU requirements. Between 2007 and 2013 the “first generation” of RBMPs for all basins was prepared, integrating water management and environmental objectives, based on year-long extensive public consultations, and drawing on a century of ground observations. Because investments in basin management comprise small and large items, the EC’s DG Environment agreed in November 2014 to the submission of the new interim Updated Master Plans that included a “List 1” of 2,100 items considered acceptable because these were manageable and did not require basin-wide analysis, while another 450 items on “list 2” were deemed complex and with a large footprint, requiring full basin-wide analysis through an acceptable RBMP, to be done after 2015.</p> <p>For the OVFMP, a selection of priority investments and measures was agreed upon on the basis of “List 1.” The selection was guided by: first and foremost the locations that had experienced historical floods of devastating nature (“hot spots” recognized as particularly vulnerable to floods, yet where mitigation measures would probably be cost-effective without being environmentally or socially complex); the desire to work in coherent areas, where it would be possible to build on the lessons learned and the institutions developed under the ongoing ORFPP; and where a generally good level of institutional readiness was confirmed. The basic criteria for selection of investments were: prioritization within the context of the RBMPs and comparison of all possible combinations of investments to identify the least-cost and lowest-impact variants; economic analyses to select cost-effective options, including a risk-based approach to investments; creating “room for the river” and flood-wave retention capacity upstream, rather than constraining river flow by dikes; integration with environmental values and protection of habitats; management plans based on broad consultation with stakeholders; and sustained financing through fee collection and/or transfers from the national or regional budgets.</p> <p>The Project scope includes less than one quarter of the long “List 1” of the EC. Certain proposed investments in “List 1” were excluded from the Project as they could not meet the stricter criteria of the Project’s ESMF’s—notably where they would possibly affect vulnerable areas, habitats and/or riverine forests—including some Natura 2000 sites. For such investments, more extensive variant analysis will be required. Beside regular safeguard analyses, the individual selected works and measures were reviewed through mathematical simulation of water flow and flood routing to ascertain that they do not create incremental negative impacts on downstream or upstream communities, and, where possible, have or enhance positive impacts. It is important to note that the majority of the investments concern rehabilitation and modernization of already existing structures.</p>	

Annex 2 - Other Issues Raised in Background Documents, and Management Response

Claims	Response	Reference documents
<p>1. The BAW Concept will not significantly improve the possibilities to operate the icebreaker fleet (see “Ecological Flood Protection in the Oder Catchment, with Emphasis on the Model ‘Lower Oder Valley’”).</p>	<p><i>Extensive studies, incorporating early stakeholder inputs, have demonstrated that the implementation of the reputed BAW concept will allow to significantly increase the time periods during which the icebreaker fleet can be operated.</i> The selection of investments under the Project is based on the joint German-Polish “Concept for the regulation of the border Odra River watercourse,” which was developed by BAW and adopted by the German and Polish authorities in 2014. The objective of the BAW Concept was to reach a depth of 1.8 meters which is required the operation of icebreakers. The BAW Concept aims at reaching a probability that during 80 percent of the year the depth of 1.8 meters will be reached or exceeded in the border Odra upstream from the confluence with the Warta River. For the Odra river section from the confluence with the Warta River downstream to the Odra estuary, the BAW Concept aims at reaching a probability that during 90 percent of the year the depth of 1.8 meters will be reached or exceeded. The higher probability in the downstream section can be reached because after the confluence with the Warta, the Odra carries much more water in this section.</p> <p>The claim that “there are low water phases in winter during which, despite measures from the Concept for Regulation, a mean water depth of 1.80 m cannot be ensured” is correct, but it is not possible to ensure this water depth with a probability of 100 percent. Given that currently the probability of reaching or exceeding the depth of 1.8 meters is significant below 80 percent, the investment will have an enormous impact in decreasing the winter flood risks due to ice jams.</p> <p>The supporting document claims that “the height of the dune may increase” due to the investment under the Project. Dunes are small areas of the riverbed where the riverbed is higher than the average riverbed and where icebreakers might run aground. This claim was already raised by the DNR during the ongoing EIA consultation and because of that the EIA consultant in consultation with the design consultant considered the impact of the investment on the height of the dunes and concluded that “there can be no rise in the steepness and height of dunes [...] Increasing tangential stress acting on the bottom will lead to a flattening of the riverbed forms and in effect a leveling out of the bottom, which is advantageous for ice flow and the work of icebreakers”. The above consideration and conclusion were published in the second round of consultations.</p>	
<p>2. There are better alternatives than to break ice with the existing icebreaker fleet</p>	<p><i>Following the suggestion raised by NGOs that alternatives to icebreakers, the historical winter flow defense method on the Odra river, might exist, the Borrower commissioned</i></p>	<p>Summary report concerning the</p>

Claims	Response	Reference documents
<p>(see “Ecological Flood Protection in the Oder Catchment, with Emphasis on the Model ‘Lower Oder Valley’” and “Reasons why Polish and German Environmental NGO are convinced that The World Bank’s Odra-Vistula Flood Management Project (OVFMP) infringes on EU Water Framework Directive and EU Natura 2000 Directives”).</p>	<p><i>additional studies that demonstrates that an Ice Breaker fleet remained the most cost-effective way to limit winter floods due to ice jams.</i> During the EIA consultation process some NGOs suggested, while acknowledging the need of icebreaking to avoid flooding, other means than icebreakers can be used for icebreaking. They suggested the use of amphibious excavators (AMPHIBEX type) instead of icebreakers. See picture below.</p> <p><i>Photo: Amphibious excavators (AMPHIBEX type) in operation</i></p>  <p>Because of this NGO proposal, the Borrower investigated this alternative and prepared a report about it (Kolerski T., (2018) “Expert opinion on the use of amphibious excavators (AMPHIBEX type) for ice-breaking on the Odra”. Executive summary of that study is included in the following paper: "Summary report concerning the determinants of ice-breaking operations on the boundary sections of Odra River", Assistant Professor T. Kolerski, Ph.D., Eng., Faculty of Civil and Environmental Engineering, Gdańsk University of Technology, December 2018).</p> <p>The conclusion of the above report is that icebreaking with the use of building equipment working from pontoon boats or river banks has been practiced on those watercourses where ice-breakers cannot be applied due to insufficient depth of the river. Of all</p>	<p>determinants of ice-breaking operations on the boundary sections of Odra River</p>

