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The Inspection Panel

Report and Recommendation
On Requests for Inspection

REPUBLIC OF POLAND

Odra-Vistula Flood Management Project

December 17, 2019

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Republic of Poland: Odra-Vistula Flood Management Project (P147460)

A. Introduction

1. Between June 21, 2019, and October 7, 2019, the Inspection Panel (the "Panel") received nine Requests for Inspection of the Odra-Vistula Flood Management Project (the "Project") in Poland. They were submitted by representatives of German and Polish civil society organizations, private institutions operating in the Odra Valley and individuals living in the vicinity of the Border Odra in both countries, as well as in the Klodzko Valley in Poland (the "Requesters").[1] The individual signatories to the Requests have asked the Panel to keep their identities confidential.

2. The first five Requests are similar in nature and allege that Project activities on the Odra River at the border between Germany and Poland cause potential harm to biodiversity, increase flood risks and have transboundary impact on Germany. They allege that the quality of the Environmental Impact Assessment (EIA) is poor and disregards impact on protected areas in the Odra Valley in Germany. The Requesters also raise concern about a lack of adequate consultation and participation with non-governmental organizations (NGOs) and experts in Germany. The sixth Request adds concerns about hydro-engineering works on the Vistula River and claims that the Project will undermine and destroy Natura 2000 habitats. It also questions the cost-benefit analysis of four dry reservoirs in the Klodzko Valley and argues that they adversely affect the environment. The seventh Request also concerns environmental issues relating to the Project's dry reservoirs. The Requesters allege that the EIA was insufficient and lacked a proper consideration of alternatives. They also express concern about water pollution in one of the reservoirs and allege that the Project's consultation and participation process was inadequate. The eighth and ninth Requests add concerns about involuntary resettlement in the Klodzko Valley and claim that the construction of dry reservoirs there significantly interferes with the local landscape, cultural values and integrity of some towns.

[1] The first Request for Inspection was submitted by representatives of the German League for Nature and Environment and Friends of the Earth Brandenburg, representing five local non-governmental organizations and 69 individuals in the Project area, both in Germany and Poland. The second Request was submitted by the Oeko Agrar GmbH Lower Odra Valley e.V. Criewen, which is located and operating in the Odra Valley. A third Request was submitted by the Internationalpark GmbH, which includes the Brandenburg Academy Schloss Criewen and Wilderness School Teerofenbruecke, both located and operating in the Odra Valley. The fourth and fifth Requests were submitted 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. The sixth Request was submitted by representatives of the Ecological Association EKO-UNIA, based in Poland, and the seventh Request by representatives of the Alliance for Klodzko Valley in Poland. The eighth Request was received from members of the Save the Rivers Coalition and the ninth Request from three individuals living in the Project area in the Klodzko Valley.

3. The Panel registered the first seven Requests on September 17, 2019, the eighth Request on September 26, 2019, and the ninth Request on October 10, 2019. For reasons of economy and efficiency, the Panel decided to process these Requests jointly. Management submitted its Response to these nine Requests on November 11, 2019. From November 11 to 17, 2019, the Panel conducted its eligibility visit to Poland and Germany.

4. In accordance with the Resolution establishing the Panel,[2] the purpose of this report is to make a recommendation to the Board as to whether an investigation into the matters alleged in the Requests is warranted. Although the Requesters and the Requests meet the technical eligibility criteria, based on its assessment of other factors in the Panel's Resolution and Operating Procedures, as discussed in detail below, the Panel is not recommending an investigation.

B. Description of the Project

5. The Odra-Vistula Flood Management Project was approved on July 23, 2015, for US$504 million (International Bank for Reconstruction and Development Investment Project Financing). The total Project cost is US$1.3 billion. The Borrower is co-financing the Project with US$210 million, the European Union (EU) with US$219 million, the Council of Europe Development Bank with US$329 million, and the Polish National Fund for Environmental Protection and Water Management with US$55 million. The expected closing date of the Project is December 15, 2023. It is a Category B Project and was 15 percent disbursed at the time of receipt of the Requests.[3]

6. The development objectives of the Project are 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.*"[4] The Project triggered the following safeguard policies: Environmental Assessment (OP/BP 4.01); Natural Habitats (OP/BP 4.04); Physical Cultural Resources (OP/BP 4.11); Involuntary Resettlement (OP/BP 4.12); Safety of Dams (OP/BP 4.37); and Projects on International Waterways (OP/BP 7.50). The Project includes five components.[5]

7. The first five Requests focus on flood protection of the middle and lower Odra under the first component of the Project. According to the Project Appraisal Document, this component aims to enhance protection against summer and winter floods for cities and towns along the Odra River. Activities include the reconstruction of dikes, other bank protective works, dredging in the Odra River, as well as in canals and the harbor of Szczecin, the recalibration and reconstruction of

[2] International Bank for Reconstruction and Development (Resolution No. IBRD 93-10), The World Bank Inspection Panel, September 22, 1993 (the "Resolution"), para 19. Available at: http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/ResolutionMarch2005.pdf.

[3] According to Management, initial progress has been slow and overall disbursements only reached 15 percent largely due to the need to finalize investment selection and design, as well as delays in procurement processing and contract management. Management Response, p. 4.

[4] Project Appraisal Document for the Project, p. 4.

[5] Component 1: Flood protection of Middle and Lower Odra, Component 2: Flood protection of Nysa Kłodzka Valley, Component 3: Flood protection of Upper Vistula, Component 4: Institutional strengthening and enhanced Forecasting, and Component 5: Project management and studies.

groynes and lateral submerged dams in the river, restoration of bends, protection of banks and expansion of navigation and mooring facilities.[6]

8. The sixth, seventh, eighth and ninth Requests add concerns about flood protection of the Klodzko Valley under the second component, and flood protection of the Upper Vistula River under the third component of the Project. The second component aims at protecting Kłodzka town, other small valley towns and the city of Bardo and comprises the construction of four mid-sized dry polders[7], dike rehabilitation and construction, and reconstruction of the river alignments and embankments, as well as of bridges and other structures, to allow the temporary retention and safe passage of flood waves accompanied by large amounts of debris. The third component aims at protecting 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. Works include the reconstruction and extension of dikes and embankments along the Vistula River to replace old unreliable dikes; bank stabilization and strengthening; construction of identified dry polders and overflow areas to increase upstream water retention; interventions for river training; and the adjustment of existing weirs and barrages to pass larger flood waves.[8]

C. Summary of the Requests

9. The section below summarizes the substantive issues raised in the nine Requests, and the full Requests are attached to this Report as Annex 1.

10. **Rationale and Objective of the Project**. The Requesters argue that the Project is a barely obscured waterway development project and the river is being upgraded for shipping purposes and to channel the free-flowing Odra River. The Requesters argue that the planned river regulation investments are excessive. They claim that under the pretext of flood protection and facilitation for icebreaking, investments are being made for waterway development. They explicitly refer to the construction of a railway bridge and dredging works as serving the goals of improving shipping on the river, rather than flood protection. The Requests further argue that the implementation of the planned measures on the Border Odra significantly increases the risk of flooding in the area rather than reducing it.

11. **Framework, Structure and Categorization of the Project.** The Requesters allege that the cross-border Project components are in breach of EU environmental law, specifically Natura 2000 and the Water Framework Directive (WFD). They question the categorization of the Project as Category B and believe that the Project should have been categorized as a Category A, especially when comparing it to the earlier Odra River Basin Flood Protection Project (P086768), which is a Category A project.

12. **Environmental Assessment**. The Requesters argue that the quality of the EIA is poor and systematically obscures the impact of the planned measures on German protected areas in the Lower Odra Valley. The Requesters allege that the environmental assessment did not identify all impact, including cumulative impact, and lacked a proper consideration of alternatives. The

[6] Ibid., p. 6.
[7] The terms “dry polder” and “dry reservoir” are used interchangeably in this report.
[8] Ibid., pp. 6 and 7.

Requests further argue that the need to achieve a dynamic balance of river sediment was not considered and the alternative of expanding the potential floodplain in order to stop the energy of the rivers has never been seriously examined. The Requesters explain that one subcomponent of the Project, which relates to the Międzyodrze wetland, was abandoned by the Project after the completion of analytical studies. However, the Requesters are again concerned that there are renewed attempts to take up these works again under the Project.

13. The Requesters claim the Project affects Natura 2000 sites, national parks, protected areas on the German side and landscape parks and Natura 2000 sites on the Polish side, all of which have been established to preserve the large amount and range of biodiversity in, along and adjacent to the river. They refer to the "*incredible almost 'amazonian' biodiversity in the [Odra] river and its valley*" and explain that there is an abundant population of protected species in and along the branches of the river. The Requesters also argue that the hydro-engineering works on the Vistula River will undermine and destroy Natura 2000 habitats and lead to economic losses. The Requesters express concern about impact on a protected butterfly species, fish and bird habitats and coastal trees.

14. In regard to the Project works in the Klodzko Valley, the Requesters question the cost-benefit analysis of the four dry reservoirs and argue that they adversely affect the environment. They also raise concern about water pollution in the Roztoki dry reservoir. They are concerned about the environmental impact of these reservoirs and question the assumption that these basins would significantly reduce the need for river regulation. According to the Requesters, the Project exacerbates social conflict on a large scale, especially because the construction of the dry reservoirs would significantly interfere with the local landscape, cultural values and integrity of some towns. The Requesters explain that the reservoirs have been rescaled, resulting in more impact on the environment than would be necessary to achieve the expected goals. The Requesters also state that there are suspicions that under the pretext of constructing dry reservoirs, the implementation of wet reservoirs is planned, which would be much less effective for flood protection purposes but would serve other political goals.

15. The Request explains that the Project is also causing destruction to nature around the Szalejow Reservoir, including the habitats of plants, insects, birds and other animals. According to the Requesters, the felling of trees is causing a change in the microclimate, including causing stronger winds and more pollution.

16. **Consultation, Participation and Information Disclosure**. The Requesters argue that there was a significant lack of involvement of local NGOs and flood management experts in the development of the Project. They explain that there was a lack of public participation by citizens, especially in Germany, e.g., there was no adequate information on the Project available in German, nor information in non-technical language, made available within a reasonable time.

17. **Involuntary Resettlement.** The Requesters state that in the Klodzko Valley and in some locations on the Upper Vistula River people are being involuntarily resettled and social protests have taken place. Requesters of one household who live near the Szalejow Reservoir explain that due to the proximity of their property to the works, they live in constant stress and uncertainty, and their peace and sense of security has been destroyed. They explain that their property is located

about 70 meters from the reservoir, but works are carried out as close as five meters from the residential building. The Requesters claim that the Project was prepared as if no one lived on the property. According to the Requesters, they have received unreliable and misleading information about compensation for the adverse impact they suffer.

18. The Requests contain several attachments, including expert reports, more detailed descriptions of the alleged harms and correspondence with Bank and government representatives. The Requesters refer to an online petition that has gathered the support of about 3,000 signatories opposing the Project.[9]

D. Summary of the Management Response

19. The Management Response is summarized below, and the full Response is attached to this Report as Annex 2.

20. Management explains that it understands the concerns of the Requesters and has engaged with different stakeholders and civil society organizations on a continuous basis. Management believes that the concerns are appropriately addressed by the Project's design and mitigation measures and explains that it remains committed to continue discussing any outstanding concerns. According to Management, the Project is technically sound and in compliance with Bank policies, and its design is based on thorough studies by reputable firms. Management believes that the Project will not cause significant adverse impact, potential construction-related impact is likely to be temporary and reversible, and the limited long-term environmental impact has been carefully assessed and mitigated through safeguard measures. According to Management, the Project's impacts are clearly outweighed by its important benefits to life and the environment. Management further explains that some of the Requesters' concerns appear to be based on incorrect information or derived from draft documents that have been substantially revised.[10]

21. **Rationale and Objective of the Project.** The Management Response explains that the Odra and Vistula rivers form a transboundary catchment area that is particularly flood prone.[11] According to Management, the Project is not a waterway development project, there are no plans under the Project to channel significant portions of the Odra River and the Project's original scope and objectives, as agreed in 2015, have not been modified. Management further explains that there are no activities that support increased navigation beyond the need for icebreaking.[12] The Management Response explains that after elections in 2015, the new government had approached the Bank to discuss the feasibility of restructuring the Project to support navigation. The Bank at that time determined that this would not be compatible with the Project's objectives, design and environmental category, and clarified to the government that such restructuring would not be possible.[13]

[9] Petition by Sojusz Ziemi Kłodzkiej (Alliance for Klodzko Land) https://secure.avaaz.org/pl/community_petitions/Bank__STOP_finansowania_planow_zwiekszania_suchej_retencji_na_Ziemi_Klodzkiej_3

[10] Management Response, pp. iii and iv.

[11] Management Response, p. iii.

[12] Management Response, p. 10.

[13] Management Response, p. 11.

22. **Framework, Structure and Categorization of the Project.** According to the Management Response, this Project is the third Bank operation supporting the Government of Poland to build resilience to floods on the Odra and Vistula rivers following the 1997 foods, which affected over 200,000 people and caused the deaths of 50 people and damages estimated at US$5 billion. The first was an emergency operation to repair damaged infrastructure, and the second included a set of priority, large-scale interventions to protect key areas and cities. The Project subject to these complaints is the first to be developed under the framework of the Flood Risk Management Plans (FRMPs) required by the EU's Flood Directive and aims to address flood challenges in the entire watershed, focusing on low-impact, no-regret measures.[14] It is also based on 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 (*Bundesanstalt für Wasserbau* or BAW) and adopted by the Polish and German authorities in 2014.[15]

23. Regarding the Project categorization, Management explains that given the Project's design as a framework project and its focus on low-impact, no-regret measures, it was classified as a Category B with a risk-based, phased approach to environmental assessment. The Project's Environmental and Social Management Framework (ESMF) established a process by which any sub-project that might be deemed potentially complex and requiring more comprehensive analysis would be eliminated, which effectively excludes any sub-projects that would correspond to a Category A.[16]

24. **Environmental Assessment**. The Management Response explains that the ESMF requires that all sub-projects be subject to an EIA and must develop Environmental Management Plans (EMPs) following Bank policy requirements and addressing additional requirements under Polish law. According to Management, Environmental Assessment (EA) instruments have been prepared, consulted upon, approved and disclosed for 10 sub-projects so far that have moved into the implementation stage. The Management Response explains that EA processes are ongoing for another five sub-projects and about 15 more will follow as implementation progresses.[17]

25. According to Management, the technical and environmental studies conducted for Component 1 of the Project considered downstream and cumulative impact.[18] Regarding impact on biodiversity, the Management Response explains that the Project's assessments reviewed potential impacts on biodiversity and Natura 2000 sites in Poland and Germany and found them to be insignificant.[19]

26. In regard to the works in the Klodzko Valley, the Management Response states that good international practice is being followed and that the allegations that the four dry reservoirs unnecessarily affect people, the environment and groundwater is incorrect. According to

[14] Management Response, p. iii.
[15] Management Response, p. iii and iv.
[16] Management Response, p. 8.
[17] Management Response, p. 8.
[18] Management Response, p. 13.
[19] Management Response, p. 12.

Management, the required safeguard instruments were finalized for all reservoirs, a full EIA was conducted for the combined activities in the Klodzko Valley, and the works are supervised by an independent company.[20] The Management Response further explains that the dry reservoirs are being built to their required technical specifications; converting them to wet polders, as alleged in the Request, would require significant redesigning and upgrading of the infrastructure and serves no meaningful purpose.[21]

27. **Consultation, Participation and Information Disclosure.** According to the Management Response, stakeholder consultations and information disclosure during the preparation of the ESMF, EIAs and EMPs were conducted in line with Bank policy. The Response explains that when concerns were raised about the consultation process for one of the EIAs, these consultations were repeated following improved documents and translations. Management states it has regularly engaged with stakeholders and civil society organizations to discuss their concerns, which has led to improvements in the design of the Project. Since Project preparation, the Bank team has interacted repeatedly with NGOs and civil society organizations through formal and informal dialogue. The Management Response lists the example of the Miedzyodrze wetland, which had been considered for use as a flood retention area. Management explains that technical assessments, which included stakeholder consultations, confirmed that the wetland could not be used for flood protection and consequently this activity was dropped from the Project.[22]

28. **Involuntary Resettlement.** The Management Response explains that site-specific Resettlement Action Plans (RAPs) have been finalized prior to the start of works in the Klodzko Valley in line with Bank policies and the Project's Resettlement Policy Framework (RPF). According to Management, the agreed compensation has largely been processed. Since the beginning of the construction of one of the reservoirs in the fall of 2018, one person requested the purchase of her entire property, rather than just a portion of it as was agreed under the RAP. After visits and discussions in May 2019, the Bank and government found that the compensation claims of this Project-affected person were not unreasonable. According to Management, the implementing agency consequently agreed to the principle of full compensation as requested and is currently seeking the appropriate legal, budgetary and institutional mechanism to purchase the property.[23]

E. Panel Review of the Requests and the Management Response, and Eligibility Visit

29. Panel Chair Imrana Jalal, Senior Operations Officer Reinett Erkan and Operations Officer Birgit Kuba visited Poland and Germany from November 11 to 17, 2019. The Panel team held meetings in Warsaw, Wroclaw and Berlin, and visited Project sites in the Klodzko Valley and along the Odra River at the German-Polish border. During its visit, the Panel team met with representatives of all nine groups of Requesters and other Project-affected people, staff in the World Bank's Country Office, officials from the Polish Ministry of Finance, the Ministry of Interior and Administration, the Ministry of Maritime Economy and Inland Navigation, Polish

[20] Management Response, p. 11.
[21] Management Response, p. 24.
[22] Management Response, p. 9.
[23] Management Response, p. 14.

Waters, the Project Coordination Unit (PCU) and the Project Implementation Unit (PIU) in Szczecin.

30. The Panel expresses its appreciation to all those mentioned above for providing valuable information and for sharing their views. Particular thanks go to the World Bank Country Office staff in Warsaw for its invaluable assistance with logistical arrangements, as well as the PCU and the Requesters from both Germany and Poland for sharing detailed information and providing their support during the Panel's visit.

31. The Panel's review is based on information presented in the Requests, the Management Response, other documentary evidence, and information gathered through conversations with different stakeholders before, during and following the Panel's visit to Poland and Germany. The following review covers the Panel's determination of the technical eligibility of the Requests according to the criteria set forth in the 1999 Clarification (subsection E.1), observations on other factors (subsection E.2), and the Panel's review (subsection E.3) supporting the Panel's recommendation.[24]

E.1. Determination of Technical Eligibility

32. The Panel is satisfied that the Requests meet all six technical eligibility criteria of paragraph 9 of the 1999 Clarifications. The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Requests as articulated by the Requesters, does not involve the Panel's assessment of the substance of the claims made in the Requests.

- Criterion (a): "*The affected party consists of any two or more persons with common interests or concerns and who are in the borrower's territory*." The Requests were submitted by representatives of German and Polish civil society organizations, private institutions operating in the Odra Valley and individuals living in the vicinity of the Border Odra on the German and Polish side as well as in the Klodzko Valley in Poland who allege harm to their environment and livelihoods. The Panel has met many of the Requesters during its visit and considers this criterion met.

- Criterion (b): "*The Request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the Requester*." The Requesters allege that the Project activities will cause serious harm to their environment and livelihoods due to non-compliance with several safeguard policies, including OP/BP 4.01 on Environmental Assessment, OP/BP 4.04 on Natural Habitats and OP/BP 4.12 on Involuntary Resettlement. The Panel is thus satisfied that this criterion is met.

- Criterion (c): "*The Request does assert that its subject matter has been brought to Management's attention and that, in the Requester's view, Management has failed to*

[24] "1999 Clarification of the Board's Second Review of the Inspection Panel", April 1999 ("the 1999 Clarifications") available at http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf.

respond adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures." The Panel has verified that the Requesters' concerns were brought to the Bank's attention at different occasions prior to the filing of the Requests.[25] The Panel is satisfied that this criterion is met.

- Criterion (d): "*The matter is not related to procurement*." The claims do not raise issues of procurement and thus this criterion is met.

- Criterion (e): "*The related loan has not been closed or substantially disbursed*." At the time of receipt of the Requests, the Project was 15 percent disbursed. Therefore, this criterion is met.

- Criterion (f): "*The Panel has not previously made a recommendation on the subject matter or, if it has, that the Request does assert that there is new evidence or circumstances not known at the time of the prior Request*." The Panel has not made a recommendation on the issues raised in these Requests, and thus this criterion is met.

E.2. Panel Observations Relevant to its Recommendation

33. In making its recommendation to the Board and in line with its Operating Procedures, the Panel considers the following: whether there is a plausible causal link between the harm alleged in the Request and the project; whether the alleged harm and possible non-compliance by the Bank with its operational policies and procedures may be of a serious character; and whether Management has dealt appropriately with the issues, or has acknowledged non-compliance and presented a statement of remedial actions that address the concerns of the Requesters. Below, the Panel records its preliminary observations on the alleged harm and compliance, noting that in doing so, it is not making any definitive assessment of the Bank's compliance with its policies and procedures and any adverse material effect this may have caused.

34. The Project subject to these Requests focuses on flood protection works in the two largest river basins in Poland, the Odra basin in the western part of the country and the Vistula in the middle and the eastern part of the country. Both rivers rise in the mountains and hills along the southern fringe, run in the northern direction into the plains, and discharge into the Baltic Sea.[26] The Odra River has a total length of 854 kilometers (km), of which about 160 km is the so-called Border Odra between Poland and Germany. The Odra River basin measures 122,000 km^2, of which 90 percent lies in Polish territory, and five percent each in German and Czech territories. Ninety-five percent of the Vistula River lies inside Polish territory while only minor portions of the upper watersheds are in the riparian countries of Slovakia, Ukraine and Belarus.[27]

35. **Rationale and Objective of the Project.** A common perception communicated to the Panel by Project-affected people, NGOs and several local experts was that the objective of the

[25] The Requesters shared with the Panel numerous correspondences with the Bank from 2015 onwards, including letters and emails with Bank staff both in Washington, D.C. and in the country office, as well as minutes of meetings with the Bank team.
[26] Project Appraisal Document (PAD), p. 27.
[27] Project Appraisal Document (PAD), p. 21.