Claims	Response	Reference documents
	<p>amphibious excavators, Amphibex devices are most common and most popular. Amphibex dredgers are used in Canada and in the northern part of the United States. These machines can draw heavy pontoons on the ice, which breaks under their massive weight.</p> <p>The main advantage of these devices is that they can easily access the site and exert none or very little impact on the natural environment. Also, they have no restrictions when it comes to the required depth of the water. On the downside, their ice-breaking progress is very slow, and they cannot be used as frontline units to clear the relief channel for crushed ice. The cost of one device varies from over PLN5 million - about USD1.3 million (Amphibex 450E) to almost PLN20 million (Amphibex 1200) - about USD5.1 million, depending on the power of the device.</p> <p>Amphibex units can be helpful in neutralizing congestion, but their capacity is definitely below that of classic ice-breakers. Icebreakers are almost 20 times faster in action than dredgers. Even when more units are employed, their work does not accelerate. Rapid release of water trapped in the jam, which may happen during ice-breaking operation on the Odra, can increase flow velocity to more than 3 m/s. Under the circumstances, Amphibex devices may be damaged or may sink under the pressure of water and ice. This is a very dangerous situation, putting the life of Amphibex device operator at stake.</p> <p>In summary: Amphibex devices may be applied for icebreaking operations, but this is rather costly and inefficient. These devices were designed for operation on streams and small, shallow rivers, where no other technical solution can be applied to break the ice. The largest river on which this solution has been successfully applied for ice-breaking is the Red River in the province of Manitoba, with an average flow rate at the river mouth of 244 m³/s (flow rate at the Odra mouth is 535 m³/s).</p>	
<p>3. The project will cause lowering of the groundwater level and will limit the frequency of flooding and by doing so will destroy the riparian forests. (see “Ecological Flood Protection in the Oder Catchment, with Emphasis on the Model ‘Lower Oder Valley’” and “Transforming natural rivers into canals without water?” and “Reasons why Polish and German Environmental NGO are convinced that The</p>	<p><i>The EIA process is still ongoing following significant stakeholder inputs; however, it is anticipated that the Project will not have any significant adverse impacts on riparian forests. Any potential impact on the forests will be limited and mitigated.</i></p> <p>One of the key assumptions of the BAW Concept, which is the basis for designing sub-component 1.B.2, was striving to maintain water levels close to the existing levels once the investment is completed. As part of the Concept, a number of variants of changes in regulating structures were considered, which were marked with the symbols of KRC-Wnumber (KRC - <i>Koncepcja Regulacji Cieków</i> = the concept of watercourse regulation, W - the variant with the next number). The variants differed in terms of their geometric parameters, that is, the design height of the regulatory structures and the spacing between</p>	BWA Concept

Claims	Response	Reference documents
<p>World Bank’s Odra-Vistula Flood Management Project (OVFMP) infringes on EU Water Framework Directive and EU Natura 2000 Directives”).</p>	<p>them. The variants shown in the graph below (taken from the BAW Concept) indicate the water levels for different investments during average flow (please note that this is different from the graph in Item 17 of Annex 1 - Claims and Responses, which shows the flows at flood level). The KRC-W5 variant, which was selected for investment under the Project, is showing that water level will increase almost everywhere in the Odra. Only close between km 685 and 690 an insignificant drop of the water level of about 2 cm is forecasted. In addition, it needs to be noted that this section itself is not even included in the scope of the Project.</p>  <p><i>Illustration 2. The differences in water table levels at flow Q (SWP_{2010})* in variants KRC-W1, KRC-W2a, KRC-W2b, KRC-W3, KRC-W4, KRC-W5 compared to KRC-W0 (Source: BAW concept)</i></p> <p><i>*SWP_{2010} = water level at <u>average</u> flow determined on the basis of multiannual data 1981-2010</i></p> <p>It is important to know that the graph above takes into account the erosion of the river bottom that may occur as a result of construction works, hence the graph shows not the</p>	

Claims	Response	Reference documents
	<p>difference in water depth, but the difference in the water level in the river. Because the water level in the Project area will not be lowered but increase, a positive impact on the riparian forests is expected.</p> <p>The above is expected to be confirmed by the ongoing EIA. However, in the unexpected case that there would be any negative impact on the groundwater level in the riparian forest, structural mitigation measures could be used to protect riparian forests against falling groundwater levels, including the construction of a network of canals, controlled by sluice gates or pumping stations, which maintain the flow of water outside the embanked area within such a forest. The ongoing EIA and environmental permit process will provide the final answer whether or not, and to what extent such measures will be necessary under sub-component 1.B.2.</p> <p>The claim that the Project is decreasing the flooding events of the riparian forests was not explained in the supporting documents and seemed unfounded. As the diagram in the Item 17 of Annex 1 - Claims and Responses already shows, the Project would contribute to a slight increase in the risks of summer floods and not in a decrease. In addition, it needs to be noticed that the riparian forests seldom are flooded by the water from the river itself, but by water coming from rain falls and tributaries which cannot be drained into the Odra quick enough.</p>	
<p>4. The modernization of the Marwice polder will endanger the aquatic warbler (see “Reasons why Polish and German Environmental NGO are convinced that The World Bank’s Odra-Vistula Flood Management Project (OVFMP) infringes on EU Water Framework Directive and EU Natura 2000 Directives”).</p>	<p><i>Modernization of Marwicki polder shall not cause a change in the functionality of this area and will not impact land use.</i> The anticipated impacts refer to the zone of land where the surface layer of the soils will be temporarily disturbed. After works completion the site shall be reinstated to its original condition. In addition, the banks along Odra River in this section will not be affected.</p>	
<p>5. Homogenizing the river bed will destroy the underwater habitat for many species and the deterioration of habitats cannot sufficiently be mitigated or compensated “Reasons why Polish and German Environmental NGO are convinced that The World Bank’s Odra-Vistula Flood</p>	<p><i>The respective EIA/EMP is still ongoing. Limited impact on current habitats are unavoidable to ensure the navigation of icebreakers, but those impacts are limited to the strict necessary and new habitats are contemplated as compensation measures.</i> That the investment itself leads to a more homogenous riverbed is not disputed and unavoidable if the operation of icebreakers needs to be improved. However, the consultant has designed mitigation measures which are expected to offset (or even over-compensate) the loss of structural diversity by creating new diverse habitats. This will all</p>	

Claims	Response	Reference documents
Management Project (OVFMP) infringes on EU Water Framework Directive and EU Natura 2000 Directives”.	be part of the EMP which is still under preparation, and once a draft becomes available, will be carefully reviewed by the Bank’s environmental experts to ensure minimal negative impact to the integrity of these habitats.	
<p>6. Water retention possibilities based on nature-based solutions are a better way to reduce shallow water conditions to make the Odra navigable for icebreakers (see “Ecological Flood Protection in the Oder Catchment, with Emphasis on the Model ‘Lower Oder Valley’”).</p>	<p><i>Subsequent to those inputs, the Borrower investigated the proposal and found that nature-based alternatives would not be feasible from technical, financial and environmental standpoint in this particular context.</i> The supporting document contain only a small paragraph on this which is not providing any specific suggestion other than it might be applied at Gozdowice. However, the team is aware that at one of the consultations a paper was presented “Defining key areas for water retention improvement at the Polish section of Odra River Basin. Analysis of water retention opportunities with the use of water drainage systems, and their potential importance for mitigating low winter flows on the Odra.” After the conference, the papers were published on the website of “Save the Rivers” Coalition.</p> <p>There is a detailed response to this paper (which is not part of the supporting documents) in the draft EIA response matrix about issues raised by NGOs (no. 1). In the matrix the response concludes that the proposals of the paper “are not feasible due to many reasons of technical, administrative, financial, environmental and practical nature”.</p> <p>Regarding the location of Gozdowice which is mentioned in the supporting documents, the EIA response matrix states that “First and foremost, it must be underlined that <u>transit depth for ice-breakers should be secured throughout the entire winter-spring season.</u> The authors of the NGO paper “readily admit” in the paper “that there is no such guarantee with the solution that they are putting forward”.</p>	
<p>7. To lower the flood risk in Szczecin the embankments at Swieta should be relocated to widen the flood way (see “Ecological Flood Protection in the Oder Catchment, with Emphasis on the Model ‘Lower Oder Valley’”).</p>	<p><i>This activity is no longer part of the OVFMP.</i> This was proposed by the NGO as an alternative to the Międzyodrze sub-component. This sub-component was dropped from the Project and Polish Water has not requested the Bank to finance any alternative.</p>	

Annex 3 - Timeline of Consultations for Activities under Sub-component 1.B.2

The table below lists the individual steps in the cross-border environmental impact assessment procedure, both those completed and those planned.

Step	Action	Implementation YES / NO	Date of execution of the action/ Planned date of execution of the action
1	Decision of the authority conducting the procedure on issuing an environmental decision on conducting a procedure on cross-border environmental impact, determination of the scope of the documentation and determination of the obligation to prepare the documentation in the German language	YES	December 2017 RDOŚ [<i>Regional Directorate of Environmental Protection</i>] decision in Szczecin to carry out a cross-border environmental impact assessment procedure
2	Informing (by the authority carrying out the proceedings) the General Director for Environmental Protection about the possibility of cross-border environmental impact of the planned project and providing him with the information sheet for the project	YES	December 2017
3	Informing the Exposed Party by the General Director for Environmental Protection (with the translated KIP attached)	YES	January 2018 Informing the Ministry of Rural Development, Environment and Agriculture of the Land of Brandenburg by the General Directorate for Environmental Protection in accordance with the Article 2(2) of the agreement between the Republic of Poland and the Federal Republic of Germany on the implementation of the Convention on the planned project "1.B.2 Stage I and Stage II Modernisation works on the border Odra River within the framework of the Odra - Vistula Flood Management Project", which may have a negative impact on the environment in the territory of the Federal Republic of Germany. On the German side, according to the Environmental Impact Assessment Act (Article 54 nn., Article 58 par. 5 UPVG), the General Directorate for Waterways and Shipping is the competent authority to carry out

			<p>subsequent stages of the cross-border environmental impact assessment process.</p> <p>Handing over the KIP to the German side.</p>
4	The General Director for Environmental Protection, in the notification of possible cross-border environmental impact, sets a deadline for answering whether the exposed country is interested in participating in the cross-border environmental impact procedure.	YES	<p>January 2018</p> <p>By indicating the deadline, within 30 days of the date of receipt of the notification</p>
5	Conformation of the receipt of notification and declaration by the German Party on its wish to participate in the proceedings	YES	<p>February 2018</p> <p>The General Directorate for Waterways and Shipping in Magdeburg, together with the acknowledgement of receipt of the notification and the statement of participation in the procedure, also informed that it is competent to carry out the environmental impact assessment in a cross-border context. According to the information provided in the letter, the competent authority for any consultations is the Federal Ministry of the Environment, Building Industry and Nuclear Safety.</p>
6	Submission of the EIA Report to the Exposed Party	YES	<p>September 2018</p> <p>Submission of the whole EIA documentation in a hard copy and in an electronic form together with a translation into German of the key parts of the documentation concerning the area of the Exposed Party.</p>
7	Bringing comments by the participants in the proceedings of the Exposed Party - public consultations for the community of the Exposed Party	YES	<p>October / November 2018</p> <p>Public consultations on the German side (so called 1st Round)</p>
8	Submission of comments from the German Party	YES	<p>January 2019</p>
9	Analysis of comments by the Investor	YES	<p>January 2019 - April 2019</p>


10	Submission of replies to comments received during public consultations to the authority issuing the environmental decision	YES	May 2019
11	Submission of a consolidated EIA Report	YES	May 2019
12	Renewed public consultations	YES	<u>July – August 2019</u> Renewed public consultations on the German side (so called 2 nd Round)
13	Submission of comments from the German Party	YES	September 2019
14	Analysis of comments by the Investor	In progress	September / October 2019
15	Submission of replies to comments received during public consultations to the authority issuing the environmental decision	planned	October / November 2019
16	Organisation of cross-border consultations in accordance with the Article 5 of the Espoo Convention in the form of an expert meeting at intergovernmental level	planned	An important element that may affect the extension of the deadline is the decision to hold a meeting at intergovernmental level. The need to organise a meeting is determined by the authority in charge of the cross-border environmental impact assessment procedure. The issue of consultations in the form of an expert meeting was raised by the General Directorate for Waterways and Shipping in Magdeburg in correspondence during the second round of consultations.
17	Submission of the translated environmental decision to the competent authority of the Exposed Party	planned	