Project is not flood protection, but rather waterway development and navigation. The Requesters claim that significant channeling of the Odra River, dredging of the Klucz-Ustowo Canal and the demolition and construction of a railway bridge in Podjuchy are clear indications of waterway development. A Project-affected ecotourism guide on the German side of the Odra River informed the Panel of concerns that any attempt to alter the river through either improved infrastructure or dredging for a disguised inland waterways project would have an adverse impact on the biodiversity, natural wilderness and flora and fauna, especially native birds.

36. Project-affected People in the Klodzko Valley contend that the government intends to convert the dry polders into multi-purpose reservoirs in order to control the flow of the Odra and Vistula rivers and therefore facilitate waterway development. They pointed the Panel to a government website announcement on consultations that would be conducted on drought prevention measures that mentions such measures in relation to the Project's dry reservoirs.[28] The Requesters are of the view that the dry polders are being built to unnecessary high specifications not needed to achieve their purpose. They are concerned that these polders would serve other political goals. [29]

37. Management explained to the Panel that the Project is being implemented as a flood protection project as agreed between the Bank and the government during Project preparation in 2015. The Panel understands that following the November 2015 elections in Poland, the new government signaled publicly its commitment to increase navigation on the Odra River. According to Management, there were discussions between the Bank and the government about including measures to improve navigability into the Project, but it was determined that the Project's original scope and development objectives did not allow for this. The Bank and government consequently agreed that the Project would not be modified, and any activity in support of an increase in navigability beyond Class III[30], which is required for icebreaking, would not be financed under it.[31]

38. In relation to the old bridge in Podjuchy, the Management Response clarifies that potentially a new bridge would run in parallel to the old one and that discussions are ongoing between Polish government authorities on a technical concept and implementation approach for this activity. In addition, Management told the Panel that subcomponent 1.B.5 related to the raising

[28] See: https://www.wody.gov.pl/aktualnosci/790-wody-polskie-prowadza-konsultacje-spoleczne-na-temat-powodzi-oraz-suszy

[29] Request for Inspection 7 and 8.

[30] The technical terminology annex to the Management Response explains that inland waterways are divided into navigation classes, which allows ranking waterways 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. Management Response, p. 56.

[31] Management Response, p. 20.

of five bridges to ensure a minimum clearance had been dropped from the Project, as this activity was not required to allow the passage of icebreakers.

39. Regarding the Klodzko Valley works, the Management Response indicates that the four dry polders were designed and are being constructed as single-purpose reservoirs, with the sole function of serving as flood-control reservoirs.[32] Management explained that the dry polders, based on their storage volume and construction design, could not easily be converted into wet polders and operated as such. Polish government authorities told the Panel that the Klodzko Valley has in recent years been experiencing severe droughts. Therefore, the government has been considering alternatives to combat the drought conditions, including through turning the dry polders into multi-functional polders. However, Polish authorities told the Panel that those plans were not within the scope of this Project, and that such a conversion would need to undergo extensive economic and technical studies and is not foreseen for the next five years. The Panel was also told that any such plans would be subject to extensive public consultation as per local and EU legislation.

40. The Panel notes that a dry polder is a reservoir made to trap overflow from surrounding rivers utilizing the natural landscape during heavy rains for the purpose of flood control. Therefore, dry polders are intended to allow the river to flow freely during normal conditions, but during periods of intense rainfall that would otherwise cause floods, the dam holds back the excess water, releasing it downstream at a controlled rate. The Panel understands that the dry polders will reduce the peak flow of the Odra River, and will prevent it from merging with the Klodzka River, thus reducing flood risk.

41. The Panel notes from discussions with the PCU and contractors of the polders that a conversion of the dry polders into multi-functional polders is not feasible within the current design of the polders, as they are designed to hold water for short periods of time only. The Panel observes that any conversion into wet polders to hold water indefinitely would require extensive design transformations.

42. An important element of the Requesters' concern that this Project serves navigation rather than flood-protection purposes is whether the planned river regulation activities go beyond facilitating icebreaker passage required for flood protection, and whether conventional icebreaking is even required for flood protection. This is discussed in the following paragraphs.

43. *Icebreakers for flood control in the Lower and Middle Odra*. The Requesters told the Panel that alternatives to icebreakers, which are the historical winter flow defense method on the Odra River, exist, such as amphibious excavators (AMPHIBEX type). These excavators do not need the water depth of a traditional icebreaker to cut the ice, and therefore some of the river regulating and dredging activities may not be necessary.

44. The Panel learned from the Management Response that the design of the flood risk prevention intervention was developed by the BAW and is based on the joint Polish-German Concept for Regulation, which was adopted by German and Polish authorities in 2014. The

[32] Management Response, p. 24.

Management Response states that the BAW concept accepts that the current river regulation system needs to be corrected by adjusting the locations of regulating structures and restoration of current meandering within the existing riverbed by slightly shortening or lengthening the groynes.[33] Management further clarifies that these activities will reduce the probability of ice jams and gradually eliminate areas where the river had become too shallow for icebreakers to operate. In addition, according to Management, this will improve navigation conditions for Class III navigation (1.8-meter depth), which is required for icebreakers to pass. Management explains that this depth is not enough for commercial navigation, which requires deeper waters (2.7 to 3 meters).[34]

45. The Panel learned from the PIU in Szczecin that prevention of ice backup and ensuring the free flow of water is the only way to reduce flood risk in the Lower and Middle Odra River. The Panel also understands from the Polish authorities that facilitating the passage of icebreakers was central to flood protection measures in the Lower and Middle Odra regions, and the current waterway river regulation was ineffective to allow icebreakers to pass through. Therefore, according to the PIU, to ensure the safe movement of ice down the river, existing regulating structures will need to be rehabilitated and modernized and ice backup areas eliminated. In addition, members of the PIU also added that river flow conditions will be standardized as laid out in the BAW design agreed upon between the Polish and German authorities.

46. The Panel understands that the Lower Odra River along the border of Germany and Poland freezes over regularly and that ice jams form when the slush ice and ice blocks accumulate. In such situations water levels can rise to 1.5 m in a very short time, causing overbank flooding. Furthermore, the Panel understands that the small bed slope of the lower reaches of the Odra River and the tidal backflow from the Baltic Sea promote the formation of ice and ice jam occurrences during cold weather conditions.[35] The Panel notes that currently ice jamming and ice jam flooding is mitigated by breaking the ice using fleets of icebreakers of both German and Polish water authorities. The Panel also understand that a hindrance to ice breakage is low water flow (and depth), which prevents vessels from being able to move along the river without grounding on the riverbed or sandbars.[36]

47. The Panel notes that the technical management of the joint icebreaking operation is governed by an agreement between Poland and Germany "*on cooperation in the field of water management on border waters"* of May 19, 1992. The cooperation consists of agreeing on the overall strategy for the joint fleet of icebreakers, conditions for including German icebreakers in the icebreaking action, and exchange of information on ice phenomena and related risks.[37]

[33] Management Response, p. 21.
[34] Management Response, p. 21.
[35] Development of an Ice Jam Flood Forecasting System for the Lower Oder River—Requirements for Real-Time Predictions of Water, Ice and Sediment Transport, 8 January 2019, p. 2.
[36] Development of an Ice Jam Flood Forecasting System for the Lower Oder River—Requirements for Real-Time Predictions of Water, Ice and Sediment Transport, 8 January 2019, p. 5.
[37] Report summarizing the conditions related to the icebreaking action on the border Odra river, Gdansk University, p. 6.

48. The Panel notes that the Project's ESMF indicates that the "*threat of flooding in winter is posed by ice backup formed by the existing barriers, which results in water damming and flooding of adjacent areas*."[38] It further explains that in order to protect the German and Polish riverside cities along the Lower and Middle Odra from floods, prevention and reduction of ice backup is needed. According to the ESMF, the facilitation of ice-breaking activities is thus the most effective way to reduce flood risks during the winter.

49. In regard to the concerns of Requesters that alternative ice-breaking excavators can be deployed on the Odra River, Management states that in response to the NGO suggestion of using AMPHIBEX type excavators instead of icebreakers, the Borrower investigated this alternative and prepared a report about it.[39] The Panel reviewed this report and notes its conclusion that AMPHIBEX devices may be applied for icebreaking operations, but that 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 report clarifies that the flow rate at the river mouth of the largest river where these devices are used, the Red River in the province of Manitoba, Canada, is half the flow rate of the Odra River, which has an average flow rate at its mouth of 535 m3/s. The Panel also notes that the report suggests that the devices are not cost efficient nor effective for the kind of ice-breaking activities required in the Odra River.[40]

50. **Framework, Structure and Categorization of the Project.** The Requesters contend that the Project infringes EU environmental legislation, including Natura 2000 and the Water Framework Directive (WFD). Furthermore, the Requesters also claim that the Project should have been classified as a Category A project like the earlier project.

51. The Management Response explains that the Project was developed under the framework of a FRMP**,** as required by the Floods Directive of the EU and the jointly agreed Polish-German Concept for Regulation.[41] It explains that the EU WFD mandates the preparation of River Basin Management Plans (RBMPs) every six years (the latest one is dated 2016). The FRMPs are prepared in the same cycle as (and in full compliance with) the RBMPs. Each of the FRMPs and RBMPs require Strategic Environmental Assessments (SEAs) as well as comprehensive public consultations.[42] The Management Response explains that the Bank's Project is implementing a subset of projects under the FRMPs, referred to as "List 1 measures" with low impact. The World Bank-financed activities are subject to the Bank's environmental and social safeguards and the Bank supervises the Project in line with these policies and procedures. Management also states that it is the Borrower's responsibility to ensure compliance with EU directives as required of EU member states.

[38] Environmental and Social Management Framework, p. 28.
[39] Kolerski T., (2018): Expert opinion on the use of amphibious excavators (AMPHIBEX type) for ice-breaking on the Odra. Management Response, p. 40.
[40] Report summarizing the conditions related to the icebreaking action on the border Odra river, Gdansk University of Technology, pp 27-28 and "Expert opinion on the use of the AMPHIBEX type of floating dredgers for icebreaking on the Odra River", Kolerski.
[41] Management Response, p. iii-iv.
[42] Management Response, p. 6.

52. Polish government authorities informed the Panel that the Project is being implemented in line with the WFD, floods directive, habitat and bird directives as well as the World Bank safeguards. In that regard, the PCU supervises the drafting of the EIAs and EMPs in line with Bank policies. The PCU told the Panel that the World Bank reviews the draft EMPs and provides substantive comments before they are released for public disclosure.

53. The ESMF explains that from 2007 to 2013, the first "generation" of RBMPs for all catchment areas was prepared based on extensive public consultations and the integration of water management and environmental objectives. The ESMF states that even though the 2013 plans were judged "*overall not compliant*" with the WFD, some of the plans did meet many of the specific WFD criteria and Bank requirements.[43] According to the ESMF, the European Commission's Director General on the Environment agreed in November 2014, upon the submission of new interim Updated Master Plans, that "List 1" projects that are well managed and do not require an analysis of the catchment area, could go ahead. Other items on "List 2" that are deemed complex and having a wide scope will require a full catchment area analysis through an acceptable RBMP after 2015. The Panel notes that the Project only implements a subset of projects from "List 1".

54. The Panel learned that the criteria for choosing investments under the Project 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.[44] The ESMF also explains that projects that would affect vulnerable nature areas, habitats and areas under nature conservation (including Natura 2000 sites) and would thus require more extensive option analyses, were outside the scope of the Project.

55. The Panel notes that as a member of the European Union, Poland is bound by the EU legal framework regarding EIA processes.[45] The Panel understands that the Bank conducted a Safeguard Diagnostic Review for Poland in 2012 that concluded that the Polish system of environmental and social due diligence is "*consistent enough*" with the World Bank environmental and social safeguard policies, both in terms of objectives and principles.[46] The report also states that the existing national environmental and social safeguards that reflect the EU Directives offer a scope for identifying and addressing environmental issues in a manner that satisfies the Bank's

[43] ESMF, p. 9.
[44] ESMF, p. 9.
[45] ESMF, p. 61. "Rules governing procedures on environmental impact assessments from international and community law (respectively the Aarhus convention and SEA, EIA, Habitats Directives) are transposed to the Polish legal regime by the Law of 3 October 2008 on access to information on the environment, public participation in environment protection and environmental impact assessments (Journal of Laws No 199, pos. 1227; hereinafter the EIA Law) and the Law of 16 April 2004 on the nature protection (Journal of Laws of 2013, pos. 627 as amended; hereinafter)."
[46] POLAND Environmental and Social Safeguards Use of Country System Safeguard Diagnostic Review Final Draft Report, June 26, 2012, p. 118.

environmental and social policies.[47] However, the Panel understands from Project documents and Management that the Bank decided to use its safeguard policies and not the borrower system for the Project. Project activities are thus governed by the application of relevant World Bank safeguard policies and the Bank is supervising the Project in line with them.[48]

56. The Panel further notes that the European Union is co-financing the Project and as such requires its funds to be used in compliance with the EU Directives. The Panel understands that the European Union oversees the implementation of its funds with a prior review of the largest investments, and an ex-post review of a sample of the rest. The Management Response explains that the obligation to ensure compliance with national and EU legislation is the responsibility of the Borrower.[49] The Panel notes that its role is to review the World Bank's adherence to its own policies and procedures and cannot comment on adherence to various EU directives.

57. *Categorization*. As discussed above, the Project focuses on a subset of the FRMP, referred to as "List 1," which includes low-impact, no-regret measures. According to the Management Response, Project implementation is based upon selecting sub-projects from the FRMPs using a framework approach following clear screening criteria.[50] Given the Project's design as a framework project and its focus on low-impact, no-regret measures, it was classified as a Category B.[51] In addition, the Management Response explains that the Project scope only includes about a quarter of "List 1" investments in line with its category B status. Certain sub-projects were excluded from the Project as they could not meet the stricter criteria of the Project's ESMF – notably where they would potentially affect vulnerable areas, habitats and/or riverine forests – including some Natura 2000 sites.[52] The Panel also notes that the Integrated Safeguard Data Sheet also states that the safeguard complexities of the Project were less challenging than those in the earlier Odra River Basin Flood Protection Project.[53] The earlier project was classified as Category A due to its large singular investments, including the relocation of an entire village of over 300 households**.**

58. **Environmental Assessment.** The Requesters contend that the EIAs underestimate the environmental impact and that not all biodiversity impacts were adequately assessed, especially as they relate to Natura 2000 sites and transboundary impacts. Furthermore, Requesters claim that cumulative impacts were not considered and that alternatives following the "room for the river" approach were not properly assessed.

59. *Environmental Impact Assessments.* Many of the Requesters claim that the EIAs for the Lower and Middle Odra River disregard the Project's impact on protected areas and Natura 2000 sites, particularly in Germany. Community members from Hohenwutzen town on the German side of the Odra River showed the Panel around an area where the 1997 flood had a severe impact.

[47] POLAND Environmental and Social Safeguards Use of Country System Safeguard Diagnostic Review Final Draft Report, June 26, 2012, p. 120.
[48] ISDS, para E.
[49] Management Response, p. 16.
[50] Management Response, p. 7.
[51] Management Response, p. 37.
[52] Management Response, p. 37.
[53] ISDS, para E.

They fear that the planned works under the Project will increase the flood risk. In the Klodzko Valley, the Requesters argue that the quality of the EIAs for the reservoirs is low. Some Requesters also told the Panel that they were concerned that the reservoir dams are being constructed based on faulty geomorphological information and are thus unsafe.

60. The Management Response explains that based on the framework approach applied to the Project, the ESMF requires all sub-projects to undergo an EA and prepare EMPs to mitigate the impacts identified, and subject these documents to consultations.[54] The Panel notes that the Management Response also indicates that in line with the obligations resulting from the environmental assessment legislation in Poland, the ESMF requires EIAs for specific types of activities, including if they might affect a Natura 2000 site.[55] The Management Response argues that the environmental assessments are in line with the requirements of applicable Bank policies and procedures, including OP/BP 4.01 on Environmental Assessment, OP/BP 4.04 on Natural Habitats, OP/BP 4.37 on the Safety of Dams and OP/BP 7.50 on Projects on International Waterways. The Panel notes that the WFD, the Flood Directive and the World Bank's Natural Habitat Policy (OP/BP 4.04) require the conservation of natural habitats and therefore support the protection, maintenance and rehabilitation of natural habitats for any project financing. The ESMF requires that all Project environmental assessment include a screening mechanism/criterion that ensures that no activities with significant impacts are included for implementation under the Project.[56]

61. Management explains in its Response that in the case of the Border Odra, the conclusions from the impact assessment were the result of detailed technical analysis and modeling using the concept of regulatory reconstruction of the Border Odra by BAW and expert opinions of scientists in the field of hydrology.[57] In regard to the dry polders in the Klodzko Valley, Management explains that the proposed four polders resulted from extensive technical studies. Furthermore, it explains that 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).*"[58] The Response also explains that EIAs and EMPs were prepared and that a full EIA was also done for the combined activities in the Klodzko Valley.[59]

62. The PCU told the Panel that extensive EIAs were conducted as per the World Bank policies for Environmental Assessment and Natural Habitat. In addition, the Panel was told that the Project also adheres to the requirements of EU Directive on Environmental Impact Assessment and the EU Directive for Strategic Environmental Assessment. The Panel understands that both directives aim to ensure that plans and projects that are likely to have significant effect on the environment are subject to an environmental assessment, prior to their approval or authorization. Consultation with the public is a key feature of the environmental assessment procedures.

[54] Management Response, p. 8.
[55] In practice, all 10 sub-projects for which the EA process has been completed so far have undergone an EIA as per requirements of Polish legislation.
[56] ESMF, p. 9.
[57] Management Response, p. 12.
[58] Management Response, p. 11.
[59] Ibid.

63. As is discussed in more detail below, all EIAs have been subject to a consultation process. The Panel notes that based on these consultation processes, changes have been made to the EIAs to address concerns raised by Project-affected people and address weaknesses. For example, the Panel notes that the documentation for the EIA of component 1.B.2 was revised to address all concerns raised by stakeholders. In discussions with Bank Management and the PIU in Szczecin, both parties confirmed that extensive comments received from the Polish and German sides necessitated revision of the EIA report. The Panel notes that a further example concerns the Miedzyodrze wetland, where based on several stakeholder comments detailed technical assessments of the flood retention potential of this wetland were undertaken. The Panel notes that based on these studies it was confirmed that the wetland could not be used to increase flood protection/retention and this activity was dropped from the Project.[60]

64. Regarding safety concerns relating to the dry polders, the Panel notes that following the Bank Policy on the Safety of Dams (OP/BP 4.37), the Borrower has set up a dam safety panel. The Panel heard from the PCU that an independent[61] panel of experts for the four polders in the Klodzko Valley has been convened and has been providing technical support for the past three years.

65. *SEAs, cumulative and transboundary impact*. The Requesters argue that the EIAs for the project works in the Lower Odra catchment basin have not adequately considered cumulative and downstream impacts. Project-affected people on the German side of the Oder River believe that impacts on the German side have not been adequately assessed. Requesters in the Klodzko Valley argue that the works there have not considered cumulative impact.

66. The Management Response explains that since the Project is implementing a subset of projects under "List 1" of the Flood Risk Management Plans (FRMPs), the FRMPs and River Basin Management Plan (RBMPs) were subject to a Strategic Environmental Assessment (SEA), as required by the Floods Directive and the Water Framework Directive, respectively. These plans were widely consulted upon before their adoption.[62] In addition, Management also explains that 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[63]

67. The Panel notes that the Management Response also explains that several assessments (Klodzko Valley FRMP – 2016; chapter 4 of the Attachment A2 to Strategic Impact Assessment for the FRMP), were undertaken to inform the selection of the four polders in the Klodzko Valley. These assessments did consider cumulative impacts and analyze alternatives. [64] The Panel review of the SEA for the Vistula River basin also indicates that various impacts are considered under

[60] Management Response, p. 34.
[61] Safety of Dams - OP/BP 4.37: When the Bank finances a project that includes the construction of a new dam, it requires that the dam be designed, and its construction supervised by experienced and competent professionals. It also requires that the borrower adopt and implement certain dam safety measures for the design, bid tendering, construction, operation, and maintenance of the dam and associated works. In certain types of dams, it requires that a panel of independent experts be employed.
[62] Management Response, p. 8.
[63] Management Response, p. 12.
[64] Management Response, p. 23.

both a zero-intervention scenario as well as a RBMP intervention, which also accounts for cumulative assessments.

68. The Panel notes that the EU WFD and Flood Directive require that a SEA precedes the EIA of proposed works. According to the ESMF, the RBMPs and FRMPs undertook SEAs. The Panel notes that the purpose of the SEA is to highlight likely significant effects on the environment and to indicate reasonable alternatives of the proposed plan. As noted above, the Project is only implementing a portion of the low risk projects outlined in "List 1" of the FRMP. Furthermore, the Panel notes that in regard to plans that are likely to have significant effect on "*the environment in another Member State, the Member State in whose territory the plan or programme is being prepared must consult the other Member State(s).*"[65] For these instances the Panel understands that the EU SEA Directive follows the general approach taken by the 1991 United Nations (UN) Convention on Environmental Impact Assessment in a Transboundary Context, also referred to as Espoo Convention.