Annex 4 - Timeline of Formal Interactions of the Task Team with Complainants

No	Document. Date	Author of claims	Key subjects of inquiry	Reaction
1.	Letter to the World Bank General Inquiries. September 15, 2015	Chairman of the Association of Friends of the German-Polish European National Park Lower Oder Valley	<ol style="list-style-type: none"> 1. The Odra-Vistula Flood Management Project (OVFMP) questions the conservation efforts aimed at preserving and developing the natural endowments of the Odra Valley. 2. The advice of nature conservationists and ecologists was not heard or listened to. The economic reasons are the decisive factors behind the project. 3. Request to re-evaluate the project and take into account the advice given by nature conservationists and ecologists. At the very least, it should be agreed that the Międzyodrze area should never be used for hydraulic-engineering and other such means. 	<p>Response letter signed by the World Bank Country Manager for Poland; October 29, 2015.</p> <ol style="list-style-type: none"> 1. The specific details of each sub-project in many cases are not fully known, they are largely of a no-regret nature. 2. Final selection to the OVFMP was based on: (i) having only local impact, hydraulically and environmentally; (ii) if there is downstream or upstream impact, it is well recognized and managed; (iii) being in vulnerable areas associated with high benefits from protection measures that are unlikely to be excessively expensive. Finally the priority was given to investments that make “room for the river”. 3. Every specific sub-project to be funded under the Project will have its own EIA and EMP prepared and fully disclosed in line with the national and World Bank standards, which include public consultations. 4. Regarding the Międzyodrze specifically, technical details are not yet available. <p><i>Appendix 1.</i></p>
2.	Letter to Dr. Jim Yong Kim, President of the World Bank Group. August 11, 2016	Ecological Association EKO-UNIA and Green Institute	<ol style="list-style-type: none"> 1. The objective of the project is to bring Odra to class III navigability along a section spanning several hundred kilometres. 2. With the World Bank’s approval, the Polish Government failed to carry out the necessary and legally required environmental assessments for individual works. 3. Poland has a troubled record as far as compliance with the EU Framework Water Directive and the Habitats and Birds Directives is concerned. Therefore, the World Bank project needs to be examined thoroughly. 4. Drafting of the project was marred by a lack of transparency – the project’s contents were not disclosed to any major Polish and German 	<p>Response letter signed by World Bank Regional Director for Operations in the EU Countries; September 19, 2016.</p> <ol style="list-style-type: none"> 1. Public consultations with regard to this Project were organized by Government at the beginning of 2015, debates were held, and key documents posted on official websites of the institutions in charge of Project implementation. 2. Minimizing impacts on the environment and protecting critical ecosystems as a key principle of the Project. 3. Today the sub-projects are in various stages of design, and are largely of no-regret nature. 4. Invitation to take part in public consultations. <p><i>Appendix 2.</i></p>

No	Document Date	Author of claims	Key subjects of inquiry	Reaction
			<p>environmental organisations, nor any such organisations were consulted.</p> <p>5. Request to suspend the implementations of the project.</p>	
3.	<p>Questions to Bank Mission after the meeting of May 17, 2018 in Warsaw.</p> <p>May 24, 2018</p>	Save the Rivers Coalition	<ol style="list-style-type: none"> 1. Does the World Bank support inland navigability development on Polish rivers? 2. Is it necessary to increase the navigability of Lower and Middle Odra to class III and allow icebreakers to operate on the river? Were there any analysis of alternative solutions taken? 3. What expert analyses/opinions were prepared before decisions were made on implementing projects on Kłodzko valley? Was there a master plan created? Was the construction of 4 polders needed and what is their ultimate flood mitigation impact? Is there a need to build further 8-26 polders, what would be the financial costs and who would finance them? 	<p>Response letter signed by the World Bank Country Manager for Poland and the Baltic States; June 26, 2018.</p> <ol style="list-style-type: none"> 1. The Project does not directly support the development of inland navigation, however, there may be instances where selected flood infrastructure investments also improves the navigability of the river (to class 3 only). 2. The OVFMP is a “framework” investment and the specific technical details of every sub-investment are currently under preparation. Alternatives would be examined and NGOs are invited to take part in the preparation of the EMPs. 3. The four polders were selected based on earlier extensive hydrologic modeling and alternative locations were examined. Further analysis to identify further flood reduction measures in the Kłodzko Valley are being undertaken. <p><i>Appendix 3.</i></p>
4.	<p>Odra-Vistula Flood Management Project (OVFMP) (Ln 8524-PL) Implementation Support Mission. Aide-Mémoire</p> <p>September 10-20, 2018</p>	NGOs	<ol style="list-style-type: none"> 1. NGOs showing strong interest in project activities, especially in relation to environmental safeguards. 	<p>After meeting several of them in May 2018, discussions continued through participation at specific events and conferences organized throughout summer 2018. Both PIU and PCU took active roles in the process, and this was expected to continue. The Bank reiterated the need for extensive collaboration and consultation with local stakeholders, continued full observance of the disclosure practices, and detailed recording and reporting arrangements - in line with the already established practice on the Project.</p> <p><i>Appendix 4.</i></p>

No	Document Date	Author of claims	Key subjects of inquiry	Reaction
5.	Letter from WWF February 5, 2019	WWF	1. Request for “all strategic documents” as well as analyses co-financed by the World Bank and carried out in relation to Odra Flood Management Project and Odra-Vistula Flood Management Project.	No response from the World Bank as the letter did not provide details as to which particular documents are requested to be disclosed, as Loan Agreements are publicly disclosed documents and they are available on World Bank websites. <i>Appendix 6.</i>
6.	Letter to WBG President David Malpass concerning the document OVFMP Component 2 – Flood Protection of the Nysa Kłodzka Valley 2B.2/1 April 15, 2019	Village Administrator of Stary Gierałtów	1. Protest against the plan of constructing a storage reservoir on the Biała Ladecka River in the village of Goszów as the negative social, economic, and environmental costs produced by the implementation of the planned venture will considerably exceed potential benefits. 2. Request to be informed about any further consultations and actions.	Response letter signed by the Regional Vice President of the World Bank Group, Europe and Central Asia; May 7, 2019. 1. The multi-criteria analysis was presented by a consultant and different possible investment options are being assessed during the stakeholder consultations. No decision has been taken yet on the specific investment design for the area and none will be considered until further consultations and technical studies are completed. 2. The World Bank Project team will work with Government of Poland to ensure that all stakeholders are fully engaged and consulted as part of the consultations process. <i>Appendix 7.</i>
7.	Odra-Vistula Flood Management Project (OVFMP) (Ln 8524-PL) Implementation Support Mission. Aide-Mémoire May 13-24, 2019	NGOs, local authorities whose concerns relate to works on Border and Lower Odra and to works in Kłodzka Valley	1. Lack of conducting appropriate, meaningful consultation related to, among others, ongoing works in the Kłodzka Valley.	The World Bank mission met some of the claimants (NGOs and local authorities) during the mission and provided responses verbally and/or in writing. The mission reiterated the need for extensive collaboration and consultation with local stakeholders and NGOs, continued full observance of the disclosure practices, transparent detailed recording and reporting arrangements. The mission recommended that all PIUs inform and involve the PCU in all community consultations. It was also recommended that a training session be conducted in consultation and stakeholder engagement methodologies. <i>Appendix 8.</i>
8.	Letter to WBG Country Manager for Poland and the	Forum of the Kłodzko Region	1. Protest against the construction of new flood protection reservoirs in the 16 locations. 2. Request of an unambiguous written statement from the World Bank reflecting the statement	There was no formal response to that letter due to lack of additional information beyond what the Regional Vice President of the World Bank Group, Europe and Central Asia, responded in a letter from April 15, 2019 and beyond what

No	Document. Date	Author of claims	Key subjects of inquiry	Reaction
	<p>Baltic States. Reference: Concept Paper: “Flood Protection in the Odra and Vistula River basins, Section 2: Flood protection of the Kłodzko Basin”</p> <p>June 24, 2019</p>		<p>of Ms Berina Uwimbabazi at the 2019-05-17 meeting that now new dry retention reservoirs are going to be financed by the World Bank in the Kłodzko Valley.</p>	<p>World Bank’s TTL said at the consultations meeting in May mentioned by the NGO in its request letter.</p> <p><i>Appendix 9.</i></p>  <p>Consultation meetings in Klodzko Valley, organized by Government and attended by members of the Bank team</p>

Annex 5 - Potential Negative Impacts on the Natura 2000 Sites

(specific reference to the component 1 activities)

Natura 2000 is a network of nature protection areas in the territory of the EU. It is made up of Special Areas of Conservation and Special Protection Areas designated respectively under the Habitats Directive and Birds Directive. The network includes both terrestrial and Marine Protected Areas. The main purpose of the European Ecological Network Natura 2000 is to protect and preserve certain types of natural habitats and plant and animal species, which are considered valuable for the preservation of Europe's natural heritage.

The planned modernization of regulating structures will take place in the right-hand part of the Odra riverbed. Due to the significant distances, the Project was divided into four sections, with different connections with given Natura 2000 sites:

Section I. At the river kilometre 581.0 - 586.2

- Site of Community Importance (SCI) **Łęgi Słubickie PLH080013**
- Special Protection Area (SPA) **Valley of the Middle Oder PLB080004**

Section II. At the river kilometre 600.4 - 618.1

- Natura 2000 site **Warta River-Mouth PLC080001 (the area includes a bird refuge and habitat refuge within the same borders)**

Section III, At the river kilometre 645.5 - 663.5 and **section IV.** at the river kilometre 668.0 - 683.5

- Site of Community Importance (SCI) **Lower Oder PLH320037**
- Special Protection Area **Lower Oder Valley PLB320003**

The following is a list of species and natural habitats directly related to sub-component 1.B.2 area, which are the subject of protection for the above-mentioned Natura 2000 sites:

- **Natural habitats:** **3150** - Oxbow lakes and natural eutrophic water reservoirs with communities of *Nymphaeion. Potamion*, **3270** - flooded muddy river banks with vegetation *Chenopodion rubri* pp and *Bidention* pp. ***6120** - thermophilic inland sandy grasslands (*Koelerion glaucae*) **6430** - riparian herbaceous plants (*Convolvuletalia sepium*) **6440** - alluvial meadows (*Cnidion Dubii*) **9170** - Central European and subcontinental forest (*Galio-Carpinetum* and *Tilio Carpinetum*) **91E0** - willow riparian forests (*Salicetum albo-fragilis*) **91F0** - riparian oak, elm and ash forests (*Ficario-Ulmetum minoris*)
- **Fish:** Amur bitterling (*Rhodeus sericeus amarus*), spined loach (*Cobitis taenia*), European weatherfish (*Misgurnus fossilis*), white-finned gudgeon (*Gobio albipinantis*), common barbel (*Barbus barbus*), asp (*Aspius aspius*)
- **Insects:** Green snaketail (*Ophiogomphus cecilia*)
- **Amphibians:** Sand lizard (*Lacerta agilis*), pool frog (*Pelophylax lessonae*), marsh frog (*Pelophylax ridibundus*), common frog (*Rana temporaria*), fire-bellied toad (*Bombina bombina*), moor frog (*Rana arvalis*), Green toad (*Bufo viridis*)
- **Mammals:** Otter (*Lutra lutra*), beaver (*Castor fiber*), wolf (*Canis lupus*)
- **Birds:** White-tailed eagle (*Haliaeetus albicilla*), great egret (*Egretta alba*), Middle Spotted Woodpecker (*Dendrocopos medius*), red-backed shrike (*Lanius collurio*), red kite (*Milvus milvus*), black kite (*Milvus migrans*), whooper swan (*Cygnus Cygnus*), osprey (*Pandion haliaetus*), crane

(*Grus grus*), Montagu's harrier (*Circus pygargus*), western marsh harrier (*Circus aeruginosus*), black stork (*Ciconia nigra*), White stork (*Ciconia ciconia*), peregrine falcon (*Falco peregrinus*), kingfisher (*Alcedo atthis*), Eurasian bittern (*Botaurus stellaris*), barnacle goose (*Branta leucopsis*), corncrake (*Crex crex*), barred warbler (*Curruca nisoria*), eagle-owl (*Bubo bubo*), black tern (*Chlidonias niger*), little bittern (*Ixobrychus minutus*), black stork (*Ciconia nigra*), woodlark (*Lullula arborea*), Mediterranean gull (*Ichthyaeetus melanocephalus*), Bluethroat (*Luscinia svecica*).