69. The Panel notes that the WFD mandates individual member states in transboundary watersheds to establish or designate international mechanisms to coordinate and consult their national plans. The Panel learned from the PIU in Szczecin that Poland and Germany are coordinating under the UN Espoo Convention, to which both parties are signatories. At the time of its visit to Poland and Germany in November 2019, the Panel was informed that the EIAs concerning transboundary impacts are currently being discussed within the provisions of the Convention. The Panel notes that the Convention adds an additional overview of the EIAs for parts of the Project, in that it allows the Parties to assess the environmental impact of certain activities at an early stage of planning. It also lays down the general obligation of states to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across boundaries.[66] The Panel also understands that the Convention allows for public consultations and that in the event of disagreement, Article 3(7) of the Convention offers a procedure by which parties can solve differences by scientific, non-judicial means.[67]

70. *Biodiversity and landscape concerns*. During its visit, the Panel spoke to local community members in the Lower Odra Valley who are concerned that the Project's river regulation works will have a negative impact on the flora and fauna of the area. The Panel was told that river training activities have not been maintained by the Polish authorities over the past years, and the river has thus restored itself, resulting in unique biodiversity in the area. A local tour guide from the German side of the Border Odra, whose organization is a registered partner of the National Park Lower Odra Valley and whose livelihood derives from guided canoe trips and hiking in the National Park, told the Panel that from mid-July to mid-November, the Odra Valley becomes a special destination for those who want to experience the wild nature of the Oder floodplain up-close from a canoe. The Panel was told about the concerns that the Project would have a significant biodiversity impact on the 7.2- and 11-km canoe rides through the polder landscape on the backwaters of the Odra river. Some Requesters also contend that Natura 2000 sites were not adequately assessed on the Vistula River.

[65] https://ec.europa.eu/environment/eia/sea-legalcontext.htm
[66] https://www.unece.org/fileadmin/DAM/env/eia/documents/flyers/Flyer_Espoo_Convention_en.pdf
[67] ibid

71. In the Klodzko Valley, the Requesters are concerned about the dry reservoirs' impact on the local landscape, cultural values and integrity of some towns. The Panel was told the landscape will never be the same and that its beauty has been forever scarred. A Requester told the Panel that the felling of the trees during the construction of the dry polders is harming the environment and the habitats of birds and insects. The Panel heard from Project-affected people that they are concerned about the eagle owl *Buba bubo* that has a nesting place within the construction area of the Szalejów dry polder area. They contend that this specific eagle owl is a very rare breed and a protected species.

72. The Management Response explains that the results of the biodiversity assessments showed no significant adverse impact on sensitive habitats, including Natura 2000 areas for all components of the Project undertaken thus far. The Management Response also states that biodiversity field inventories were undertaken for all EIAs. The PIU in Szczecin informed the Panel that no dredged material or construction materials will be stored in groyne fields and that mainly natural materials such as stone and wood will be used for the rehabilitation works in order to reduce any biodiversity impact. The Project team also told the Panel that construction works will be carried out outside the spawning season to limit impact on fish. The PIU team assured the Panel that biodiversity impacts on both the Polish and German side were considered and that potential impacts on Natura 2000 sites were included in the EIA process.

73. The Panel notes that the Odra River Valley has a high content of conservation areas, such as national parks, Natura 2000 and landscape parks. It also notes that the ESMF for the Project outlines the importance of the riparian and hornbeam forests, situated in various parts of the river valley, as well as animal species, especially birds associated with them. The Panel observed that the ESMF states that the Valley of the Odra River also performs an important function as an ecological corridor connecting northern and southern regions of Poland as well as a migratory route for fish migrating between the upper part of Odra River Basin and the Baltic Sea.[68]

74. The Panel notes that the ESMF requires the EIAs to review potential impacts on biodiversity and habitats, including Natura 2000 sites. The ESMF states that in the Kłodzko Valley only one of the sub-projects is within the section of the riverbed subject to conservation – Natura 2000 site and partially a landscape park – due to the occurrence of valuable vegetation and fish species.[69]

75. Regarding the dry polders in the Klodzko Valley, the PCU told the Panel that field inventories of protected flora and fauna species were carried out when developing the respective EIAs. The Panel was told by the PCU that inventories of habitats protected under the EU Habitat Directive were also carried out. The Panel notes that the eagle owl *Buba bubo* is listed in Polish Red Book due to its scarcity and is protected under international conventions. The Panel learned from contractor staff working on the Szalejów dry polder that eagle owls that were found within the planned construction sites were relocated. Following the habitat restoration requirements of the WFD, a breeding platform for the eagle owl was built within the Szalejów dry polder area.

[68] ESMF, p. 14.
[69] ESMF, p. 15.

76. The Panel understands that much of the landscape impact during the construction of the dry polders is temporary and the topsoil will be returned during landscape restoration. The contractor of the Szalejow dry polder also spoke to the Panel about the habitat and landscape restoration plans that are laid out in the EMP. According to the contractor, trees will be replanted, and the landscape returned to its original state when construction works are completed.

77. *"Room for the river."* Requesters argue that the FRMPs and EIAs have not considered more environmentally friendly alternatives following the "room for the river" approach. The Panel notes that the "room for the river" approach is to give the river more room to be able to manage higher water levels.

78. The Management Response explains that one of the criteria for selecting sub-projects under "List 1" was to allow for "room of the river". The Response notes that this approach was part of the alternatives analysis, and was adopted for some sections, such as the 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.[70]

79. This "room for the river" approach may be achieved through lowering the floodplain, deepening the summer bed, relocating and strengthening dikes, removing obstacles, employing techniques to drain excess water, redesigning groynes etc. The Panel notes that the aim of the approach is thus to design measures in such a way that they improve the environmental quality of the immediate surroundings. The Panel in its review of the ESMF noted that it clearly spells out "room for the river" as one of the criteria for choosing sub-projects.[71] During its site visit, the Panel also observed that in the Hohenwutzen area the natural course of the Odra River had been diverted centuries ago and people have settled in the area where the river once flowed and conduct extensive agricultural and commercial activities there, making some of the measures of the "room for the river" approach not feasible.

80. **Consultation, Participation and Information Disclosure.** During the Panel's visit to Poland and Germany many of the Requesters and their representatives told the Panel that they attended consultations during different phases of the Project but have concerns about the adequacy and meaningfulness of the consultation process. They claimed that experts in flood management and representatives of local civil society were not sufficiently involved in Project preparation. The explained that especially in Germany, public participation in consultation meetings was limited and participants lacked adequate and timely information in an accessible format, as Project information was not available in German and in non-technical language. The Panel also spoke to individuals living near the Border Odra on the German side who were not aware of consultations about the Project and felt they lacked information about the scope of works and anticipated impacts. The Panel observed uncertainty and misinformation among Project-affected people about different aspects of the Project, including whether the Project's dry reservoirs in the Klodzko Valley were being constructed as wet reservoirs and about the extent of Project interventions on the Border Odra River, leading to anxiety and distrust.

[70] Management Response, p. 10.
[71] ESMF, p. 9.

81. The Panel notes that, according to Management, the Project's design was informed by FRMPs and RBMPs that included comprehensive multi-stakeholder consultations. These were conducted by the government in 2014 and 2015 at the national, regional and local levels and with NGOs, as mandated by the relevant EU Directives. During its meeting with the PUI in Szczecin, the Panel learned about the consultations that took place on the safeguard instruments, such as EIAs and RAPs, in Poland and, for transboundary activities, in Germany. The Management Response explains that during implementation the location and design of further investments under the Project will continue to be subject to public information and consultation.[72]

82. As part of the Project's preparation, a notification process for all riparian countries to the Odra and Vistula rivers, including Germany, Czech Republic, Belarus, Slovakia and Ukraine, was initiated in September 2014 based on the Bank's Policy on International Waterways, OP 7.50. By the deadline of January 31, 2015, no objections were received, and Slovakia sent a letter supporting the Project and requested that information be shared in the event that there would be works on the upper part of the Dunajec near the border. [73]

83. In its meeting with Bank Country Office staff in Warsaw, the Panel was told that after concerns about the Project had first been raised to the Bank in 2015, the Bank has been in regular contact with concerned groups and individuals. The Bank has reached out to NGOs during missions to discuss various concerns and possible solutions, has consistently responded to letters and has worked with the government and implementation teams to strengthen stakeholder engagement. The Management Response includes a timeline of the formal interactions of the Bank's task team with different complainants, which includes the dates of the correspondence, the key issues raised and the Bank's response.[74] Bank staff explained that they have made efforts over the years to proactively engage with known German and Polish civil society groups beyond the specific Project, including through targeted invitations to the consultation process for the Country Partnership Framework in 2018.

84. The Panel understands that, based on feedback from different stakeholders, including NGOs, several activities that were initially proposed under the Project have been refined or dropped. Consultations for Component 1 have led to significant adjustments of the scope of its works.[75] Regarding the planned works in the Miedzyodrze wetland, the Panel learned that during feasibility and technical assessment studies, multiple meetings with different stakeholders took place and, based on the conclusions of the assessments and inputs during consultations, the conclusion was reached that this wetland cannot be used to increase flood protection. Consequently, this activity was dropped from the Project and a final closing report was being finalized for dissemination to all stakeholders.[76]

85. Management further explains that in April 2019 community protests in the Klodzko Valley raised concern about stakeholder engagement and consultations, potential loss of cultural assets and livelihoods, resettlement and inadequate analysis of alternatives and potential adverse impact

[72] Management Response, pp. 13, 32 and 33.
[73] Project Appraisal Document (PAD), p. 21.
[74] Management Response, pp. 48 – 51.
[75] Management Response, p. 34.
[76] Aide Memoire, May 2019, p. 4.

from the operation of the reservoirs. A Bank team visited the area in May 2019 and established that the stakeholder communication and engagement as part of the technical studies was indeed weak and limited and, as a result, incomplete and/or wrong information was shared through social media, causing anger and distrust among the affected communities. For example, people believed that another nine dry reservoirs would be constructed under the Project, while options for further flood protection measures were still being studied and no funds had been allocated for such interventions. The Management Response explains that the government consequently decided to pause the technical studies to continue stakeholder engagement on the need for complementary passive flood protection in Klodzko Valley before undertaking any further technical studies.[77]

86. The Management Response provides a detailed timeline of consultations for activities under sub-component 1.B.2, which focuses on the modernization works on the Border Odra and Lower Odra to provide good conditions for icebreaking in the winter. This consultation process is still ongoing, and the timeline shows the steps already taken in the cross-border EIA procedure, as well as those planned going forward.[78] Following feedback after the first round of consultations on this component in October 2018, the Bank noted that communications regarding the consultation had not been done in a timely manner and the EIA draft report translation into German needed strengthening. The Bank thus requested the government to prepare a new translation. Subsequently, a new round of consultations was organized in August 2019 based on the improved documentation.[79] According to the Management Response, this experience has been taken as an important lesson learned and the Bank has raised the importance of further strengthening its consultation, communication and outreach efforts to the Borrower.

87. Bank staff acknowledged to the Panel the need to improve information sharing with civil society organizations and Project-affected people about the Project in a timely and accessible manner. The Panel learned that external communication has not been a priority within the PCU, which did not include a communications specialist until recently. The Management Response explains that as part of the Mid-Term Review for the Project, Management plans to focus on further strengthening the capacity for communication and community outreach of the PCU and the PIUs. The Panel understands that additional staff have been hired by the PCU/PIUs to support communications and stakeholder engagement; two senior communications and stakeholder engagement specialists were recruited for the PCU and the PIU in Wroclaw in November 2019. They will work in liaison with social development specialists in other PIUs.[80]

88. **Involuntary Resettlement.** During its time in the Klodzko Valley, the Panel met with local people affected by land acquisition and resettlement for the Project's dry reservoirs. They included the family referred to in the ninth Request that is affected by the Szalejow Reservoir and is awaiting a final decision on their resettlement, an individual who lost meadows near the same reservoir and is disputing the compensation amount in administrative proceedings, and another family that is being physically displaced by the Boboszow Reservoir.

[77] Management Response, pp. 26 and 27.
[78] Management Response, pp. 45 – 47.
[79] Management Response, pp. 13, 32 and 33.
[80] Management Response, p. 15.

89. At the Szalejow Reservoir, the Panel visited the home of the family mentioned above and could observe the close proximity of their house and backyard to the Project activities. The Panel understands the likely impact on them from living in such close distance to ongoing works. The family explained that they suffer from construction-related noise and pollution and a lack of privacy and have been living in constant stress and uncertainty for many years while waiting for a decision regarding their resettlement and compensation. They told the Panel that they also feared health and safety impact. They further explained to the Panel that their two elderly neighbors, with whom they share the larger property, did not agree to be resettled.

90. According to them, since 2014 they have been asked whether they would like to remain on their property or preferred a different solution. They explained that they attended several meetings with Project authorities to discuss these issues and concluded that the best solution would be to move. They referred to meetings in 2016, where they were told that they would not be fully compensated and were asked to submit a written application, which they filed in November 2016. According to the them, during a meeting in December 2017 they were told that the buyout of their property would not take place. Only in July 2018, did they receive a response to their 2016 application for resettlement, which was rejected. In the following months, they did not agree to compensation offers as they had several issues with the recording and valuation of their assets, had lost trust in the process and felt that actions taken by the Project authorities were in bad faith and to their disadvantage.

91. The Panel understands that site-specific RAPs have been prepared, consulted upon and disclosed. According to the Management Response, eight households have been identified for resettlement to date under the overall Project and no further large-scale resettlements are expected.[81] The Response explains that for the Szalejow Reservoir, consultations and information sharing began in 2013, individual consultations regarding the RAP preparation took place with directly affected people, including the family awaiting resettlement, from November 2015 through 2016, and the RAP was finalized in March 2017. The RAP covered 50 Project-affected people, with one household to be physically resettled. According to the Management Response, the private land affected by the Szalejow Reservoir mostly consists of meadows, pastures, arable agricultural land and wooded areas. However, a plot co-owned by the family of the ninth Request and two other individuals required partial expropriation. Their household was listed in the RAP among the affected people whose land would be partially affected, and cash compensation was to be provided.[82] According to Management, 96 percent of the compensation for affected people identified in the RAP for the Szalejow Reservoir has been paid, including this household. The remaining 4 percent are appeals currently being processed by local authorities.[83]

92. The Management Response states that once the construction works began in the fall of 2018 and their impact on the affected people became evident, one of the co-owning households of the property, the family mentioned above, rejected the partial compensation and asked for compensation for the full value of the land and residential unit.[84] In September 2018, the Bank and PCU social specialists met with the family to better understand their concerns and further technical

[81] Management Response, p. 37.
[82] Management Response, pp. 27 and 28.
[83] Management Response, p. 14.
[84] Management Response, p. 13.

assessments were consequently conducted. In May 2019, the Bank and PCU team conducted another site visit to the area to understand the impact of civil works on the quality of life there. According to the Management Response, at that time the Bank and the government determined that the affected family's additional compensation claims were not unreasonable and asked the PIU to investigate how the entire property of the family could be acquired, while the other co-owners could remain on the property as they wished. In July 2019, the PIU/PCU formally requested the government to purchase the family's property shares and residence. Subsequently, numerous communications took place between different ministries, Polish Waters and the PIU to identify the best option for completing this purchase.[85]

93. The Management Response explains that no final resolution has been reached as the matter is challenging from an administrative standpoint because only one share of the co-owned property needs to be purchased. According to Management, the PIU was working with the PCU to find a solution as there is no legal basis in Polish Law for Polish Waters to purchase the property.[86] The Response explains that a possible solution has been identified and discussions are underway within the government and with the affected persons.[87] According to the Management Response, the Bank would meet with the Steering Committee during its Mid-Term Review visit in November 2019 to request an immediate resolution.[88] After the Mid-Term Review visit and before the finalization of this report, the Panel met with Management and learned that a solution has been identified that is in line with Polish law and the Bank's Involuntary Resettlement Policy, and that negotiations with the family were ongoing. Bank Management is expecting a resolution within the next few weeks.

94. During its visit, the Panel also met with a family affected by the construction of the Boboszow Reservoir. They explained that they derive their livelihood from breeding horses and horseback riding tours and own approximately 40 horses. They also own a small hotel in a town some kilometers away. According to them, they could keep 10 hectares of their land, but lost seven hectares for which they have been offered compensation. They state they were informed in 2012 that they would have to leave their house and other structures, which are located on the seven hectares being acquired for the reservoir, with immediate effect but have since been informally allowed to continue using their structures, consisting of their house, garden, stables, breeding facilities and food storage. However, they explained that they were told that they would have to stop using these facilities within the next couple of months.

95. They explained to the Panel that they were planning on rebuilding their structures in the vicinity of their current location, on the remaining part of their land. They told the Panel that the contractor should have constructed an access road to the remaining lands so they could build their new house and other structures, but there were major delays and the road has been finished only recently, too late to start construction before the winter. They told the Panel that some of their family members stay at their hotel in town, but due to the need to supervise the horses, some family members remain in their old home. Due to the need to abandon their house soon, the family constructed a basic temporary structure, a type of tent, where some of them plan to stay over the winter. The Panel was also told that this family has been renting another 50 hectares of land from

[85] Management Response, p. 29.
[86] Management Response, p. 29.
[87] Management Response, p. 14.
[88] Management Response, pp. 27 - 29.

the local authority for their horses to graze on and continue to do so, but because of the reservoir construction they are concerned about losing access for their horses to pass to these lands.

96. During the Panel's meeting with Management before the finalization of this report and in subsequent communications, the Panel was told that the access road was completed on May 28, 2019, the trial water wells were completed in June 2019 and the necessary utilities to start construction works were provided since the end of June 2019. Management informed the Panel that in accordance with the latest arrangements with the family, they will vacate the property no later than January 31, 2020. However, Management committed that the Bank team will continue to monitor this process and ensure that the property is demolished only after the family has relocated to known and adequate premises.

E.3. The Panel's Review

97. The Panel acknowledges the serious concerns of the Requesters in both Germany and Poland and appreciates their substantive submissions and the productive discussions with them during the Panel's visit. The Panel also acknowledges Management's detailed response to the issues raised and readiness to provide further information. The Panel notes that some of the concerns raised go beyond the Bank's Project and thus wishes to highlight that the observations in the preceding section and the discussion below are focused on the World Bank's compliance with its own policies and procedures in relation to the activities financed under the Bank's Project. At the outset, the Panel notes that due to the Project's phased approach to environmental assessment, many aspects of sub-projects' design and preparation are still underway, such as the preparation of the EIAs and relating consultation processes, and that there continue to be opportunities for stakeholders to engage. The Panel also notes that the stakeholder engagement process appears to have worked reasonably well, with several design changes and additional mitigation measures resulting from inputs during formal consultations and other interactions with interested groups and affected people.

98. The Panel notes that the Project was designed as a flood protection project and observes that all stakeholders agree with the need to prevent and manage floods. The Project has studied different alternatives to achieve this goal and has concluded that the facilitation of ice breaking is the most effective way to reduce flood risks in winter. Of further note is that the use of alternative equipment for ice breaking was studied by experts but the conclusion was reached that the conventional icebreakers are the most effective and cost-efficient option. According to Project documents, the Project was designed to only support interventions to allow icebreakers to operate on the Border Odra, and that more extensive works would be required to achieve the navigability class needed for commercial navigation, which is the main environmental concern of the Requesters. The Panel notes that the Bank has been candid in explaining that it was approached by the Polish Government to discuss the feasibility of restructuring the project to support navigation, but made it clear to the Borrower that the current design and objectives of the Bank-supported Project would not allow for a conversion from a flood protection project into an inland waterway or navigation project. Similarly, the Panel notes that the conversion of the dry polders into multi-purpose reservoirs is not supported by the Bank and is not feasible within the current project design. Overall, the Panel reiterates that there is no indication in available Project documents that the Project has been converted into anything other than a flood protection project,

and thus there appears to be no plausible causal link between the potential harm alleged in the Requests and the Project.

99. The Panel observes that according to Management, the Project's flood protection measures are based on policy and regulatory documents under the Water Framework Directive, including River Basin Management Plans that are fully compatible with EU requirements.[89] The Project focuses on low-impact, no-regret measures, referred to as "List 1" measures of the Flood Risk Management Plans. The ESMF for the Project established a process by which any sub-projects that might be deemed potentially complex and requiring more comprehensive analysis would not be supported by the Project. Such sub-projects from "List 1" were excluded from the Project as they could not meet the stricter criteria of the ESMF – notably where they would potentially affect vulnerable areas, including Natura 2000 sites. A combination of these approaches, together with the Project's risk-based environmental assessment, led to the classification of the Project as a Category B.

100. In response to concerns that the environmental impact of the Project has been underestimated, including cumulative and transboundary impact, and that alternatives for "room for the river" have not been adequately assessed, the Panel notes that the ESMF requires all sub-projects to undergo an EA and prepare EMPs to mitigate impacts and subject these documents to consultations. The Panel notes that, based on these consultation processes, several changes have been made to the EIAs to address concerns raised by the Project-affected people and to address weaknesses. In regard to the dry polders in the Klodzko Valley, assessments were undertaken to inform the selection of the polders, which considered cumulative impact and analyzed alternatives. A dam safety panel has also been set up for the polders, with independent experts providing technical support for the last three years. The Panel notes that SEAs were undertaken for the FRMPs and RBMPs, and that Poland and Germany are coordinating under the UN Convention on Environmental Impact Assessment in a Transboundary Context. The Panel further notes that the biodiversity assessments showed no significant adverse impact on sensitive habitats, including Natura 2000 sites, that landscape restoration will be conducted and that the "room for the river" approach has been studied.

101. The Panel observes that multi-stakeholder consultations took place for the FRMPs and RBMPs, as well as the EIAs and RAPs, and that during implementation, the location and design of further investments under the Project will continue to be subject to consultation. It appears that the Bank team has had regular interactions with concerned groups over the years, has been responsive to queries and has made efforts to proactively engage known civil society groups. Bank staff have acknowledged the need to improve information sharing about the Project in a timely and accessible manner, and steps are being taken to strengthen the capacity for communication and community outreach of the PCU and PIUs, through hiring of additional specialized staff.

102. With regard to the complaint about involuntary resettlement near the Szalejow Reservoir, the Panel notes that the Bank reported that a solution has been identified, which is in line with Polish law and the Bank's Involuntary Resettlement Policy, and that negotiations with the affected household are ongoing. Bank Management committed to follow up with the government to find a timely resolution of this issue. For the household affected by the construction of the Boboszow

[89] Management Response, p. 38.

Reservoir, the Panel notes that required facilities, such as an access road, wells and necessary utilities for construction, were provided and Management committed to monitor this process and ensure that the affected property is demolished only after the household has relocated to adequate premises.

F. Recommendation

103. The Panel notes that the Requesters and the Requests meet the technical eligibility criteria set forth in the Resolution that established the Inspection Panel and the 1999 Clarification. However, based on the observations noted above, and considering the Project's design and measures to address the Requesters' concerns, the Panel does not recommend an investigation.

104. In making its recommendation the Panel has taken into account the design of the Project, including its mitigation measures, adjustments that were made over time following outcomes of the phased environmental assessment process, which included changes resulting from stakeholder input during consultations, as well as Management's commitments to assist the Borrower in strengthening capacity for communication and community outreach and monitor the resolution of outstanding resettlement issues.

105. The Panel notes that this recommendation does not preclude the possibility of a future Request for Inspection based on new evidence or circumstances not known at the time of the current Request.

106. If the Board of Executive Directors concurs with this recommendation, the Panel will advise the Requesters accordingly.

ANNEX 1

Requests for Inspection

THE WORLD BANK
IBRD • IDA | WORLD BANK GROUP

COMPLAINT (REQUEST FOR INSPECTION) FORM

To:

The Executive Secretary, The Inspection Panel, The World Bank, MSN: MC 10-1007
1818 H St., NW, Washington, DC 20433, USA. Fax: +1(202)-522-0916. Email: ipanel@worldbank.org

Section 1: Complaint

1. What harm do you believe the World Bank-financed project caused or is likely to cause to you or your community? Please describe in as much detail as possible.

The Odra-Vistula Flood Management Project (OVFMP) in Poland is also processed at the German-Polish Border River Oder with many protected areas (EU Natura 2000, National Parks, etc.) and huge biodiversity in the river and its shores. We are representing several German nature conservation and environmental NGOs. However, we observe the planned implementation in the River Oder area with deep concerns, because the transboundary project components infringe on EU environmental law (specifically Natura 2000 directives and the Water Framework Directive) and rises flood risks. There has also been a notable lack of participation with NGOs and experts in flood management in developing this project, which has unfortunately concluded in a project which resembles a thinly veiled waterway project rather than a viable flood management scheme. Also, the public participation of German citizens lives not up to European standards (e.g. by providing information in German in non-technical language in reasonable time). The quality of the Environmental Assessment is very low and disregards systematically the impact on the German protected areas in the Oder valley. As such, the safeguards outlined by the World Bank have not been fulfilled. Selected examples and a timeline are attached.

2. What is the name of the World Bank project? (If known)

Odra-Vistula Flood Management Project (Project ID: P147460)

3. Where is the World Bank project located? (Please include country name)

Poland, but with transboundary consequences for Germany

4. Do you live in the project area?

Yes, we live in the project area.

5. Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

The represented German nature conservation and environmental NGOs sent several letters to The World Bank, e.g. to the president Mr. Kim (2016-08-10) and to the German executive directors Ms. Müller (2016-06-14) and Mr. Zattler (2018-11-27). The NGO representatives also got in personal contact with The World Bank mission teams in 2018 and 2019. The NGOs participated in the transboundary Environmental Impact Assessment. A timeline with relevant events is attached.

6. If known, please list the World Bank's operational procedures you believe have not been followed.

OP 4.01 - Environmental Assessment; OP 4.04 - Natural Habitats; OP 7.50 - Projects on International Waterways;

7. Do you expect any form of retaliation or threats for filing this complaint to the Inspection Panel?

No, we do not expect any form of retaliation or threats.

Section 2: Contact Information

8. Are you complainants or a representative of complainants?
   Complainants: ☐ Representing a complainant or community: ☒

9. Would you like your name and contact details to be kept confidential? *(The Inspection Panel will not disclose your identities to anyone without your prior consent.)* Yes ☐ No ☒

10. Complainants' Names (Minimum two names and signatures are required):

Complainant 1	Complainant 2
Name [redacted]	Name [redacted]
Address Deutscher Naturschutzring (German League for Nature and Environment) Marienstr. 19-20 10117 Berlin Germany	Address BUND Brandenburg (Friends of the Earth Brandenburg) Mauerstr. 1 14469 Potsdam Germany
Phone [redacted]	Phone [redacted]
Email [redacted]	Email [redacted]

11. We, the undersigned, request the Inspection Panel to investigate the issues described above.

Signatures *(More signatures can be sent as an attachment document):* [redacted]

NOTES:

- Please attach supporting documents, if available.
- If you have any difficulty in completing the form, please contact the Inspection Panel at ipanel@worldbank.org or by phone: +1-202-458-5200.

List of Signatures Authorizing DNR and BUND Brandenburg in the Complaint versus The World Bank's Odra-Vistula Flood Management Project (Project ID: P147460)

State: 7/15/2019

NGOs in the Project Area

1.	[redacted]	on behalf of NABU Oderland e.V., Neuentempel 29, 15306 Vierlinden, Germany
2.	[redacted]	on behalf of NABU Schwedt/Oder, Germany
3.	[redacted]	on behalf of NABU Regionalverband NABU Frankfurt (Oder), Lindenstraße 7, 15230 Frankfurt (Oder), Germany
4.	[redacted]	on behalf of BUND Kreisverband Frankfurt (Oder), Lindenstraße 7, 15230 Frankfurt (Oder), Germany
5.	[redacted]	on behalf of ADFC Frankfurt (Oder), c/o Jens Möbis, Juri-Gagarin-Ring 44, 15236 Frankfurt (Oder)

Individual Persons in the Project Area

No.	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
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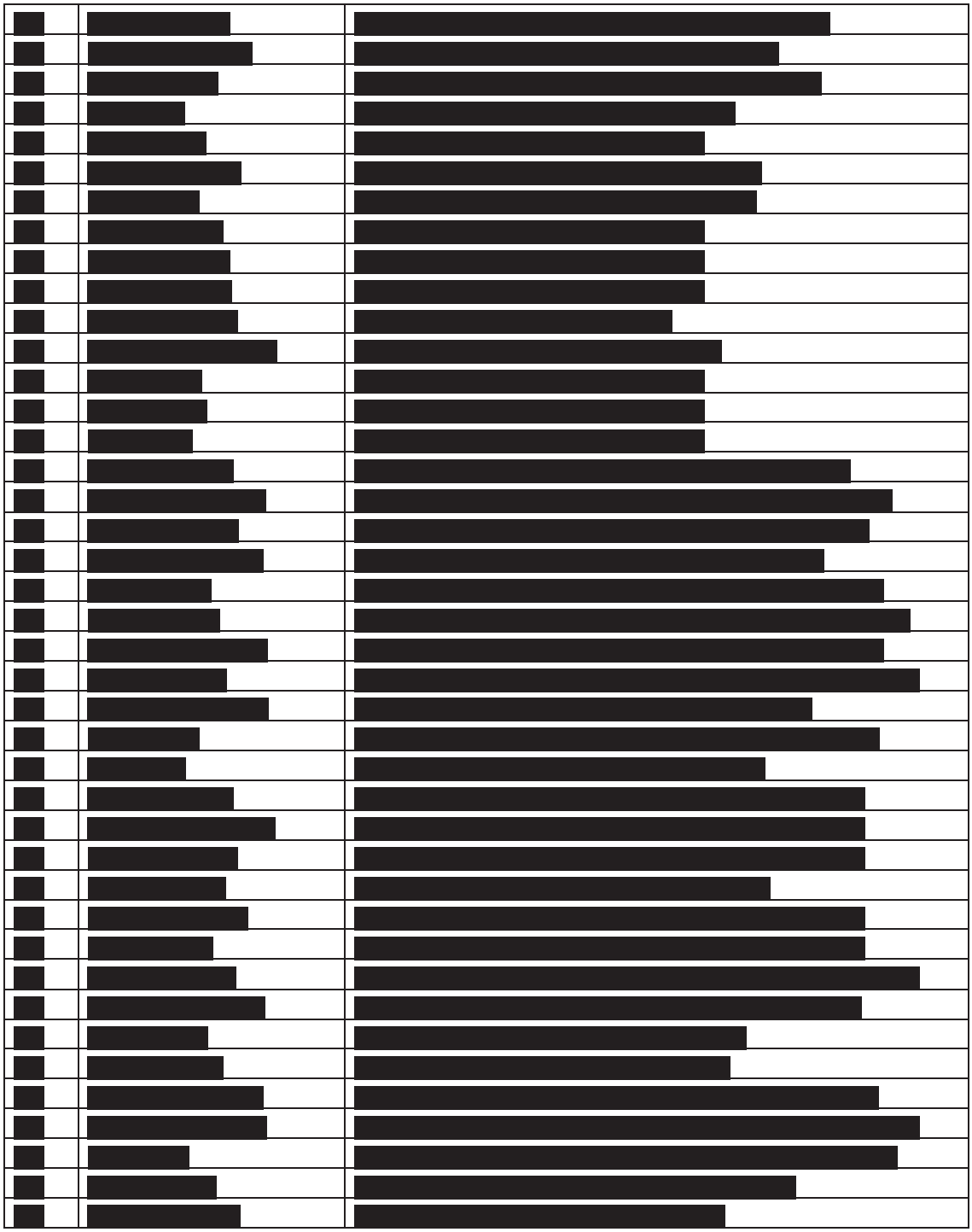

The Executive Secretary - The Inspection Panel

The World Bank

MSN: MC 10-1007

1818 H St., NW

Washington, DC 20433

USA

per Email: ipanel@worldbank.org

Vierlinden-Oderland, 10.07.2019

Authorizing DNR and BUND Brandenburg in the Complaint versus The World Bank's Odra-Vistula Flood Management Project (Project ID: P147460)

Autorisierung des DNR und des BUND Brandenburg in der Beschwerde gegen das Odra-Vistula-Hochwassermanagement-Projekt der Weltbank (Projekt-Nr.: P147460)

We are the local district organization of NABU (Nature And Biodiversity Conservation Union) in Märkisch-Oderland. Our members I live in the area of The World Bank's Odra-Vistula Flood Management Project (OVFMP) at the German Polish border and are affected by the project. We hereby authorize the umbrella organization Deutscher Naturschutzring (German League for Nature and Environment) and BUND Brandenburg (Friends of the Earth Brandenburg) to pursue the complaint versus The World Bank's Odra-Vistula Flood Management Project.

Wir sind der lokale Kreisverband des NABU (Naturschutzbund Deutschland e.V.) in Märkisch-Oderland. Unsere Mitglieder leben im Bereich des Odra-Vistula Hochwassermanagement-Projekts (OVFMP) der Weltbank an der deutsch-polnischen Grenze und sind von dem Projekt betroffen. Hiermit ermächtige ich den Dachverband Deutscher Naturschutzring und den BUND Brandenburg, die Beschwerde gegen das Odra-Vistula Flood Management Project der Weltbank weiterzuverfolgen.

10.07.2019

Date, Signature

The Executive Secretary - The Inspection Panel

The World Bank

MSN: MC 10-1007

1818 H St., NW

Washington, DC 20433

USA

Schwedt, 09.07.2019

per Email: ipanel@worldbank.org

Authorizing DNR and BUND Brandenburg in the Complaint versus The World Bank's Odra-Vistula Flood Management Project (Project ID: P147460)

Autorisierung des DNR und des BUND Brandenburg in der Beschwerde gegen das Odra-Vistula-Hochwassermanagement-Projekt der Weltbank (Projekt-Nr.: P147460)

We are the local district organization of NABU (Nature And Biodiversity Conservation Union) in Schwedt/Oder. Our members I live in the area of The World Bank's Odra-Vistula Flood Management Project (OVFMP) at the German Polish border and are affected by the project. We hereby authorize the umbrella organization Deutscher Naturschutzring (German League for Nature and Environment) and BUND Brandenburg (Friends of the Earth Brandenburg) to pursue the complaint versus The World Bank's Odra-Vistula Flood Management Project.

Wir sind der lokale Kreisverband des NABU (Naturschutzbund Deutschland e.V.) in Schwedt/Oder. Unsere Mitglieder leben im Bereich des Odra-Vistula Hochwassermanagement-Projekts (OVFMP) der Weltbank an der deutsch-polnischen Grenze und sind von dem Projekt betroffen. Hiermit ermächtige ich den Dachverband Deutscher Naturschutzring und den BUND Brandenburg, die Beschwerde gegen das Odra-Vistula Flood Management Project der Weltbank weiterzuverfolgen.

09.07.2019, [redacted] [redacted]

NABU RV Frankfurt (Oder) · Lindenstraße 7 · 15230 Frankfurt (Oder)

The Executive Secretary - The Inspection Panel
The World Bank
MSN: MC 10-1007
1818 H St., NW
Washington, DC 20433
USA
per Email: ipanel@worldbank.org

Authorizing DNR and BUND Brandenburg in the Complaint versus The World Bank's Odra-Vistula Flood Management Project (Project ID: P147460)

Autorisierung des DNR und des BUND Brandenburg in der Beschwerde gegen das Odra-Vistula-Hochwassermanagement-Projekt der Weltbank (Projekt-Nr.: P147460)

We are the local district organization of NABU (Nature And Biodiversity Conservation Union) in Frankfurt (Oder). Our members I live in the area of The World Bank's Odra-Vistula Flood Management Project (OVFMP) at the German Polish border and are affected by the project. We hereby authorize the umbrella organization Deutscher Naturschutzring (German League for Nature and Environment) and BUND Brandenburg (Friends of the Earth Brandenburg) to pursue the complaint versus The World Bank's Odra-Vistula Flood Management Project.

Wir sind der lokale Regionalverband des NABU (Naturschutzbund Deutschland e.V.) in Frankfurt (Oder). Unsere Mitglieder leben im Bereich des Odra-Vistula Hochwassermanagement-Projekts (OVFMP) der Weltbank an der deutsch-polnischen Grenze und sind von dem Projekt betroffen. Hiermit ermächtige ich den Dachverband Deutscher Naturschutzring und den BUND Brandenburg, die Beschwerde gegen das Odra-Vistula Flood Management Project der Weltbank weiterzuverfolgen.

[redacted]

Regionalverband Frankfurt (Oder

Axel Bialas
Vorsitzender

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Info@NABU-Frankfurt-Oder.de

Frankfurt (Oder), 11.Juli 2019

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USt.-IdNr. DE 061/142/04003

The Executive Secretary - The Inspection Panel

The World Bank

MSN: MC 10-1007

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Washington, DC 20433

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per Email: ipanel@worldbank.org

Frankfurt (Oder), den 11.07.2019

Authorizing DNR and BUND Brandenburg in the Complaint versus The World Bank's Odra-Vistula Flood Management Project (Project ID: P147460)

Autorisierung des DNR und des BUND Brandenburg in der Beschwerde gegen das Odra-Vistula-Hochwassermanagement-Projekt der Weltbank (Projekt-Nr.: P147460)

We are the local district organization of BUND (Friends of the Earth Germany) in Frankfurt (Oder). Our members live in the area of The World Bank's Odra-Vistula Flood Management Project (OVFMP) at the German Polish border and are affected by the project. We hereby authorize the umbrella organization Deutscher Naturschutzring (German League for Nature and Environment) and BUND Brandenburg (Friends of the Earth Brandenburg) to pursue the complaint versus The World Bank's Odra-Vistula Flood Management Project.

Wir sind der lokale Kreisverband des BUND (Bund für Umwelt und Naturschutz Deutschland e.V.) in Frankfurt (Oder). Unsere Mitglieder leben im Bereich des Odra-Vistula Hochwassermanagement-Projekts (OVFMP) der Weltbank an der deutsch-polnischen Grenze und sind von dem Projekt betroffen. Hiermit ermächtige ich den Dachverband Deutscher Naturschutzring und den BUND Brandenburg, die Beschwerde gegen das Odra-Vistula Flood Management Project der Weltbank weiterzuverfolgen.

The Executive Secretary - The Inspection Panel

The World Bank

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Washington, DC 20433

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per Email: ipanel@worldbank.org

Frankfurt (Oder), June 14th 2019

Authorizing DNR and BUND Brandenburg in the Complaint versus The World Bank's Odra-Vistula Flood Management Project (Project ID: P147460)

Autorisierung des DNR und des BUND Brandenburg in der Beschwerde gegen das Odra-Vistula-Hochwassermanagement-Projekt der Weltbank (Projekt-Nr.: P147460)

We are the German National Cyclists' Association, located in Frankfurt (Oder). Our members live in the area of The World Bank's Odra-Vistula Flood Management Project (OVFMP) at the German Polish border and are affected by the project. We hereby authorize the umbrella organization Deutscher Naturschutzring (German League for Nature and Environment) and BUND Brandenburg (Friends of the Earth Brandenburg) to pursue the complaint versus The World Bank's Odra-Vistula Flood Management Project.

Wir sind der ADFC Frankfurt (Oder). Unsere Mitglieder leben im Bereich des Odra-Vistula Hochwassermanagement-Projekts (OVFMP) der Weltbank an der deutsch-polnischen Grenze und sind von dem Projekt betroffen. Hiermit ermächtige ich den Dachverband Deutscher Naturschutzring und den BUND Brandenburg, die Beschwerde gegen das Odra-Vistula Flood Management Project der Weltbank weiterzuverfolgen.

Signature List / *Unterschriftenliste*

of affected people authorizing BUND Brandenburg and DNR in the Complaint versus The World Bank's Odra-Vistula Flood Management Project

Unterschriftenliste der Betroffenen, die den BUND Brandenburg und DNR in der Beschwerde gegen das Odra-Vistula-Hochwassermanagement Projekt der Weltbank autorisieren

I live in the area of The World Bank's Odra-Vistula Flood Management Project (OVFMP) at the German Polish border and I am affected by the project. I hereby authorize the umbrella organization Deutscher Naturschutzring (German League for Nature and Environment) and BUND Brandenburg (Friends of the Earth Brandenburg) to pursue the complaint versus The World Bank's Odra-Vistula Flood Management Project.

Ich lebe im Bereich des Odra-Vistula Flood Management Project (OVFMP) der Weltbank an der deutsch-polnischen Grenze und bin von dem Projekt betroffen. Hiermit ermächtige ich den Dachverband Deutscher Naturschutzring und den BUND Brandenburg, die Beschwerde gegen das Odra-Vistula Flood Management Project der Weltbank weiterzuverfolgen.

First name, surname *Vorname, Nachname*	**Street, House no, post code, town, country** *Straße, Haus-Nr., Postleitzahl, Ort, Land*	**Date, Signature** *Datum, Unterschrift*
[redacted]		

Signature List / *Unterschriftenliste*

of affected people authorizing BUND Brandenburg and DNR in the Complaint versus The World Bank's Odra-Vistula Flood Management Project

Unterschriftenliste der Betroffenen, die den BUND Brandenburg und DNR in der Beschwerde gegen das Odra-Vistula-Hochwassermanagement Projekt der Weltbank autorisieren

I live in the area of The World Bank's Odra-Vistula Flood Management Project (OVFMP) at the German Polish border and I am affected by the project. I hereby authorize the umbrella organization Deutscher Naturschutzring (German League for Nature and Environment) and BUND Brandenburg (Friends of the Earth Brandenburg) to pursue the complaint versus The World Bank's Odra-Vistula Flood Management Project.

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I live in the area of The World Bank's Odra-Vistula Flood Management Project (OVFMP) at the German Polish border and I am affected by the project. I hereby authorize the umbrella organization Deutscher Naturschutzring (German League for Nature and Environment) and BUND Brandenburg (Friends of the Earth Brandenburg) to pursue the complaint versus The World Bank's Odra-Vistula Flood Management Project.

Ich lebe im Bereich des Odra-Vistula Flood Management Project (OVFMP) der Weltbank an der deutsch-polnischen Grenze und bin von dem Projekt betroffen. Hiermit ermächtige ich den Dachverband Deutscher Naturschutzring und den BUND Brandenburg, die Beschwerde gegen das Odra-Vistula Flood Management Project der Weltbank weiterzuverfolgen.