The vast majority of indicated subjects of protection are associated with hydrogenic areas, i.e. ones shaped by water and related to water. This is typical of natural valleys of large lowland rivers such as the Odra River, which are used in a non-intensive manner.

When identifying and forecasting the scope and scale of impacts of the planned Project, the following main conditions that ensure the integrity and coherence of Natura 2000 areas should be taken into account:

- Maintaining the water regime of the Odra River, and thus ensuring the current dynamics of water levels, including annual and extreme lows as well as annual and extreme highs, and maintaining the current level of groundwater,
- Stabilizing the transformation processes for soils formed under the influence of water, especially decomposition processes and maintenance of accumulation and balance processes in peatlands,
- Preserving the mosaic of habitats, which is conditioned by the comprehensive river valley system, its topography and water regime,
- Preventing expansive species of herbaceous plants, shrubs and trees, from overgrowing open areas,
- Supporting extensive agriculture and limiting its intensification,
- Limiting human impact.

The natural structure of the Odra valley area, in particular the floodplains, with its entire mosaic of habitats typical of non-intensively used natural valleys of large lowland rivers creates a valuable living environment for many groups of organisms.

The role of these areas for communities of **water birds, wading birds, large predators** is important, which causes the need to preserve the processes conditioning the maintenance of this rich natural structure. This means mainly the protection of the water regime, with particular emphasis on the preservation of naturally occurring floods during seasonal rising of water levels, which ensures the appropriate conditions for natural habitats that are also habitats for specific species. It is important, therefore, that the implementation of the investment does not affect the seasonality of the rises (which depends on climatic factors), and will not cause a modification of their range, because it is adapted to medium flows and does not "work" during high flows.

Here, it should be pointed out that the hydrological system of the river depends on the conditions of supply and drainage from the drainage area. Modernization of regulating structures on the lower Odra will in no way affect high water levels, frequency, timing, extent of the wetlands and flooding in riverside areas, nor will it affect how long it lasts. The Odra hydrological system is dependent on the conditions of supply and drainage from the drainage area, and this is influenced by climate factors (e.g. precipitation), which may manifest as prolonged periods of drought. As a result of the Project, a slight increase in water levels is expected at medium and low flows (due to the reduction of the riverbed cross-section), which may happen until the bottom of the river bed is deepened and the shallows removed.

Another important issue is that the reconstruction of existing regulating structures will not have such an impact on the longitudinal profile of the river and water levels, as is the case with the regulation of natural channels, which is confirmed by hydrodynamic calculations made for the purpose of the discussed investment. Therefore, it was assessed that there would be no intensive drainage within the floodplain, as

water levels (especially at low and medium flows) would not change significantly, and therefore there is no risk of deterioration of water relations within water-dependent habitats.

It should be noted that valuable fish habitats currently located in the Odra River bed are closely related to the existence of the groyne and groyne field system. In the event of abandoning the renovation works of the existing regulating structures, further progressive degradation of these structures over the next few decades would lead to their disappearance and transformation of the Odra River bed into a fairly homogeneous channel with straight banks with little morphological diversity. This would result in a significant long-term depletion of the existing vegetation, invertebrate and fish communities, due to the reduction of habitat diversity. This is clearly visible on sections of the Odra, where groynes have already degraded, and on sections where there are no regulating groynes and the riverbed is straight, with stone-reinforced banks. The presented conditions show that the preservation of the existing groynes on the Odra river is beneficial for maintaining the current diversity of habitats in the riverbed of the regulated river, while maintaining its economic functions and the use of the riverside areas.

In order to determine the intensity of the planned works' impact on individual protection subjects of Natura 2000 areas, the following scale of impacts was used:

- **Weak** - it is anticipated that there will be periodic, disappearing, small-scale negative impacts that will not significantly affect the conservation status of the protection subjects and their objectives or the integrity of the form of nature protection,
- **Moderate** - it is anticipated that there will be medium-term, disappearing local impacts that will not significantly affect the conservation status of the protection subjects and their objectives or the integrity of the form of nature protection,
- **Important** - it is anticipated that there will be medium or long-term negative impacts, which may deteriorate the conservation status of protection subjects for a period of time, affect the process of achieving conservation objectives and the integrity of the form of nature protection for a period of time,
- **Significant** - it is anticipated that there will be long-term or permanent negative impacts, which results in a significant loss of resources of protection subjects, inability to achieve protection objectives and deterioration of the integrity of the form of nature protection.

In the process of environmental impact assessment for the investment, taking into account the above scale, specific references were made to specific species and natural habitats, as well as the objectives of protecting Natura 2000 sites, defining the occurrence of weak, moderate or important impacts, but no significant impact was found in any of the analysed cases. The table below provides an example.

Habitat type / Species name	Area of the region	Scale of impact at implementation stage	Justification
91E0 - willow, poplar, alder and ash riparian forests (Ass. <i>Salicetum albo-fragilis</i> , Ass. <i>Albae Populetum</i> , SubAll. <i>Alnenion glutinoso-incanae</i> , spring alder forest)	275.88 ha	moderate	Impact on the parameter "Habitat area" - direct destruction of the habitat with a total area of 2.72 ha, which constitutes 0.99% of the area of known habitat resources within the buffer zone

Conclusions from the impact assessment for the investment on the border Odra River on Natura 2000 areas should be understood comprehensively, taking into account the provisions of the concept of regulatory reconstruction of the border Odra River by BAW and the results of expert opinions of scientists in the field

of hydrology, based on which the effects of the Project after its implementation and the impacts of the investment on individual environmental components were then defined and the assessment of individual impacts, both at the stage of implementation and operation of the Project was conducted.

In the process of assessing the environmental impact of the planned modernization works on the border Odra, a package of minimizing measures was developed, which will allow to achieve the technical assumptions of the Project while limiting to the acceptably moderate level any possible negative environmental effects, including impact on species and habitats protected under national regulations and under the Natura 2000 network. A full list of minimizing measures is included in the report on the environmental impact of the investment from April 2019 (chapter 18.12).

It should be noted that despite the proposed measures, some changes in habitats / biotic communities will occur naturally. The balance of these habitats will also be somewhat disturbed as a result of ongoing construction works. This applies to those habitats whose area will be depleted as a result of modernization works. However, this impact will not be large enough to be considered significant for the whole habitat or population, and thus will not be significantly negative for maintaining the coherence and integrity of Natura 2000 areas.