First name, surname *Vorname, Nachname*	**Street, House no, post code, town, country** *Straße, Haus-Nr., Postleitzahl, Ort, Land*	**Date, Signature** *Datum, Unterschrift*
[redacted]		

Signature List / *Unterschriftenliste*

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DNR
DEUTSCHER
NATURSCHUTZRING

koalicja
ratujmy
rzeki

Bund für
Umwelt und
Naturschutz
Deutschland
BUND
FRIENDS OF THE EARTH GERMANY

Deutsche Umwelthilfe

WWF

EKO
UNIA

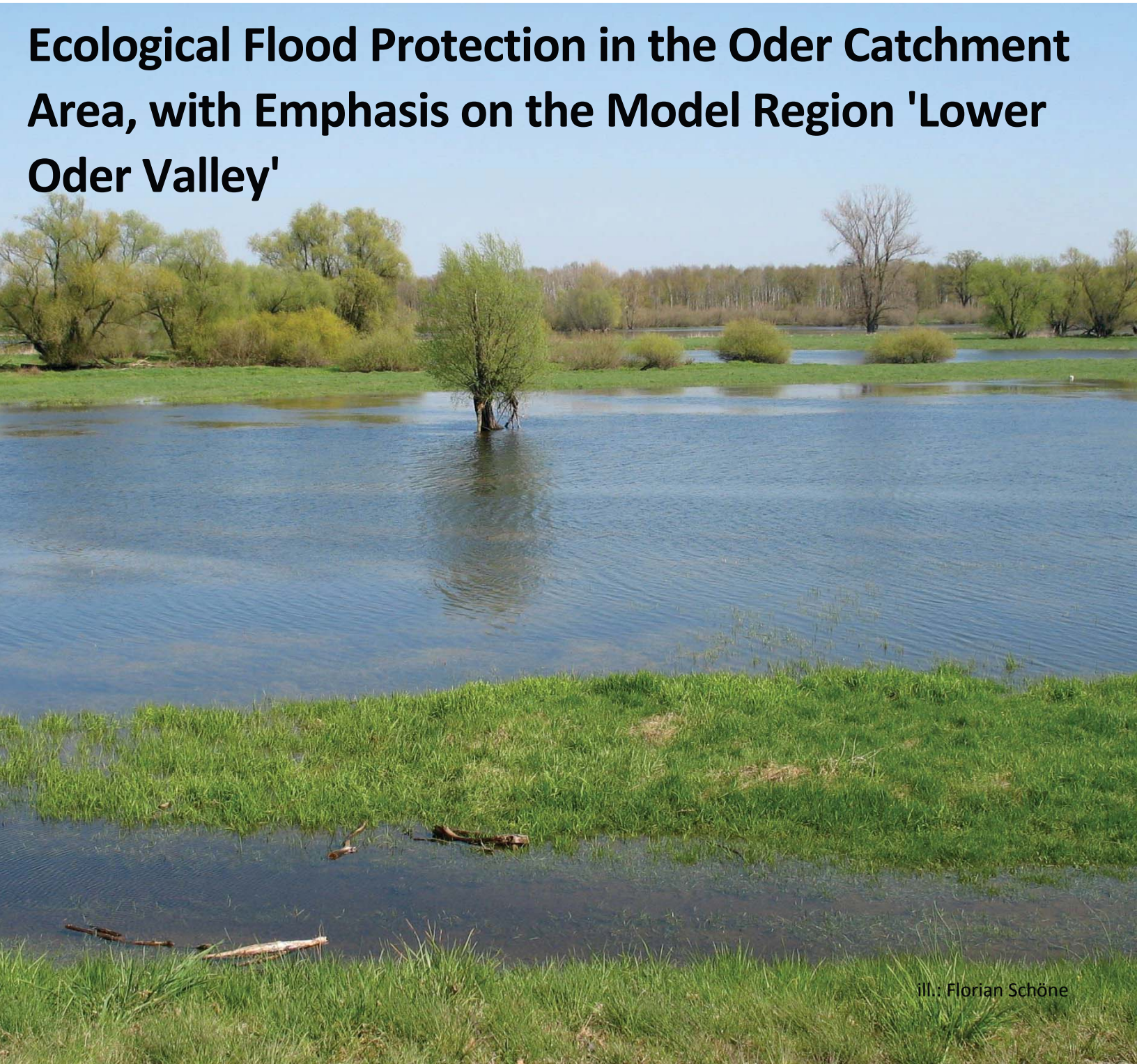
NABU

PRZYJACIÓŁ RZEKI NYSY ŁUŻYCKIEJ I GOWIENICY
TOWARZYSTWO

NIE TYLKO DLA ORŁÓW
STEPNICKA ORGANIZACJA TURYSTYCZNA

Heinz
Sielmann
Stiftung

Ecological Flood Protection in the Oder Catchment Area, with Emphasis on the Model Region 'Lower Oder Valley'



ill.: Florian Schöne

The Oder – an ecologically important Border River

Action needed for nature-friendly Flood Protection

The Oder is one of the last near-natural and free-flowing rivers in Europe and the only large, central European river which flows over 500 km with no barrages from the river mouth. Surrounded by softwood alluvial forests, the river is an important habitat for migratory fish such as sturgeon (*Acipenser oxyrinchus*) and maraene (*Coregonus maraena*), and its oxbows and transitional biotopes also provide a habitat for priority protected species. At the Lower and Middle Oder is the "Lower Oder Valley Cross-Border Protected Area Complex" with the only German wetland National Park and the Polish Międzyodrze wetland, left to develop naturally for 70 years, as well as the Warta River-Mouth and Wolin National Parks, landscape parks and large-scale EU Natura 2000 sites.

With the signing of the bilateral waterway agreement in the German-Polish border area of April 27, 2015 and the associated Concept for Regulation (CfR), the flood discharge at the Border Oder will be optimized and stable traffic conditions will be ensured in future for 90 percent of the year below and at 80 percent above the Warta River confluence, at a mean depth of 1.80 m. This is particularly relevant for the German-Polish icebreaker fleet.

Closely related to the agreement and the Concept for Regulation is the Polish "Odra-Vistula Flood Management Project", which has been running at the World Bank since 2015 and is co-financed by the EU. There is intended modernization work for the restoration of the fairway at the Border Oder, measures planned at the Middle Oder from Malczyce to the mouth of the Nysa Łuzycka/Lusatian Neisse River to upgrade the free-flowing river to waterway class III and to re-use the over 70 years largely untouched Międzyodrze wetland, the core zone of the Lower Oder Valley Cross-Border Protected Area Complex, under the pretense of flood protection. A resolution by the Polish Council of Ministers even calls for the development of the Oder River for shipping, to at least waterway class IV.

Together with many Polish environmental organizations which have formed the coalition "Save the Rivers" (Koalicja Ratujmy Rzeki), the German environmental and nature conservation organizations BUND, NABU, DUH, WWF, Heinz Sielmann Foundation and the Association of Friends of the German-Polish European Union National Park Lower Oder Valley under the umbrella of the German League for Nature and Environment (DNR) in a project funded by the German Environmental Foundation (DBU) support ecological flood protection on the Oder River.

The aim is both to optimize cross-border flood protection with the planned projects and to bring them into line with EU environmental legislation. In order to advance and ground the discussion on future Oder River flood protection in facts, the organizations involved have had two reports drawn up: (1) "Effectiveness of the Międzyodrze Polder and the Concept for Regulation for the Lower Oder"[i] and (2) "Delineation of key zones for water retention enhancement in the Polish part of the Oder catchment: Analysis of potential water retention in land reclamation systems and its possible role in mitigating winter low flows of Oder".[ii]

Report Critique of current Oder Flood Protection Concepts

The experts come to the following conclusions in their investigations:

1. The Concept for Regulation and the use of Międzyodrze wetland as a controlled flood polder makes a positive effect in terms of flood protection doubtful.

2. The holistic approaches required in a large river system are lacking, as seen in measures such as the improvement of water retention in the Oder catchment area, the use of alternative icebreakers and ice breaking methods, and sustainable sediment management and coastal development in the Baltic Sea.

3. The challenges posed by climate change and rising Baltic Sea water levels call for comprehensive and multinational Oder flood risk management. The problems, which are addressed by the Concept for Regulation and the upgrade of the Międzyodrze wetland to a controlled polder, make up only a small part. These partial problems are not reduced by the planned measures, let alone solved.

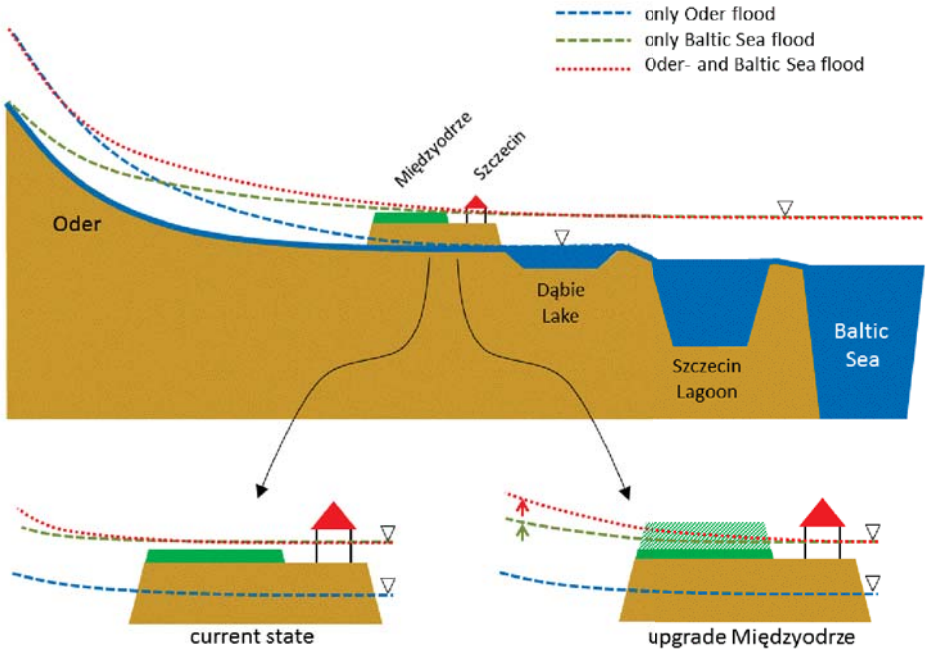
Assessment of the Flood Protection Concept by Means of an Upgrade to the Międzyodrze Wetland

The Międzyodrze wetland currently functions, that is, without further measures, as a natural retention area from Widuchowa until just before Szczecin. Floodwater flows here in a manner similar to an open retention polder (Fliesspolder). Another strategy is being pursued with the planned development to the controlled flood polder. Namely the targeted capping of flood wave peaks in the Oder.[iii]

In the "Odra-Vistula Flood Management Project", the total usable volume of the Międzyodrze polder at a depth of 1.0 m, is given as 1.0 billion m^3. This information is grossly inaccurate and must be adjusted to reflect the correct values; 54.27 million m^3 with a polder area of 54.27 km^2 and a computational mean depth of 1.0 m. The polder volume at 1.0 m depth corresponds to only 5.4 % of the value given by The World Bank.

The hydraulic conditions in the planned Międzyodrze polder are not only dependent on the outflow in the Oder, but also on the water level in the Dąbie Lake. This in turn is determined by the conditions in the Szczecin Lagoon and the Baltic Sea. Conversely, the influence of wind and surge hardly plays a role in the Dąbie Lake and the Oder. The proposed Międzyodrze polder is much too small to have any influence on water levels in the Dąbie Lake, which are determined by the Baltic Sea and Szczecin Lagoon.

The best point to fill the planned polder would be at the Widuchowa reference level. This would cut the peak of an upstream flood wave. At this point, the wave is already very long and has been considerably flattened out. Even an optimally controlled operation, utilizing the entire polder volume as a flood polder, would therefore only minimize the flood wave peak capping between Widuchowa and Szczecin by a few centimeters. At the same time, the currently increased state of the natural retention function of the Międzyodrze wetland would be lost during floods. Unlike the historical and agricultural polder, the planned flood polder for controlled filling would have to be equipped with higher, separating dikes which cannot be overflooded. The resulting backwater would increase the flood risk for inhabitants in the upper areas, reaching as far as Cedynia and the Oderbruch.

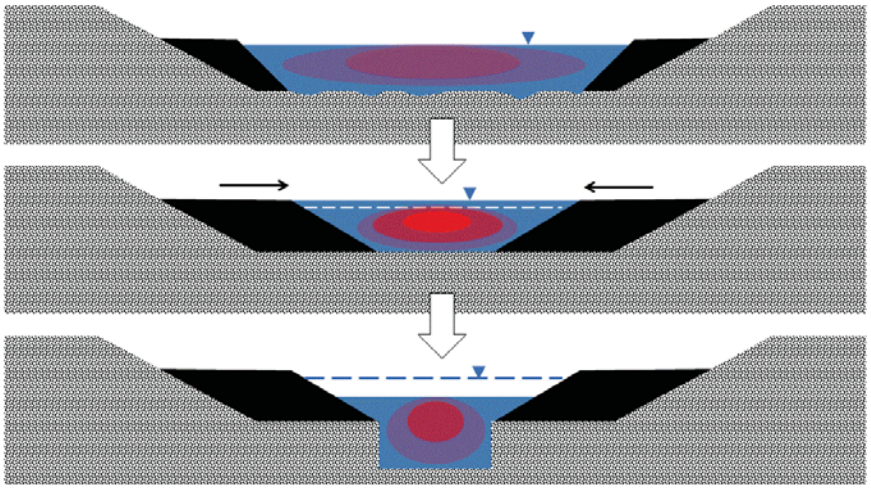


Oder Valley longitudinal section: current state and Międzyodrze polder upgrade

Even with ice floods, flood protection would deteriorate because of the rebuilding of separating dikes. These dikes cause an increase in ice loads, especially in the Eastern Oder and thus increase the risk of ice jams, at bridges as well as other points. In conclusion, the flood situation on the Lower Oder would worsen because of the flood polder upgrade and the necessary separating dikes.

Assessment of the Concept for Regulation

According to the thesis agreed upon between the German and Polish waterway administrations, a minimum water depth in the Oder is necessary to ensure the use of an icebreaker fleet. In the Concept for Regulation the icebreaker ship design is set for the Oder river engineering upgrade target. However, 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.



Upgrade of groins with increasing flow velocity, deepening of the mean river bed position and decreasing of the water level

The model of the Federal Waterways Engineering and Research Institute (BAW) only calculates the temporal and spatial average of the river bed position. It cannot factor in dunes or dune heights. However, dune heights are relevant and not the mean river bed position for icebreaker operations. The current Concept for Regulation measures lead to an increase in the attack of currents flowing in certain sections. They also lead to an increase in mean water depth due to erosion. At the same time, the height of the dune may increase. However, this is not reflected in the Concept for Regulation. Thus, for inland navigation the effect of the Concept for Regulation measures would be nullified.

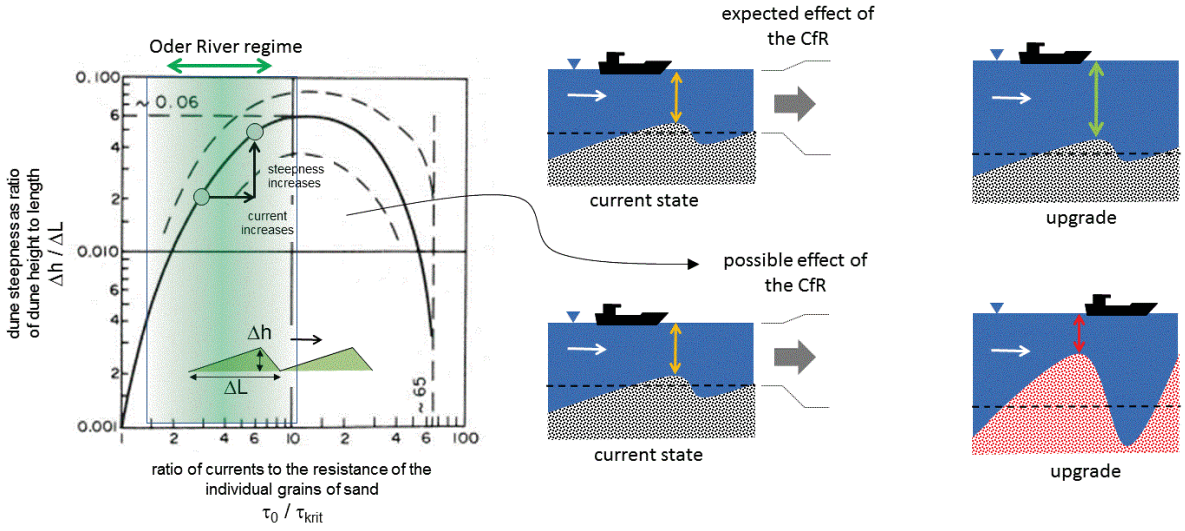
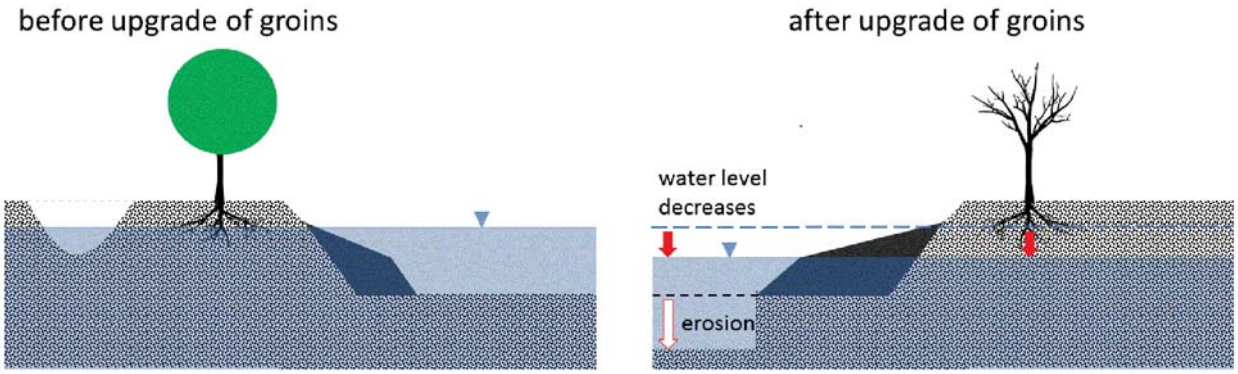


Illustration of the relationship between dune height and bed shear stress in two-dimensional dunes and possible effects on the Oder River after implementation of the Conception for Regulation.

There are so many uncertainties in the modeling that it causes doubts about the model concept and the databases of the BAW investigations. They are insufficient for a reliable decimeter range verification as well as a 40-year prognosis period.

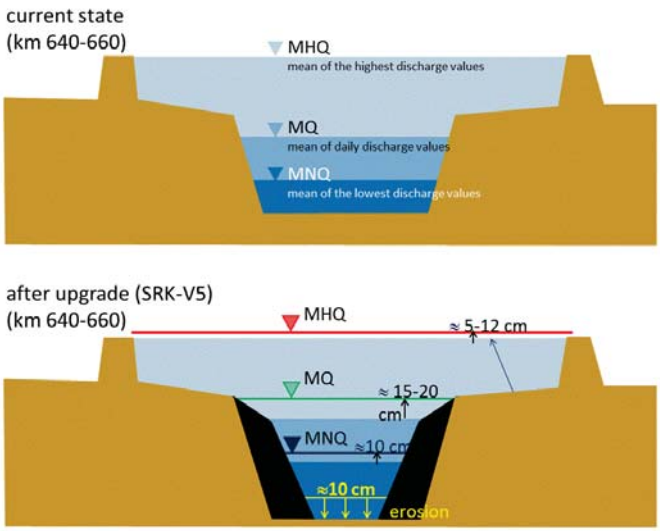
Experience from other major rivers teaches us that the water level will adapt to the eroded river bed position, after the upgrade of groins, in the long term. Because of this, there was also no gain in water depth. Floodplain habitats are particularly negatively affected by the sinking of mean water levels, in particular the low water level, and consequently the sinking of the groundwater level.



Influence of the groin upgrade on sole erosion, water levels in the river and in the groundwater

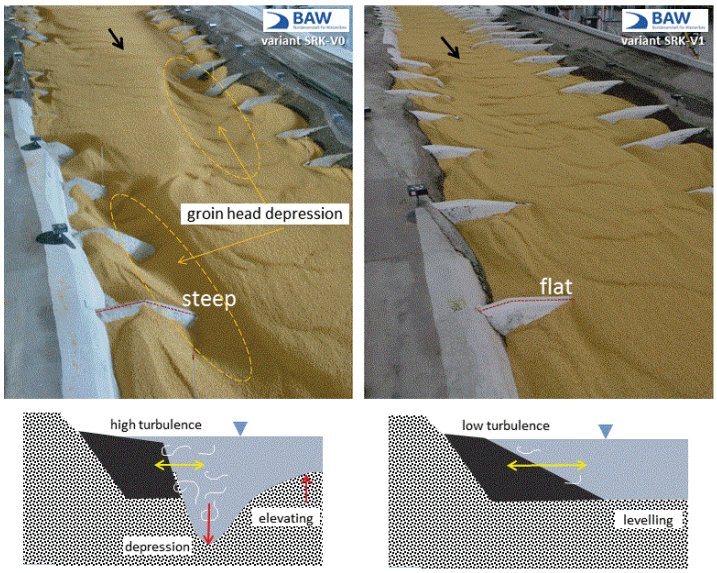
Feared long term impact: sinking of the water level especially at low water

In addition, the optimal groin upgrade variant selected in the Concept for Regulation causes an increase of 12 cm in the water level during high flood, in particular at river km 661. This is a danger spot due to the sharp river bend ("Krummer Ort") near Hohenwutzen. A dike breach and a flood of the Oderbruch were barely prevented in 1997.



Medium-term effect after 40 years according to Concept for Regulation: Rising of the water level even at flood – 12 cm at sharp river bend "Krummer Ort" near Hohenwutzen (km 661)

According to the EU Water Framework Directive (WFD), at least for Germany, the entire Border Oder is classified as a natural rather than a heavily modified water body. For this purpose, at least, a good ecological status must be achieved and maintained.



Influence of the groin shape on turbulence, sole structure and formation of local depressions. SRK-V1 is positive in the nautical sense (BAW), but leads to a loss of structural diversity compared to the current state (SRK-V0). This is ecologically negative.

The optimal variant SRK-V5 of the current Concept for Regulation is a modification of the basic variant SRK-V1 and causes the same destruction of the structural diversity

Recommendations and Alternatives

Alternatives to breaking Ice with Icebreakers

It is not proven that icebreakers encounter any problems at shallow depths. But should this be the case, alternative methods of ice breaking offer a way without necessitating an intervention in the Oder: There are effective alternatives for icebreakers, such as Amphibex excavators. These are used to break ice in Canadian rivers with low water. They can easily free themselves, should they become stuck. These excavators can work alone or in combination with conventional icebreakers. A disadvantage of the excavators, compared to conventional icebreakers, is lower ship speed. Therefore, a mobility concept combining the use of Amphibex excavators with conventional icebreakers is important. The use of satellite imagery and forecasts of the ice situation can contribute significantly to a targeted and effective operation. The ice-breaking from upriver Dąbie Lake to the Oder can thus continue as before. In places where icebreakers cannot get any further, Amphibex excavators can either break the ice on their own or clear the way for the icebreakers.

Ice breaking in North America with Amphibex excavator (Normrock Industries Inc.)

Handling and Problems regarding local Shallows

Commercial inland navigation and icebreaker use would be improved if the mean water depth could be increased to 1.80 m in shallow water conditions. For this reason, water retention possibilities based on nature-based solutions in the Polish Oder basin were analyzed. By damming drainage ditches down to the surface of the terrain, the amount of water in certain parts of the catchment area can be increased, if the water level is well controlled. For instance, in Gozdowice it can be increased by up to 22 cm for a few weeks.

Even if the identified shallows of the Border Oder were to be a problem, in total they amount to a flow path of only a few kilometers. Therefore, there is no justification for a continuous groin repair along the Border Oder with an additional section-wise upgrade.

Even if the average depth of water in the shallows is less than 1.80 m, it is often possible to find continuous fairways with water depths greater than 1.80 m within these shallows, which permit ship passage. The passage of boat hulls is not considerably impeded by potential local minima along this route due to dune crests. Even the Concept for Regulation mentions the possibility of a skillful, permanently successful dredging of shoals.

Dike Relocation at Święta

The risk of flooding in Szczecin is mainly due to increased water levels in the Baltic Sea and thus in the Szczecin Lagoon and Dąbie Lake. Furthermore, water levels which have already been increased can be further expanded in Szczecin by an upstream parallel running flood wave. Most of the existing water level difference between Szczecin and the Szczecin Lagoon, which is caused by an upstream flood wave, is reduced along the flow path of the Oder at Święta. By widening the discharge cross-section at Święta, it seems possible, in principle, to lower the water level for Szczecin and thus contribute to flood protection in this area. This would be possible, for example, through a dike relocation using ring dikes around individually protected goods.

Principle Recommendations for Sealing and Soil Condition

Rainfall-runoff modeling (SCS method) was used to analyze the permeability of soil and sealing in the Polish Oder basin. The municipalities of Chojnów, Człuchów, Ksawerów, Lubań, Piekary Śląskie, Świdnica, Zgorzelec, Brzeg, Dzierżoniów, Głogów and Inowrocław have the highest flood generation potential. The waters (Integrated Surface Water Bodies) Czadeczka, Dopływ z wyrobiska Turoszów, Wrocławia Odra w granicach, Kanał Młynski and Ślęza od Malej Ślęzy do Odry contribute most significantly to flood generation. The listed areas should be the considered first when actions are planned concerning catchment-scale planning of runoff retention and water accumulation.

Conclusions from the Perspective of the Organizations involved

Currently, the Oder has barely any significance for freight traffic in Germany. As such, it is outside the core network of the German 2030 Federal Transport Infrastructure Plan. Accordingly, the Oder is foreseen as a secondary waterway for the construction of a national biotope network. The 2017 adopted German federal program Blue Ribbon states the following: "Secondary waterways are of paramount importance for the development of biodiversity and [...] should in future fulfill new social tasks."

Instead of expanding the no longer needed infrastructure of the Oder, a sustainable development concept for the entire Oder River should be developed across borders, governments and ministries. This should delineate how to protect and further develop the ecological potential of the Oder.

The Polish environmental organizations and experts in the "Save the Rivers" coalition see no need for Poland to expand the Oder either, pointing out that transport problems could be solved by using the railway. Rail traffic is faster and more accessible, due to the existing developed network. It functions independently of external factors. On the other hand, shipping requires considerable intervention in the river environments, with the risk of transport interruptions caused by ice, water shortage and flooding.[iv]

Therefore, at least one Strategic Environmental Assessment (SEA) and, at project level, a large Environmental Impact Assessment (EIA) is necessary. These require participation from the public and environmental organizations and must be carried out to assess whether the planned projects are compatible with the EU Water Framework Directive, the Natura 2000 Directives and other environmental standards. So far, it has only been possible to distinguish initial participation processes involving environmental and business associations, but not with the general public - although the discussion on development amongst authorities has been ongoing since 2001. Public participation is an essential element under the EU Water Framework Directive.

Currently, measures such as the current Concept for Regulation and the planned flood polder in the Międzyodrze wetland will contribute to the worsening of flood protection. The current deepening of the deep-sea shipping route to Szczecin, will furthermore increase the impact of flooding from the Baltic Sea in the Szczecin region. However, to protect Szczecin from rising floods caused by the Baltic Sea the natural flood protection of the Baltic Sea coast must be optimally preserved.[v]

From the standpoint of the organizations involved, any project that further reduces one of the few semi-natural Central European rivers and thus degrades its ecology and ecologically diverse habitats must be avoided – especially if these initiatives do not produce a demonstrable advantage and instead leave a negative impact on flood protection. Rather, it is necessary to develop concepts that strengthen flood protection and harmonize regional development, tourism, nature conservation and navigation.

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i Gerstgraser, Ch., Schnauder, I. & Domagalski, B. (2018): *Wirksamkeit des Międzyodrze-Polders und der Stromregelungskonzeption für die Untere Oder* [*Effectiveness of the Międzyodrze Polder and the Concept for Regulation for the Lower Oder*], report.
ii Grygoruk, M., Osuch, P. & Trandziuk, P. (2018): *Delineation of key zones for water retention enhancement in the Polish part of the Oder catchment. Analysis of potential water retention in land reclamation systems and its possible role in mitigating winter low flows of Oder*, report.
iii The World Bank (2015): *Poland - Odra-Vistula Flood Management Project*, Project Appraisal Document.
iv Koalicji Ratujmy Rzeki (2017): *Stanowisko Koalicji Ratujmy Rzeki w sprawie planów przekształcania polskich rzek w kanały żeglowne [Position of the Coalition Save the Rivers about the plans on the plans to turn Polish rivers into navigable channels]*, http://www.ratujmyrzeki.pl/o-koalicji/stanowiska.
v Buchholz describes because of the deepening of the sea shipping route the influence of higher floods from the Baltic Sea for the Międzyodrze wetland. The Międzyodrze wetland is already upstream of Szczecin and therefore also the Szczecin area is affected. Buchholz, W. (2007): *Warunki Hydrologycyzne Estuarium Odry. Hydrological conditions of the Odra estuary, [Conference papers: Regional problems of water management and hydrotechnics],* http://kbw.zut.edu.pl/Publikacje/Publikacje_Konferencja_2007/Buchholz2.pdf.

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State: June 2018

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THE WORLD BANK
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COMPLAINT (REQUEST FOR INSPECTION) FORM

To:

The Executive Secretary, The Inspection Panel, The World Bank, MSN: MC 10-1007
1818 H St., NW, Washington, DC 20433, USA. Fax: +1(202)-522-0916. Email: ipanel@worldbank.org

Section 1: Complaint

1. What harm do you believe the World Bank-financed project caused or is likely to cause to you or your community? Please describe in as much detail as possible.

The Oder-Vistula Flood Management Project (OVFMP) in Poland is expected to have a significant negative impact on many designated nature reserves on both sides of the river. For example, the EU Natura 2000 sites, on the German side a national park, on the Polish side two landscape protection parks and the great biodiversity still to be found there in the river itself, and also on its banks. **The Öko Agrar GmbH** manages the meadows and pastures in the National Park on the German side to a considerable extent with year-round free-range cattle and horses. Our business is not only committed to economic success, but also to nature conservation, and species and animal-friendly grazing. We depend on healthy and unadulterated environment for our work.

We are very skeptical about the measures planned by the Polish side in the Oder valley, as the cross-border project components are in breach of EU environmental law, the EU Natura 2000 directives and EU Water Framework Directive. In addition, the measures do not reduce the flood risk for the region but increase it. There was also a significant lack of involvement of non-governmental organizations and flood management experts in the development of this project. That is why the project is also a barely obscured waterway development project. Basically, the Oder, which until now has been able to flow freely in essential parts, should be upgraded for shipping and channelized. We also criticize the lack of public participation, not only Polish but also German citizens, which in no way meets European standards. This concerns the provision of timely information in German and non-technical language. Technically and scientifically, the quality of the Polish Environmental Impact Assessment is extremely low and systematically obscures the impact of the planned measures on the German protected areas in the Lower Oder Valley. The World Bank does not live up to its own claim by financing such a measure. Many years ago, the Bank made it its mission to critically review the projects it supports for their environmental impact and environmental impact. To this day, this mission has never been fulfilled.

2. What is the name of the World Bank project? (If known)

Odra-Vistula Flood Management Project (Project ID: P147460)

3. Where is the World Bank project located? (Please include country name)

Poland, but with transboundary consequences for Germany

4. Do you live in the project area?

Yes, we live in the project area.

5. Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

In the circle of the German conservation and environmental protection associations, the Öko Agrar GmbH Unteres Odertal has been committed from the beginning to a sensible project orientation. Several discussions between the German representatives of the association and World Bank staff took place in 2018 and 2019.

6. If known, please list the World Bank's operational procedures you believe have not been followed.

OP 4.01 - Environmental Assessment; OP 4.04 - Natural Habitats; OP 7.50 - Projects on International Waterways

7. Do you expect any form of retaliation or threats for filing this complaint to the Inspection Panel?

No, we do not expect any form of retaliation or threats.

Section 2: Contact Information

8. Are you complainants or a representative of complainants?
Complainants: ☐ Representing a complainant or community: ☒

9. Would you like your name and contact details to be kept confidential? *(The Inspection Panel will not disclose your identities to anyone without your prior consent.)* Yes ☐ No ☒

10. Complainants' Names (Minimum two names and signatures are required):

Complainant 1	Complainant 2
Name [redacted]	Name [redacted]
Address Öko Agrar GmbH Unteres Odertal e.V. Criewen Park 3, Schloss Criewen 16303 Schwedt/Oder, Germany	Address Öko Agrar GmbH Unteres Odertal e.V. Criewen Park 3, Schloss Criewen 16303 Schwedt/Oder, Germany
Phone [redacted]	Phone [redacted]
Email [redacted]	Email [redacted]

11. We, the undersigned, request the Inspection Panel to investigate the issues described above.

Signatures *(More signatures can be sent as an attachment document):* [redacted]

NOTES:

- Please attach supporting documents, if available.
- If you have any difficulty in completing the form, please contact the Inspection Panel at ipanel@worldbank.org or by phone: +1-202-458-5200.

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The Oder-Vistula Flood Management Project (OVFMP) in Poland will not only burden the extensive nature reserves (EU Natura 2000 sites, Lower Oder Valley National Park, landscape conservation areas) on the German side, but also on the Polish side (EU Natura 2000 sites, Cedynia Landscape Park and Lower Odra Valley Landscape Park). We are very concerned about the implementation of the measures planned on the Polish side on the Oder, as the cross-border project components are in breach of EU environmental law (in particular the Natura 2000 Directives and the Water Framework Directive) and increase the risk of flooding in the region. We also deplore a frightening lack of involvement of non-governmental organizations and flood management experts in the development of this project. The project is a barely concealed waterway development project for the still relatively free-flowing Oder River. The previous public participation, especially of German citizens, does not meet the European standard. Thus, there is a lack of information in German and in non-technical language within a reasonable timeframe. The technical quality of the Environmental Impact Assessment is extremely low and systematically obscures the effects of the measures planned on the Polish side on the German protected areas in the Oder valley. Although the World Bank has been endeavoring for many years to examine the projects it supports for their ecological impact, the safeguards of the World Bank have not been fulfilled.

The Internationalpark Unteres Odertal GmbH runs a **wilderness school** for children and young people at the Teerofenbrücke, especially for pupils and students, and in Criewen, it manages the **Brandenburgische Akademie Schloss Criewen**, a scientific institution for international conferences and congresses. These projects are supported institutionally by considerable funds from the state of Brandenburg. All topics relating to rural development are the focus of the Brandenburg Academy Schloss Criewen.

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Yes, we live in the project area.

5. Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

The Internationalpark Unteres Odertal GmbH, together with other German nature and environmental protection associations, has approached the World Bank from the very beginning. Personal discussions were also held between the World Bank representatives and the nature conservation associations in 2018 and 2019. The Polish plans for the development of the Odra River are being continued unchanged and unswerving. The influence of the World Bank as a financier on these Polish plans is not yet apparent.

6. If known, please list the World Bank's operational procedures you believe have not been followed.

OP 4.01 - Environmental Assessment; OP 4.04 - Natural Habitats; OP 7.50 - Projects on International Waterways

7. Do you expect any form of retaliation or threats for filing this complaint to the Inspection Panel?

No, we do not expect any form of retaliation or threats.

Section 2: Contact Information

8. Are you complainants or a representative of complainants?
Complainants: ☐ Representing a complainant or community: ☒

9. Would you like your name and contact details to be kept confidential? *(The Inspection Panel will not disclose your identities to anyone without your prior consent.)* Yes ☐ No ☒

10. Complainants' Names (Minimum two names and signatures are required):

Complainant 1	Complainant 2
Name [redacted]	Name [redacted]
Address Brandenburgische Akademie Schloss Criewen Criewen Park 3, Schloss Criewen 16303 Schwedt/Oder	Address Wildnisschule Teerofenbrücke Hohenfelde Teerofenbrücke 2 16303 Schwedt/Oder
Phone [redacted]	Phone [redacted]
Email [redacted]	Email [redacted]

11. We, the undersigned, request the Inspection Panel to investigate the issues described above.

Signatures *(More signatures can be sent as an attachment document)*: [redacted]

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- If you have any difficulty in completing the form, please contact the Inspection Panel at ipanel@worldbank.org or by phone: +1-202-458-5200.

THE WORLD BANK
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COMPLAINT (REQUEST FOR INSPECTION) FORM

To:

The Executive Secretary, The Inspection Panel, The World Bank, MSN: MC 10-1007
1818 H St., NW, Washington, DC 20433, USA. Fax: +1(202)-522-0916. Email: ipanel@worldbank.org

Section 1: Complaint

1. What harm do you believe the World Bank-financed project caused or is likely to cause to you or your community? Please describe in as much detail as possible.

The Oder-Vistula Flood Management Project (OVFMP) in Poland also affects the German-Polish Border Oder with many protected areas on both sides of the German-Polish frontier (EU Natura 2000 sites, national parks and protected landscapes on the German side, on the Polish in addition to EU Natura 2000 sites also landscape parks). The Lower Oder Valley between Hohensaaten and Szczecin is characterized by a great diversity of species in the river and on its banks. **The Association of Friends of the German-Polish European National Park Lower Oder Valley e.V.** (Verein der Freunde des Deutsch-Polnischen Europa-Nationalparks Unteres Odertal e.V.) was founded in 1992 to protect nature, to promote organic farming, natural science and environmental education and is, in order to achieve this goal, one of the largest landowners in the federal state Brandenburg. However, we are very concerned about the planned project implementation on the Oder River, as the cross-border project components are in breach of EU environmental law, in particular the Natura 2000 directives and the Water Framework Directive. In addition, the flood risk for the landscapes on both sides of the river is not lower, but in fact higher if the planned measures are to be implemented

Another criticism is the significant lack of timely and comprehensive involvement of non-governmental organizations and flood management experts on both sides of the border. Unfortunately, this has resulted in a project that is essentially a waterway development project. Essentially, it is about channelizing the still free-flowing Oder River to a considerable extent. For flood protection, these measures are rather detrimental. Furthermore, the public participation of the Polish, but above all the German citizens, required by EU law, does not correspond to the European standards. For example, there was no information in German or non-technical language within a reasonable timeframe. The quality of the environmental impact assessment submitted so far is extremely low and systematically obscures the effects of the measures planned on the Polish side on the German protected areas in the Oder valley. Therefore, the safeguards set by the World Bank have not been met.

2. What is the name of the World Bank project? (If known)

Odra-Vistula Flood Management Project (Project ID: P147460)

3. Where is the World Bank project located? (Please include country name)

Poland, but with transboundary consequences for Germany

4. Do you live in the project area?

Yes, we live in the project area.

5. Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

The Association of Friends of the German-Polish European National Park Lower Oder Valley. was one of the first nature conservation associations to write directly to the World Bank by letters dated 9/15/2015 and 6/15/2016 and to the German Federal Ministry for Economic Cooperation and Development by letter dated 6/15/2016. The Association of Friends of the German-Polish European National Park Lower Oder Valley has received only a reply from the World Bank by letter dated 10/29/2015 and a reply from the German Federal Ministry for Economic Cooperation and Development by letter dated 8/1/2016. Unfortunately, the reality looks different from what was promised in the responses.

6. If known, please list the World Bank's operational procedures you believe have not been followed.

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Name [redacted]	Name [redacted]
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Section 1: Complaint

1. What harm do you believe the World Bank-financed project caused or is likely to cause to you or your community? Please describe in as much detail as possible.

The Oder-Vistula Flood Management Project (OVFMP) in Poland also affects the Oder between Hohensaaten and Szczecin and the many adjoining protected areas, such as EU Natura 2000 sites, national parks, protected areas on the German side and landscape parks and Natura 2000 sites on the Polish side. These protected areas have been established to preserve the extraordinarily large biodiversity in the river, as well as the two sides of its banks. **The Lower Oder Valley National Park Foundation (Nationalparkstiftung Unteres Odertal)** was founded in 1995 by the German states of Berlin and Brandenburg, and also by the largest business enterprise in the region, PCK Raffinerie GmbH, and the National Park Association. The aim of the foundation is nature conservation, organic farming, environmental research and environmental education. We consider the implementation of the planned task on the Polish side in the Oder Valley extremely critical, as the cross-border project components violate EU environmental law, in particular the Natura 2000 directives and the Water Framework Directive. In addition, the implementation of the planned measures significantly increases the risk of flooding in the area. Above all, there was a flagrant lack of involvement of non-governmental organizations and flood management experts in the development of this project. Unfortunately, this has resulted that the project is essentially a thinly disguised waterway upgrade project. At its core, it's about channelizing the still free-flowing Oder River. The inclusion of Polish, but also German citizens in no way corresponds to European standards. As such there has been no provision of necessary information in non-technical German. The technical quality of the Environmental Impact Assessment submitted by the Polish side is extremely low and systematically disregards the impact of the planned measures on the German protected areas in the Oder valley. Therefore, the safeguards set by the World Bank have not been met.

2. What is the name of the World Bank project? (If known)

Odra-Vistula Flood Management Project (Project ID: P147460)

3. Where is the World Bank project located? (Please include country name)

Poland, but with transboundary consequences for Germany

4. Do you live in the project area?

Yes, we live in the project area.

5. Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

We have worked closely with other conservation organizations and associations from the outset, including the enforcement of our rights at the World Bank. The Federal Ministry for Economic Cooperation and Development has responded to a letter from the Association of Friends of the German-Polish European National Park Lower Oder Valley from 6/15/2016 by letter dated 8/1/2016. In fact, the deficiencies and damages criticized by us have never been discussed, let alone considered. We believe that the World Bank must live up to its long-standing commitment to reviewing the environmental impact of all measures it supports and, if necessary, realigning them accordingly. The German association representatives met employees of the World Bank in 2018 and 2019 by letter and in person. The associations also participated in the dates of the transboundary environmental impact assessment. This did not lead to a change of the plans on the Polish side.

6. If known, please list the World Bank's operational procedures you believe have not been followed.

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Complainant 1	Complainant 2
Name [redacted]	Name [redacted]
Address Nationalparkstiftung Unteres Odertal Criewen Park 3, Schloss Criewen 16303 Schwedt/Oder	Address Nationalparkstiftung Unteres Odertal Criewen Park 3, Schloss Criewen 16303 Schwedt/Oder
Phone [redacted]	Phone [redacted]
Email [redacted]	Email [redacted]

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Signatures *(More signatures can be sent as an attachment document)*:

[redacted]

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Signature (May sign can be sent as an attachment document): [redacted]

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Section 1: Complaint

1. What harm do you believe the World Bank-financed project caused or is likely to cause to you or your community? Please describe in as much detail as possible.

Poland has a troubled record as far as compliance with the EU Framework Water Directive and the Habitats and Birds Directives is concerned. On 30 June 2016, the European Court of Justice found that Poland had infringed on the Framework Water Directive (Case C-648/13). The legal proceedings had been started by the European Commission. The Court ruled that the drainage and channelization projects conducted in Poland had caused ecosystems to deteriorate and that the effect on flood protection was dubious. Given this background, the new World Bank project no. P147460 needs to be examined thoroughly.

We do not believe that it is the World Bank's intention to devastate Poland's valuable natural sites of European importance with the present Project. We are convinced that your Bank consistently follows the principles of sustainable development in its projects and makes sure that the requirements laid down in the *Safeguards* are met.

We request that you suspend the implementation of the World Bank Project No P147460 with a view to enabling a public debate about its objectives and identifying solutions that will genuinely improve flood protection, while eliminating those which threaten to destroy valuable river ecosystems.