The assessment process therefore showed no significant impact on Natura 2000 areas, provided that the above-mentioned comprehensive mitigation measures are implemented.

In summary, the application of the developed measures will ensure that the impact is limited to an acceptable level, ensuring that the conservation status is not compromised, and that the integrity of individual areas and the integrity of the entire Natura 2000 network is maintained.

Annex 6 - Technical Terminology

Class III / IV Inland Waterways Classification

Inland water transport includes any cargo or passenger transport based on inland navigation vessels operated on inland waterways (completely or partially). Inland waterways are divided into navigation classes. Thanks to such classification, waterways can be ranked for navigability. Inland waterway classes are standardized according to the following criteria: maximum attainable parameters of vessels permitted to navigate, maximum size of clearance under bridges, pipelines and other structures colliding with the waterway. There are classes of national and international importance. Inland waterways categorized as Class Ia, Ib, II and III have regional importance, whereas inland waterways Class IV, Va and Vb have international importance. Navigability is a function of natural features of a lake or a river, but it also depends on human intervention and the use of hydro-structures. Class IV parameters, previously regarded as baseline in Europe, currently represent the minimum standard for international waterways. Under OVFMP, works carried out on some sections target Class III, with partial reconstruction of dilapidated infrastructure, to enable ice-breaker operation in the event of an ice-jam flooding.

Dune

Dunes are small areas of the riverbed where the riverbed is higher than the average riverbed and where icebreakers (or other vessels) might run aground.

Embankment

A wall or bank of earth or stone built to prevent a river flooding an area.

Groynes

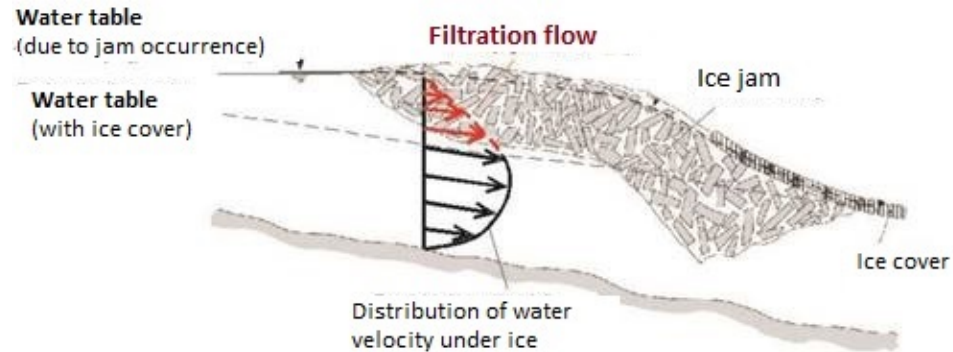
A low wall or hydraulic structure built from the bank to control water flow and limit the movement of sediment (see picture below for an illustration).



Picture Julia Seeliger under CC license agreement.

Ice Jam

Ice jams happen when chunks of ice clump together to block the flow of a river. Ice jams can cause flooding upstream of where they form, because the water cannot flow downstream, as well as flooding downstream when the ice jams break, allowing a flood wave to inundate the land below it. See drawing below.



Natura 2000 sites

Natura 2000 is a network of nature protection areas in the territory of the EU. It is made up of Special Areas of Conservation and Special Protection Areas designated respectively under the EU Habitats Directive and Birds Directive. The network includes both terrestrial and Marine Protected Areas. The main purpose of the European Ecological Network Natura 2000 is to protect and preserve certain types of natural habitats and plant and animal species, which are considered valuable for the preservation of Europe's natural heritage.

Polder (dry/wet)

Dry polders temporarily store a volume stormwater runoff and discharge it at a controlled rate to prevent infrastructure and waterbodies from receiving too much water. Wet polders store a permanent volume of water for a desired period of time and this could be done for multiple functions e.g. treatment of runoff to remove pollutants and sediments prior to discharging.

Room for the River approach

The concept of making “Room for the River” is to give the river more room to be able to manage higher water levels. The concept originates from the Netherlands’ large-scale floods management program on the Rhine, Meuse and Scheldt, implanted from the 90’. The program focuses on creating “room for the river” by increasing the depth of rivers, storing water, relocating dikes, creating high water channels, lowering groynes, widening flood plains etc. Making “room for the river” allows landscapes along rivers to be restored in order to act as “natural water sponges” in the event of a flood. The program also recognizes the importance of aesthetics and cultural and ecological elements and has worked to incorporate these factors into work carried out under the program.

Annex 7 – Overview of Disclosed Documents







Overall Project Document	Public Consultations	Final Disclosure (EN & PL)
RPF	February 23 to March 11, 2015	May 26, 2015
ESMF	February 23 to March 11, 2015	May 22, 2015
O.P 7.50 Notification	All Riparian countries were notified in September 2014, and by the stated deadline for responses of January 31, 2015 or after, no country (Germany, Czech Republic, Belarus, Slovakia and Ukraine), submitted objections.	

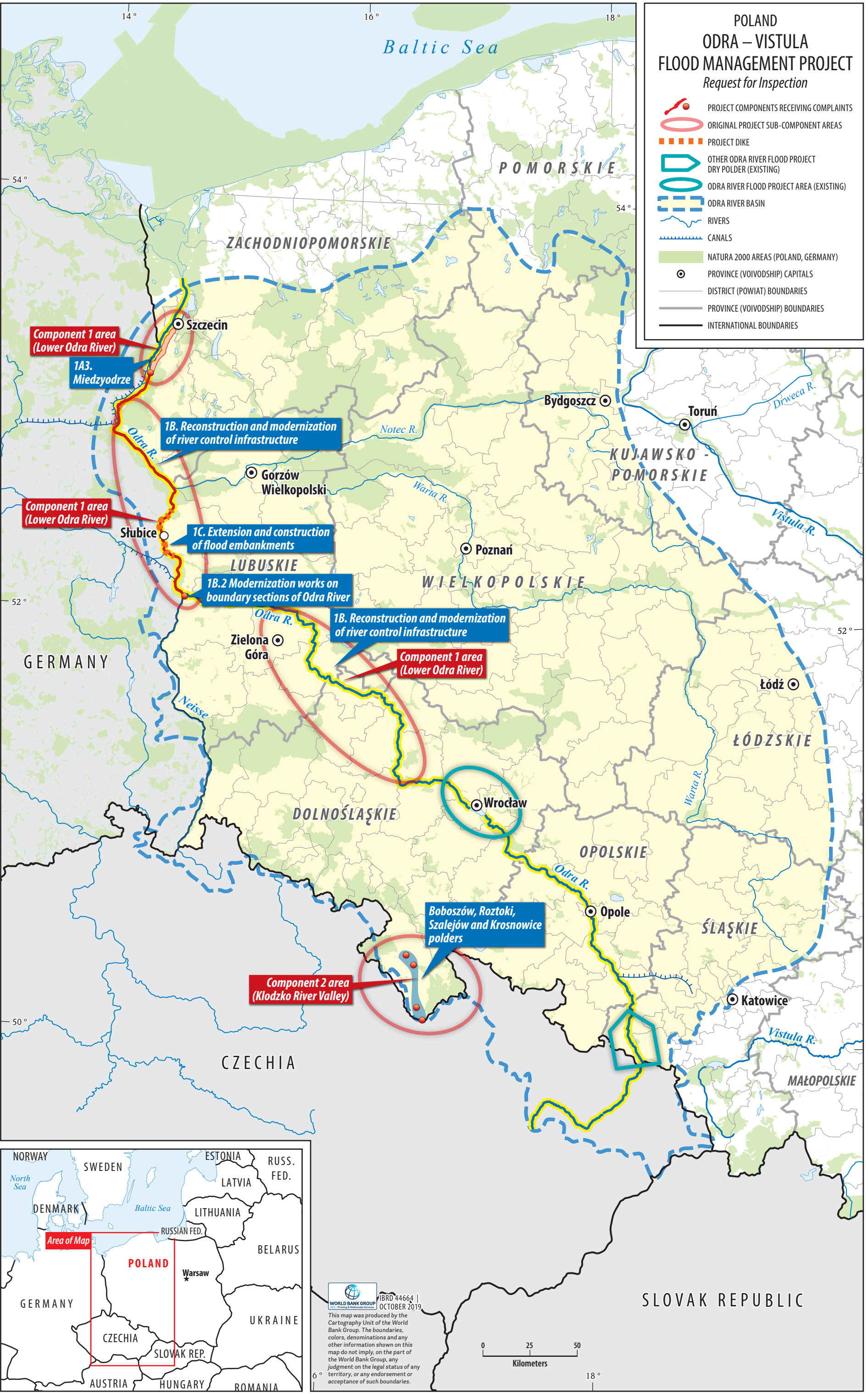
No.	Ref. No.	Contract (Description)	Public consultation of ESIA/ESMP	Public disclosure of RAP through Project website/Language (EN&PL)
Component 1: Flood Protection of the Middle and Lower Odra				
1	1A.1	Chlewice-Porzecze. Backwater embankment of Odra River at Myśla River and Modernization of Marwicki polder stage I and II	20 July – 09 August 2016	19 July 2016
2	1B.1/1(a)	Reconstruction of the Odra River control infrastructure – adjusting to the III class of waterway, on the section from the village of Ścinawa to the estuary of the Nysa Łużycka River – Stage II	RAP document is not required	N/A
3	1B.6/1	Flood protection of Nowa Sol and Below Krosno Odrzanskie Nowa Sól etap I Nowa SólII	14 August – 4 September 2017	01 October 2017
4	1B.6/2	Flood protection of Nowa Sol and Below Krosno Odrzanskie stage II Wężyska Chlebowo	14 August – 4 September 2017	01 October 2017
5	1B.7	WFS Widawa – the rebuilding of the flood management system of the communes and municipalities Czernica, Długołęka, Wisznia Mała and Wrocław	03 – 17 December 2018	11 April 2019
6	1C.1	Extension and construction of flood embankments and Reconstruction of Czarny Kanał and Racza Struga	26 January – 16 February 2017	07 April 2017


Component 2: Flood Protection of the Nysa Kłodzka Valley				
7	2A.1/1	Construction of "Boboszów" - a dry flood control reservoir on Nysa Kłodzka River	23 September 2016 – 14 October 2016	14 April 2017
8	2A.1/2	Construction of "Roztoki Bystrzyckie" - a dry flood control reservoir on Goworówka stream	04 -25 November 2016	14 April 2017
9	2A.2/1	Construction of "Szalejów Górny" – A dry flood control reservoir on Bystrzyca Dusznicka River	23 September 2016 – 14 October 2016	03 March 2017
10	2A.2/2	Construction of "Krosnowice" - a dry flood control reservoir on Duna stream	23 September 2016 – 14 October 2016	23 February 2017
11	2A.1/1	Construction of "Boboszów" - a dry flood control reservoir on Nysa Kłodzka River. Annex - "Road"	RAP document is not required	N/A
Component 3: Flood Protection of the Upper Vistula				
12	3A.1	Construction of Vistula embankments in Cracow	01 -21 October 2019	
13	3B.1	Flood protection Sandomierz	18 November 2016 – 09 December 2016	05 January 2017
14	3B.2	Flood protection Tarnobrzeg – stage 1 (Wisła 1)	17 August 2017 – 07 September 2017	01 October 2017
15	3B.3	Flood protection Tarnobrzeg	30 September 2016 – 21 October 2016	25 November 2016
16	3D.1	San Programme. Passive Protection in San basin.	14 December 2018 – 2 January 2019	17 April 2019

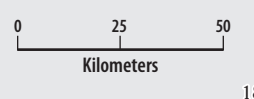
Annex 8 - Map Showing Project Areas for Components 1 and 2

POLAND ODRA – VISTULA FLOOD MANAGEMENT PROJECT *Request for Inspection*

-  PROJECT COMPONENTS RECEIVING COMPLAINTS
-  ORIGINAL PROJECT SUB-COMPONENT AREAS
-  PROJECT DIKE
-  OTHER ODRA RIVER FLOOD PROJECT DRY POLDER (EXISTING)
-  ODRA RIVER FLOOD PROJECT AREA (EXISTING)
-  ODRA RIVER BASIN
-  RIVERS
-  CANALS
-  NATURA 2000 AREAS (POLAND, GERMANY)
-  PROVINCE (VOIVODSHIP) CAPITALS
-  DISTRICT (POWIAT) BOUNDARIES
-  PROVINCE (VOIVODSHIP) BOUNDARIES
-  INTERNATIONAL BOUNDARIES




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SLOVAK REPUBLIC