[redacted] we present to you the attached "Appeal by non-governmental organisations, scientists and local governments concerning the plans to develop inland water transport on Poland's rivers". (More in the appendix - the letter to the head of the World Bank in August 2016 and in the list of the group about 70 scientists and NGOs from 20

2. What is the name of the World Bank project? (If known)

   World Bank Project No P147460 – Odra-Vistula Flood Management

3. Where is the World Bank project located? (Please include country name)

   Poland, Odra and Vistula Basin

4. Do you live in the project area?
   Yes

5. Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

This is above, these are excerpts from a letter sent 3 years ago to Chief WB-Dr. Jim Yong Kim. No effect. The bad project is still going on. The World Bank sells only money, it does not improve flood safety. It improves the status of hydrotechnical lobby accounts. There is evidence today. The Polish Minister of Transport and Inland Navigation Marek Gróbarczyk, as a result of the resistance of the local community in Kotlina Kłodzka, withdrew from plans to build another 9 dry tanks. The construction of four dry tanks is still going on there, which also do not have much sense in terms of flood, ecological, economic and social

6. If known, please list the World Bank's operational procedures you believe have not been followed.

   1)Reliable and partner consultation with residents, NGOs and the public. What was an apparent, formal and hasty consultation
   2) No reliable cost-benefit analysis (flood-proof effects) has been performed. For example, the 4 dry tanks in the Kłodzko Valley, which are very costly and interfere in the environment, are to reduce the flood foe in Kłodzko City, by a maximum of 14 cm. But it even seems doubtful.
   3) No solid environmental impact assessment has been carried out for EU Natura 2000 sites, probably the authors have falsified the real threats, as we know from the German NGO expertise (BUND, DUH-Gerstgraser)

7. Do you expect any form of retaliation or threats for filing this complaint to the Inspection Panel?

I don't know. We speak hear about big many and people which live for this many from many years. This is III project WB in Poland. IN PCU in Wroclaw is the same people, which have good connections in Washington WB

Section 2: Contact Information

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   Complainants: ☒ Representing a complainant or community: ☐

9. Would you like your name and contact details to be kept confidential? *(The Inspection Panel will not disclose your identities to anyone without your prior consent.)* Yes ☐ No ☒

10. Complainants' Names (Minimum two names and signatures are required):

Complainant 1	Complainant 2
Name [redacted]	Name [redacted]
Address Stowarzyszenie Ekologiczne EKO-UNIA (Ecological Association EKO-UNIA), ul.Białoskórnicza 26, 50-134 Wrocław, Poland info-ekounia@eko.org.pl,	Address Stowarzyszenie Ekologiczne EKO-UNIA (Ecological Association EKO-UNIA), ul.Białoskórnicza 26, 50-134 Wrocław, Poland info-ekounia@eko.org.pl,
Phone [redacted] Email [redacted]	Phone [redacted] Email [redacted]

11. We, the undersigned, request the Inspection Panel to investigate the issues described above.

Signatures *(More signatures can be sent as an attachment document):* [redacted]

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Transforming natural rivers into canals without water?
The expensive fantasy of inland waterways in Poland

Appeal by non-governmental organisations, scientists and local governments concerning the plans to develop inland water transport on Poland's rivers

Warsaw, June-July 2016

The *"The Polish inland waterway plans for 2016-2020 with perspective to 2030"*, drafted by the Ministry of Maritime Economy and Inland Waterways and adopted by the Council of Ministers of Poland, as well as the **government's grand plans for the development of inland navigation, are entirely unrealistic**.

The plans resemble, probably unintendedly, Soviet Russia's undertakings to divert the Siberian rivers, which have become discredited because of their environmental and social impacts. They also bring back the memories of the Gierek-era love for gigantesque engineering projects, which manifested itself in the plans to build a cascade of barrages on the Vistula in the 1970s.

The inland navigation on the Rheine should by no means serve as a justification or model for us today – it developed in the previous century when attitudes towards protecting biodiversity were completely different, during a different economic era and under different climate conditions. With respect to rivers, we should be particularly careful in following the footsteps of Western countries.

The damage that transforming rivers fully into navigable canals will entail is incommensurate with the promised benefits, which in our view are unlikely to materialise.

This damage would include an increased risk of flooding, more severe impact of droughts, economic losses and a deepening budget deficit, the risk of an unnecessary 'fight' over water with the municipal, energy or agriculture sectors, and finally, destruction of Poland's natural environment of pan-European importance.

The questionable benefits actually can actually be reduced to spending tens of billions of zlotys from the taxpayers' pockets on the development of the hydro-engineering sector,

which will implement the costly investments leading to the destruction of Poland's environmentally and touristically precious rivers.

Detailed justification

I. The grand plans for the development of inland waterways

1. Water shortages – the prospect of destruction of natural rivers – canals without water

Poland does not have much water. This may sound surprising because for years we've been opening taps and seeing water run, often of increasingly good quality. Yet Poland is a country with one of the lowest water reserves in Europe. The authors of the inland waterways programme know that perfectly well. They have raised the issue on a number of occasions, but in the present case they have been one-sidedly promoting the interests of river transport. If consistently developed, publicly-funded inland navigation may rob other sectors of the water they need and lead to shortages of drinking water in those regions where water is sourced from surface water intakes. We wish to point point to the warming of Poland's climate and its impact on the balance of water available in the economy („*Wpływ zmian klimatycznych na bilans wodny w dorzeczu Odry i Wisły w kontekście wybranych dziedzin gospodarki" ["Impact of climate change on the water balance in the drainage basins of the Odra and Vistula rivers in the context of selected branches of the economy],* dr Sylwester Kraśnicki, 2016; the quotes below in italics come from this study).

According to forecasts, *"the current climate change scenarios for Poland predict a decrease in total runoff of water by around 37% in the next 110 years (the years 2071-2090 as compared to the years 1971-1980). The decrease in total runoff means that Poland's renewable water resources will shrink, and even today they are among the smallest in the European Union per capita …"*

The largest consumers of water will probably face conflicts over water:

"Production processes, and especially coal-based energy generation, account for the largest portion of water consumption in Poland, followed by municipal water supply and irrigation

systems. Coal energy generation is the most susceptible to water shortages and situations such the 2015 drought will be taking place ever more often."

Thus, a 'war' over water resources may ensue. *"The diminishing surface water resources may lead to conflict situations between farmers and owners of ponds who rely on those resources to irrigate fields and fill the fish ponds."*

And as the climate continues to warm and droughts occur more frequently, we should expect a massive development of field irrigation systems like the ones in Southern Europe. The risk identified in the title is real – **the rivers may become canals without water**: *"The decreasing resources of ground water call into question the justification for investments in maintaining and further developing the navigability of waterways on the Odra and the Vistula. In the upper sections of these rivers the water resources may already prove to be insufficient, and climate change will further exacerbate the situation."*

2. Unrealistic economic and climate effects. No economic justification for the plans.

The authors of the "*The Polish inland waterway plans for 2016-2020 with perspective to 2030"* present a one-sided picture of the benefits, which are supposed to include:

- Increased market-share of inland transport on rivers
- Improved competitiveness of the sea ports located at the river mouths of the Odra and the Vistula as a consequence of increasing the volume of water transport on these rivers
- Economic revitalisation and better conditions for passenger and tourist/recreational river transport
- Better protection against floods
- Generation of renewable energy on the impoundments to be created on rivers.

Those benefits are highly questionable for many reasons, e.g. because, as discussed above, it is very likely that there won't be enough water for such plans of river regulation and river transport, and conflict with other economic needs may occur. This kind of development is not based on sustainable foundations. The plans have been drafted by a single interest group, which paid no attention to other needs of the state, the society or the environment. The authors have failed to notice the natural contradictions. Using the waterways for transport will

require storing water in multi-purpose reservoirs in order to feed water into rivers during barge transports in periods of low water levels (a solution seldom applied outside Poland).

From the point of view of flood protection, those reservoirs should be kept empty in the event they have to take in a flood wave. River transport and the generation of electricity in hydro power plants on the new impoundments stand in conflict with the demand for water on the part of conventional power generation, which relies on river water for its technological processes. We witnessed a dramatic demonstration of this last year when the Polish energy sector had to impose power supply limits because of the low water levels in rivers.

In this sense, the development of inland waterways may undermine Poland's energy security.

3. Uncertain transport effects

In 2014 the total amount of domestic cargo transports on Polish rivers was 4.8 million tonnes, according to the Central Statistical Office of Poland (GUS). The share of inland water cargo transport in total cargo transport had decreased from 0.8% to 0.4% between 2000 and 2014. Inland cargo transport is a dying subsector that is facing a great degree of uncertainty due to climate change. Reviving it at a great cost is pointless.

The government's promises of economic revitalisation and better competitiveness of the sea ports are highly doubtful. In fact, all of the new industry on the Odra and Vistula rivers is located away from the rivers (e.g. the newly built power plant in Opole will not be able to collect coal from barges). Even if some factory in Wrocław wished to transport its goods along the Odra, the cargo would have to be brought to the river by truck first. Re-loading the goods twice makes no sense because it is too expensive and too time-consuming.

The Ministry of Maritime Economy and Inland Waterways maintains that 20 million tonnes of cargo will be carried along the Odra and 7.8 million tonnes along the Vistula by 2020. These numbers are entirely unrealistic. Even if we assume that transporting such volumes of cargo is practicable, it is unclear what sort of cargo could be transported along the Odra and the Vistula. Hopefully not the imported coal, which is much cheaper at the ports than the coal sold by the Polish mines?

From the economic point of view, the volume of around 28 million tonnes of cargo in 2020 can easily be transported by Poland's environmentally friendly, relatively fast, state-owned railways.

In its *Information note on the implementation of the Strategy for the development of transport to 2020 (and perspective to 2030)* published in 2015, the Ministry of Infrastructure and Development presented the structure of cargo transport in Poland. In 2014 the railways accounted for 228 million tonnes of cargo, trucks – for 1548 million tonnes, and inland waterways – for 7.6 million tonnes. In terms of transport activity measured in tonne-kilometres, the role of inland waterways is even more marginal, with inland water transport of cargo accounting for 0.8 billion tkm, the railways – 50 billion tkm, and truck transport – 263 billion tkm in 2014.

The projections concerning the development of rail transport in Poland, presented in the *Strategy for the development of transport to 2020 (and perspective to 2030)* and the *Master Plan for rail transport in Poland to 2030,* in accordance with which investments worth billions of zlotys have been made in the railway sector over many years, predict that the railways' transport activity will double to around 98 billion tkm. That means the volume of rail cargo transports can easily increase by the amounts planned for inland waterways.

All this leads to a very serious question: why should the Polish state (i.e. the Polish taxpayers) create and fund competitors for the Polish railways, which we have been modernising and in which we have been investing billions, and which will have a much greater unused capacity to carry cargo than the plans to turn rivers into canals can achieve?

4. The *The Polish inland waterway plans* envisage huge expenditures from the public purse

In total, these plans are expected to cost 76.8 billion PLN to 2030, including 8.9 billion PLN to 2020. Meanwhile Poland is in debt. Every year we spend huge amounts (more than 33 billion PLN in 2014) on public debt servicing. The government has taken on a number of new commitments, including in the social sphere. **The inland waterways project will bring no social, economic or environmental benefits, apart from channelling massive amounts of funding to a relatively narrow group of hydro engineering design and construction companies**. In that, it resembles the great projects of wetland draining in Poland and in other countries in the 20th century.

The Polish People's Republic spent massive amounts of funding on "drying the wetlands" – a project that was supposed to deliver better yields for farmers, reduce flooding, etc. The effects have been rather sad and nothing like what had been promised, with degraded soils,

dried-up land, lower agricultural yields, destroyed natural water retention and irreversible damage to the environment.

This begs the question whether an indebted country facing many urgent social needs shouldn't allocate the tens of billions of zlotys now earmarked for the inland waterways to more pro-developmental purposes?

Has the Council of Ministers even considered these dilemmas?

5. Devastation of river valleys and riverbeds – destruction of habitats and species in Natura 2000 sites

The plans concerning inland waterways do not mention the environmental devastation that will happen to Poland's near-natural rivers and their valleys as they get transformed into navigable canals. **Poland's environmentally unique rivers are admired throughout Europe and are a true treasure, an element of our biodiversity heritage comparable to the castle of Wawel in the sphere of culture**. Most sections of large river valleys in Poland are Natura 2000 sites established to protect European habitats of flora and fauna, including birds. The regulation of the Vistula and the Odra and the construction of the Odra-Vistula waterway will entail enormous destruction of these areas. The projects in question will violate the Habitats and the Birds Directives, which required the EU Member States to bring rivers to "good status" by 2015.

According to scientists, no 'public interest' can ever justify such investments, because there will be no place left for the ecosystems and species associated with river valleys if the *The Polish inland waterway plans* are put into practice.

On 8 June 2016 a group of researchers from the Faculty of Biology of the University of Warsaw wrote the following in an *Open letter to the participants of the Maritime Congress* (quotes marked hereafter as *Open letter*): '*As a result of the technological interventions needed to ensure the possibility of cargo transport, the natural and near-natural sections of the not yet canalised rivers and their valleys will lose their environmental value and will not be able to provide their ecosystem services at the same level as now. Because of the specific character of the environmental systems of rivers and their valleys, which depends, inter alia, on the geological and hydrological conditions, those losses cannot be compensated ….".*

Thus, the damage resulting from transforming rivers into canals could not be compensated in any way, and the integrity of Natura 2000 sites could not be preserved.

If the waterways plans go through, we will lose one of Europe's largest riparian forest complexes on the Odra river, two of Europe's last relatively natural large rivers, i.e. the Vistula and the Bug, the uniquely wild Międzyodrze and many other valuable natural sites in which we now take pride.

6. Compromised flood protection because of the inland waterways programme – higher risk of flooding and extra costs

The authors of *The Polish inland waterways plans* make an unjustified claim about the programme leading to "*improved protection against flooding and less potential flood-related damage*". **In reality, the deep regulation of rivers needed to upgrade them to class IV navigability** (transit depth: 2 m for rivers and 3.5 for canals, breadth: 40 m) **along with the construction of reservoirs needed for navigation will lead to an increased risk and threat of flooding given the inevitable low water periods and increasingly frequent torrential rains.** As mentioned before, ensuring the possibility of inland navigation stands in contradiction to the flood protection function. The authors of the programme cannot credibly tell the people living in the floodplains on the Odra or the Vistula, who have suffered as a result of the floods in the years 1997-2010, that the inland waterways programme will not contribute to a new flooding of their homes and losses of human life and property. In order to try to compensate for this increased risk of flooding the taxpayers would have to pay an enormous extra cost to build flood protection facilities which, according to specialists, is hardly realistic.

Thus, the 78 billion PLN to be spent on the inland navigation programme is not the end of public expenditure. The cost of dealing with the deteriorating levels of protection against flooding will have to be added to this amount.

II. The new World Bank programme - regulation of rivers and destruction of the environment disguised as flood protection

In September 2015, the Polish government signed a loan deal with the World Bank to finance the **ODRA-VISTULA FLOOD MANAGEMENT PROJECT,** an undertaking

allegedly serving to improve flood protection on the Odra and Vistula rivers. The project is well in line with the current government's intentions expressed in "*The Polish inland waterway plans for 2016-2020 with perspective to 2030*" and shows no hint of any willingness to distance oneself from the 'legacy' of the current government's predecessors.

The World Bank project was drafted in secret and adopted by the previous government following a very limited public consultation which involved no major non-governmental organisations dealing with water.

**Worth more than 1.317 billion US$,** the project will be funded from loans provided by the International Bank for Reconstruction and Development (504 million US$) and the Council of Europe Development Bank (329 million US$), as well as a subsidy from the European Union (219 million US$).*

The undersigned hold a very critical view of the project, which we see as an undertaking to destroy the Odra river and the Vistula tributaries in their current shape at the expense of taxpayers. An interest-bearing loan has been contracted for this purpose, which the taxpayers will have to repay via the government.

We argue that the project and the related expenses are unjustified for the following reasons:

1. **The regulation of the Odra and hydro-engineering works on the Vistula will undermine and destroy Natura 2000 habitats and sites**

The project poses an unprecedented threat to the ecosystems of the river valleys concerned, which are of unique value for Poland and for Europe. Scientists from the Faculty of Biology of the University of Warsaw wrote:

"*If the rivers and their valleys lose the capacity to provide their ecosystem services as a result of the hydro-engineering works undertaken to enable navigation, that will also mean the loss of fauna and flora habitats associated with the river …*" (Open letter)

In the summary of the "*Preliminary assessment of the potential impact of*

- *the World Bank "Odra-Wisła" project P147460*
- *the governments "The Polish inland waterway plans for 2016-2020 with perspective to 2030"*

drafted by Klub Przyrodników (Naturalists' Club) we read:

"In the Odra valley, the project will affect an entire chain of protected areas (including 8 Natura 2000 sites and 4 landscape parks), which runs uninterrupted from Malczyce to Szczecin. The project's objective, i.e. concentrating and deepening the Odra riverbed, intended to limit the frequency and reach of flooding, runs counter to aim of preserving the integrity of those areas, where alluvial ecosystems, which depend on such flooding, are protected. Limiting the flooding will have a considerable adverse effect on all the alluvial habitats (especially riparian alluvial forests of willow, alder and ash (91E0), riparian mixed forests of Quercus robur, Ulmus laevis and Ulmus minor (91F0), and alluvial meadows of river valleys of the Cnidion dubii (6440)), and the scope of that impact may extend to all of such habitats in the Odra valley. All along the middle and lower Odra, the activities to be undertaken as part of the project pose a critical risk to habitats on muddy river banks (3270) because the crucial element of those habitats, i.e. the muddy banks themselves, are to be transformed as part of the planned works.

The component concerning the Nysa Kłodzka Valley poses a risk of adverse effects for two Natura 2000 sites but those effects may be regionally significant as they concern unique habitats of crucial importance for the entire region: water courses with the Ranunculion fluitantis (3260) and watercourses with gravel banks (3220), as well as the species: European bullhead Cottus gobio and the brook lamprey Lampetra planeri. However, as no details about the planned activities are available, it is impossible to say if the negative impacts will in fact occur.

The Sandomierz-Tarnobrzeg component may potentially affect the Tarnobrzeska Dolina Wisły Natura 2000 site, although the impact may be avoidable if the works are designed properly.

Because of the absence of specifics and the fact that the project in this part is only a template, the Upper Vistula component must be regarded as potentially threatening to at least 21 Natura 2000 sites, including a substantial part of the following habitats: gravel banks without vegetation (3220), with Myricaria germanica (3230) or with rosemary willow (3240), riverside alder (91E0), or tall herb fringe communities (6430), as well as the populations and habitats of the following species: the yellow-bellied toad Bombina variegata, barbel Barbus carpathicus, European bullhead Cottus gobio and Kessler's gudgeon Gobio kessleri (in the case of the latter, the potential impact will affect the entire Polish population). Without access to details of the investment it is not possible to determine if the potential risk will materialise and to what extent."

2. Ineffective flood protection.

Component 1: Flood Protection of the Middle and Lower Odra, for which 446 million EUR has been allocated, is flood protection in name only.

The justification for some of the expenses is quite absurd, even if it may sound convincing to non-experts. The project text claims that the objective is to rebuild the waterway to class III parameters in order to enable icebreakers to operate on the Lower Odra if there is a need to break ice jams. We consider this to be pseudo-flood protection: the last large winter ice flood took place nearly 70 years ago, and in the context of climate change, the number of days with freezing temperatures is expected to decrease nearly by half within the hundred-year period starting in the 1970s. The experience of winter-anti flood action on other rivers shows that even if the river has been dredged and regulated, icebreakers are not always able to reach the ice jam for other reasons, and finally, there are other, cheaper ways to prevent an ice flood. It is therefore clear that flood protection serves as a pretext here, while the real objective is to spend nearly 450 million EUR from the loan on the construction of a class III waterway. In fact, the authors of the World Bank project make no secret about it. In the text (but not in the title) it is stated that the objective is to upgrade the Odra to class III navigability.

Thus, the project's objective is well in keeping with the *The Polish inland waterway plans,* a document of the Ministry of Maritime Economy and Inland Waterways, which envisages canalization of the Odra and the Vistula. **And it also has similar drawbacks – as the actions envisaged are more likely to contribute to increasing the risk of flooding, rather than protecting people and property against the element.**

Let us once again refer to the opinion of the scientists from the University of Warsaw: *"Non-canalised rivers that have not been cut off from their valleys are crucial for eliminating or reducing the impact of flooding. The riverbeds and adjacent areas absorb water in periods of high water, and vegetation slows down the runoff, thus mitigating the swelling or rivers. This important ecosystem service will in effect be completely eliminated if the river undergoes the hydro-engineering works needed to ensure the navigable depth required for cargo transport. Moreover, adapting the rivers to this kind of navigation will increase the risk of violent flooding. The barrages cannot mitigate that risk in any way because the reservoirs formed on them by definition do not have any significant capacity that could replace the lost soil, riverbed and valley retention in a river transformed to meet the needs of transport."* (Open letter)

3. We are surprised that the World Bank has agreed to finance these investments

It has done so despite the criticism and the multiple negative experiences with regulation and canalisation of rivers in many parts of the world. Undoubtedly the Bank has many experienced experts, and yet it has decided to back a lopsided undertaking by a hydro-engineering lobby which runs counter to the objectives of environmental protection and has nothing to do with a sustainable approach to the complex problematic of Poland's rivers and their various functions.

4. We are surprised by the stance of the EU

The European Union has previously objected to financing regulation and destruction of rivers and streams from the EU funds in the years 2007-2013 and has questioned drainage and hydro-engineering expenses in Poland worth hundreds of millions of Euros. Yet in this case it has pledged a subsidy of 219 million US$ to support similar projects that will destroy the ecosystems of Poland's rivers. How can the European Commission finance activities which violate the Habitats and Birds Directives and the Water Framework Directive?

We call on the Prime Minister of the Government of Poland, the President of the World Bank, the Governor Council of Europe Development Bank and the President of the European Commission to reconsider their involvement in those environmentally, economically and socially destructive projects.

The undersigned oppose the one-sided, unsustainable activity on Poland's environmentally valuable rivers.

[SIGNATURES WERE REMOVED BY THE INSPECTION PANEL]

** According to figures available as of 30.06.2016, the budget of the entire project, consisting mainly of loans, is US$* 1317 *million, including:*

European Commission: US$ 219 million
International Bank for Reconstruction and Development: US$ 504 million
Borrower: US$ 210 million

Council of Europe Development Bank: US$ 329 million

National Fund for Environmental Protection and Water Management: US$ 55 million

Source:

http://www.worldbank.org/projects/P147460/?lang=en&tab=financial

European Commission

DG Environment

Complaint about Application of Union Law

Reasons why Polish and German Environmental NGO are convinced that The World Bank's Odra-Vistula Flood Management Project (OVFMP) infinges on EU Water Framework Directive and EU Natura 2000 Directives

– CHAP(2016)0299 –

Fig. 1: Międzyodrze area together with the Eastern and the Western Odra

Source: www.szczecin.eu; www.wloczykij.com

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Wrocław, January 16, 2017

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List of Abbreviations

BAW	German Federal Waterways Engineering and Research Institute (Bundesanstalt für Wasserbau)
BfN	German Federal Agency for Nature Conservation (Bundesamt für Naturschutz)
BDB	Federal Association of German Inland Water Transportation (Bundesverband der deutschen Binnenschiffahrt e.V.)
BMJV	German Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz)
BMUB	German Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (Bundesministerium der Justiz und für Verbraucherschutz))
BMVI	German Federal Ministry of Transport and digital Infrastructure (Bundesministerium für Verkehr und digitale Infrastruktur)
BN	Bavarian branch of the BUND (BUND Naturschutz in Bayern e.V.)
BReg	German Federal Government (Bundesregierung der Bundesrepublik Deutschland)
BUND	Friends of the Earth Germany (Bund für Umwelt und Naturschutz Deutschland e.V.)
CAP	Common Agricultural Policy
Code	Natura 2000 species code
DG Environment	Directorate-General for the Environment of the European Commission
EA	Environmental Assessments and Management Framework Document E4745 of The World Bank
EC	European Commission
EIA	Environmental Impact Assessment
EJC	European Court of Justice
ESMF	Environmental and Social Management Framework SFG1100 of The World Bank
FRMP	Flood Risk Managemement Plan
IGB	Leibniz-Institute of Freshwater Ecology and Inland Fisheries (Leibniz-Instituts für Gewässerökologie und Binnenfischerei (IGB) im Forschungsverbund Berlin e.V.)
IUCN	International Union for Conservation of Nature and Natural Resources
KZGW	Polish National Water Management Authority (Krajowy Zarząd Gospodarki Wodnej)
MŚ	Polish Ministry of the Environment (Ministerstwo Środowiska)
NGO	Nongovernmental Organization
ORFPP	Odra River Basin Flood Protection (Project P086768 of The World Bank)
OVFMP	Odra-Vistula Flood Management Project (Project P147460 of The World Bank)
PAD	Project Appraisal Document 1203 of The World Bank
PCU	Project Coordination Unit
RDOŚ	Regional Directorate for Environmental Protection (Regionalna Dyrekcja Ochrony Środowiska)

RM	Council of Ministers of the Republic of Poland (Rada Ministrów)
SCI	Site of Community Importance
SDF	NATURA 2000 Standard Data Form
SEA	Strategic Environmental Assessment
SPA	Special Protection Area
UBA	German Federal Environment Agency (Umweltbundesamt)
uRBMP	updated River Basin Management Plan
WFD	Water Framework Directive (Directive 2000/60/EC)
WSA	Waterways and Shipping Board (Wasserstraßen- und Schifffahrtsamt)
WSV	Waterways and Shipping Administration in Germany (Wasserstraßen- und Schifffahrtsverwaltung des Bundes)
ZPKWZ	Zespół Parków Krajobrazowych Województwa Zachodniopomorskiego (Landscape Parks of West Pomeranian Voivodeship)
ZZMiUW	West Pomerania Board of Amelioration and Hydraulic Structures in Szczecin (Zachodniopomorskiego Zarządu Melioracji i Urządzeń Wodnych)

1 Summary

The most severe concerns of Polish and German Environmental NGO are related to the following sub-components of the Project P147460 – Odra-Vistula Flood Management Project (OVFMP).

Subcomponents of the OVFMP of most concern are

- building a new polder in existing natural flood plains (subcomponent 1A.6 in Międzyodrze area),
- destroying the River Odra by a stream basin development (subcomponents 1B.2, 1B.1),
- modernizing a functioning pumping station in an already diked area (subcomponent 1A.5 stage 3 at the village of Krajnik Dolny)

All these subcomponents

- have a dubious effect on flood protection with the danger of adverse effects creating negative impact on flood protection according to first preliminary verbal statements of hydro engineers from Netherlands, Poland and Germany (see for details chapter 3)
- additionally violate severely EU Natura 2000 directives and EU Water Framework Directive (WFD) and endanger several according to IUCN globally threatened species (with category Vulnerable – see for details chapters 4 and 5).

There additionally is reasoned suspicion that the Polish government only uses the argument of flood protection of the OVFMP for its real goal, for achieving a higher class of navigability by realizing the OVFMP, most-likely knowing that the OVFMP will not significantly improve flood protection (see for details chapter 6).

There is also doubt whether it is planned to conduct Environmental Impact Assessment (EIA) for these subcomponents. NGO fear that the authorities just realize these subcomponents without any EIA, stating that the planned subcomponents just were

"maintenance", this concerns (not only but especially) subcomponents 1B.2, 1B.1, the planned stream basin development of the River Odra (see for details chapter 6).

The Environmental NGO have strong doubts whether the Polish authorities showed the full plans and its full implications to the European Commission (EC) when the authorities applied successfully for a co-financing out of EU subsidies for The World Bank´s OVFMP. Therefore, the Environmental NGO are convinced that the EC was not fully informed about the full implications of the OVFMP during the application procedure. These doubts are also underlined by the fact that also the official World Bank´s documents contain several false statements concerning relevant issues as will be shown in the further.

Environmental NGO want to develop together with the Polish government, The World Bank and the EC better alternatives improving flood protection and ensuring compliance with EU environmental law – alternatives such as

- a relocation of dikes further away from the shore creating more flowing storage space reducing flood levels significantly (since a lot of suitable areas exist along the Odra which could reduce the flood level, areas which are diked at the moment with no settlements, relevant parts of it not used at all, other parts of it used only on a very small scale for agriculture and forestry, relevant parts of it already in state property)
- flood relief channels at potential bottlenecks (as it is done e.g. in Nijmegen in The Netherlands or in Raciborz, Opole and Wrocław along the Upper Odra)
- using icebreakers with a shallower depth (as it is done e.g. on River Elbe, only 150 km west of River Odra)
- the restoration of wetlands in the basin of River Odra in order to help avoid the beginning of floods by repairing the natural flood storage of the landscape, creating a further positive effect to reduce low water periods and improve navigability on the River Odra.

These alternatives have not even been named in the OVFMP, as can be shown in The World Bank´s own Environmental Assessment (EA). These alternatives are described in detail in chapter 4.4.

Project information about the Odra-Vistula Flood Management Project is available under http://projects.worldbank.org/P147460/?lang=en&tab=documents&subTab=projectDocuments

The Project Appraisal Document can be found at: http://documents.worldbank.org/curated/en/320251467986305800/pdf/PAD1203-PAD-P147460-R2015-0142-1-Box391498B-OUO-9.pdf. On p. 92 of this document there is a map where the spatial size of the planned components is shown.

The planned components of the OVFMP and how they are situated in protected areas (e.g. Natura 2000) can be shown at: http://odrapcu.pl/doc/OVFMP/RPZSiS_Zalacznik_06_Obszary_chronione.pdf
(The URL http://natura2000.eea.europa.eu/# can be used if someone wants to examine more in detail, which Natura 2000 sites are situated at the River Odra in the areas of the planned components, here also the Standard Data Forms of the sites can be found.)

Since big parts of this paper are also developed to show the infringement of EU law to further parties concerned we apologize that the paper contains legal information which is of course known to the EC.

2 The Planned Measures in Detail

2.1 Subcomponent 1A.6: (Re-)Construction of the Międzyodrze Polder

This polder with a size of 5,200 ha[1] was built between 1904 and 1930 during historical German time, but was not maintained after 1945 so that the River Odra re-naturalized its wetlands in short time. ,Therefore the area is now again in a (near-)natural state and part of the natural flood detention basin of the River Odra forming an impressive wilderness area in a natural flood plain.

Within The World Bank project it is planned to rebuild this polder[2]

- by re-establishing dikes (=embankments)
- re-establishing flood gates
- by deepening the natural river arms and oxbows of the river (which destroys relevant parts of their natural vegetation and habitats)[3]

in order that flood water of a flood wave can run in a very short time into the polder where it can be stored by closing the flood gates; after the peak of the flood wave is cut by this measure, the flood water shall be released part by part by opening the flood gates again.

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1 According to The World Bank's PAD1203, p. 40, subcomponent 1.A.3.

2 According to The World Bank's PAD1203, p. 40, subcomponent 1.A.3. It is noteworthy that the "dredging and stabilization of channels" described in PAD1203 are in reality the dredging of natural river arms, since the so-called "channels" (which are connected to the former historical flood gates) are in 90 % natural river arms. The former polder of Międzyodrze were built between 1904 and 1930 in historical German times and were used during only a very short period between 1930 and 1945, refer to Mönninghoff 1997, p. 26 f.

3 According to ZZMiUW, statement at the conference on November 20, 2015 in Criewen, where state officials of the German state of Brandenburg were given first informations by the ZZMiUW.
- The ZZMiUW used also "ecological"arguments stating that the "too high water level" in the natural wetlands of the Międzyodrze would "endanger" the habitat for aquatic warbler (*Acrocephalus paludicola*) and Whooper swan (*Cygnus cygnus*) in the Międzyodrze.
- Refer also to ZZMiUW (unpublished): "Aufgaben, die durch die Westpommersche Verwaltung für Melioration und Wasseranlagen in Szczecin zur Ausführung aus Mitteln der Weltbank geplant sind", p. 21; presentation held on November 20, 2015 .This presentation can be found in the Annex of this document.
- According to all independent ornithological experts the opposite is the case: Both species are not endangered by natural high water levels, quite the opposite: Especially the aquatic warbler needs natural high water levels and is endangered by any kind of drainage.
- Refer also to p. 11, 12 of Annex 1 of The World Bank´s Environmental and Social Management Framework (ESMF), where the excavation and deepening of the river arms is also described. (Note: The World Bank names the Natura 2000-sites partially incorrect: the Natura 2000-site PLB320003 is named correctly, but the Natura 2000-site "PLB320037" does not exist, instead the Natura 2000-site PLH320037 is meant by The World Bank!)

These measures, especially the the excavation of the natural river arms and oxbows, endanger directly and indirectly many Natura 2000-species of the Natura 2000 sites Dolna Odra (PLH320037) and Dolina Dolnej Odry (PLB320003).

2.2 Subcomponent 1A.5 stage 3: Modernization of the pumping station in the Marwice Polder

The modernization[4] of an existing and functioning pumping station raises the danger of a stronger drainage of the wetlands in the polder which would endanger the last existing metapopulation along the River Odra of the according to IUCN globally vulnerable aquatic warbler (*Acrocephalus paludicola*) living on these wetlands in the Marwice polder (part of Natura 2000 sites PLH320037, PLB320003) and in the adjacent German Lower Oder Valley National Park (being the last population of aquatic warbler in Germany).

2.3 Subcomponent 1B.2: Modernization works on boundary sections of Odra River, together with Subcomponent 1B.1: Reconstruction of river control infrastructure on Odra River. Adaptation to the conditions of Class III waterway. Stage II

Note: In The World Bank's Environmental and Social Management Framework (ESMF) subcomponent 1B.1 is described as "Repair and modernization of regulatory infrastructure on the free-flowing Odra – reconstruction and modernization of regulatory infrastructure – in order to adapt section of Odra from Malczyce to the estuary of Nysa Łużycka to class III waterway". Whereas the later published Project Appraisal Document (PAD) defines that the "works extend to about 115 km between Nowa Sól and the Nysa-Łużycka mouth."

It is planned

- to dredge the river bed of the River Odra on its whole width in order to achieve a constant minimum depth of 1.80 m on its whole width for 80% of time up-

[4] Environmental Assessments and Management Framework Document (E4745), p. 80.

stream and 90 % of time downstream of the River Warta confluence.[5] This dredging would homogenize (= destroy) the underwater habitat for many species.

- to re-establish the groynes and establish also new groynes, which would result in a further erosion of the river bed which would drain also adjacent wetlands.

Both – the homogenization of the river bed as well as the (re-)establishment of the groynes – endangers numerous Natura 2000 species on huge Natura 2000 sites. In the following tables the most important Polish Natura 2000 sites coinciding with the area of OVFMP's investments are listed. However, many further Natura 2000 sites in Germany and Poland are also affected. According to IUCN Red List even globally threatened fish species will be endangered by these measures.

Site Code	Site Name
PLH320037	Dolna Odra
PLC080001	Ujście Warty
PLH080013	Łęgi Słubickie
PLB320003	Dolina Dolnej Odry
PLB080004	Dolina Środkowej Odry

Tab. 1: Natura 2000 sites coincide with the area of the investment between Nysa-Łużycka mouth and the Odra mouth (boundary section)

Source: Own creation

Site Code	Site Name
PLH080014	Nowosolska Dolina Odry
PLH080012	Kargowskie Zakola Odry
PLH080028	Krośnieńska Dolina Odry
PLB080004	Dolina Środkowej Odry

Tab. 2: Natura 2000 sites coincide and/or affected with the area of the investment between Nowa Sól and Nysa-Łużycka mouth

Source: Own creation

[5] According to The World Bank´s PAD,
- the dredging and the achievement of a water depth of 1.80 m is described in no. 26 on p. 38,
- the achievement of navigability class III and the water depth of 1.80 m for both subcomponents 1.B.1 and 1.B.2 is additionally described on p. 40.
- The fact that this is done on the whole width of the river derives from the fact that icebreakers always operate on the whole width of the river, driving side by side.

Note: If OVFMP's subcomponent 1B.2 will also include the Odra river section between Malczyce and Nowa Sól then this will affect among others following Natura 2000 sites. These sites are without any assessment in ESMF, Annex 1.

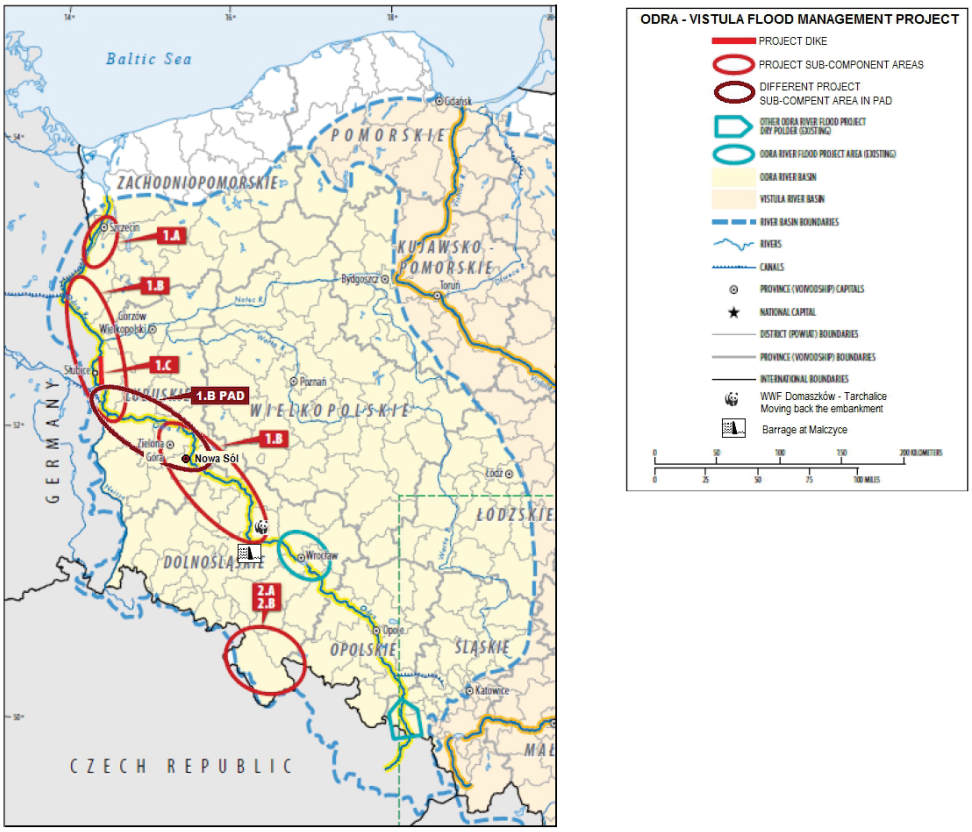

Fig. 2: OFVMP Map with regional difference of subcomponent 1.B

Source: own modification of PAD, Annex 6, p. 92.

Site Code	Site Name
PLH080014	Nowosolska Dolina Odry
PLH020100	Kozioróg w Czernej
PLH020018	Łęgi Odrzańskie
PLB020008	Łęgi Odrzańskie

Tab. 3: Natura 2000 sites coincide with area of potential investment between Malczyce and Nowa Sól

Source: Own creation

Further Note: According to The World Bank's PAD, the erection of new groynes is described in no. 26 on p. 38. The statement hat the groynes on the German site would have been built already during the last 10 years is not true. Only isolated projects as the work in River Odra at Reitwein – officially approved by the German Waterways and Shipping Administration in Germany (WSV) on December 19, 2014 and including an environmental impact study and a Habitats Directive impact assessment – were set up.

Instead, modernisations and so-called "maintenance" of groynes at the German bank have been started or are still planned without participation of NGO.[6]

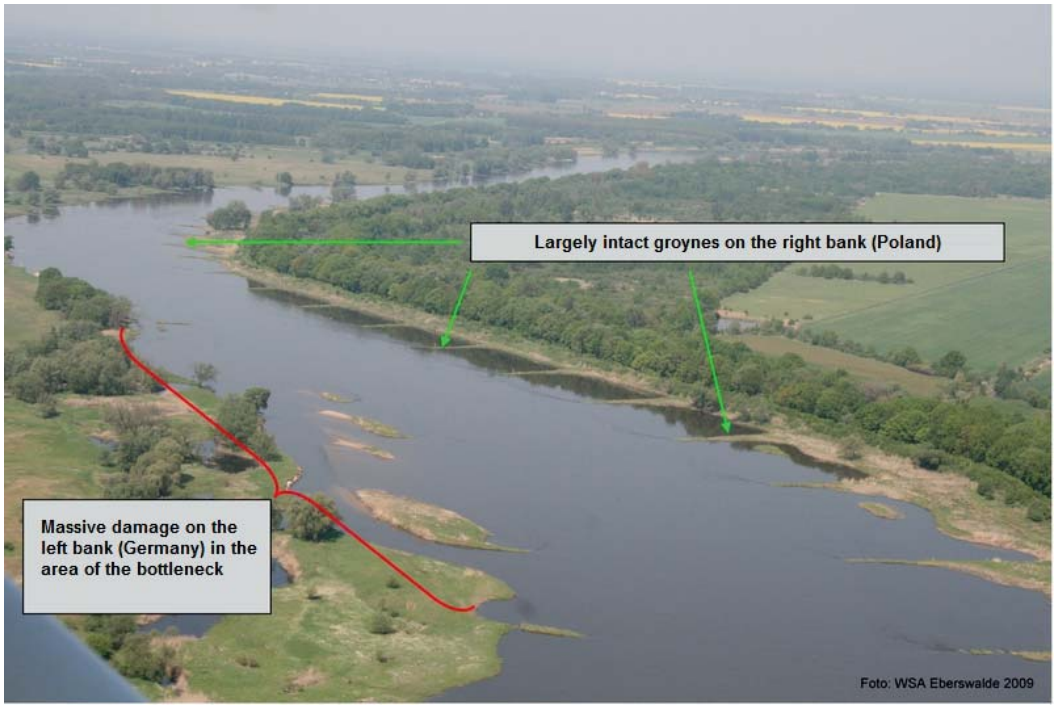

Fig. 3: Planned work in River Odra at Reitwein

Source: WSA Eberswalde (2009), www.wsa-eberswalde.de

[6] German NGO such as BUND – Friends of the Earth Germany prepare charges against these plans of the German shipping administration, since they infringe on Natura 2000 and on WFD.

Fig. 4: Aerial photographs of the eroded shore areas at Reitwein (1992, 2003, 2004)

Source: WSA Eberswalde (2012A), environmental impact study, p. 14

3 The positive Effect on Flood Protection of the planned Subcomponents is dubious, adverse negative Effects on Flood Protection are likely

3.1 Concerning Subcomponent 1A.6: Polder in Międzyodrze

3.1.1 The storage capacity of the planned polder is much smaller than announced by The World Bank

The PAD states:

"*A one meter high water layer on the wetland would store about 1 billion m³ of floodwater.*"[7]

1 billion m³ is indeed a miraculous high number, but it is totally unclear how The World Bank came to this evidently false conclusion. The new Międzyodrze Polder would have a size of 5,200 ha, according to the same document.[8]

A = 5,200 ha * 10,000 m² / ha = 52,000,000 m² = 52 million m².

V = h * a = 1 m * 52 million m² = 52 million m³

So, a 1 meter high water layer can maximum create (if all the vegetation would be totally erased) a storage of only 52 million m³ of floodwater. This is evidently not 1 billion m³, it is only 5,2 % of one billion m³!

Or, in other words, in order to achieve The World Bank´s miraculous amount of 1 billion m³ of flood water in the polder, the Międzyodrze Polder would need to have dikes of a height of more than 19 meters![9]

So, already here occurs the problem that the storage effect of the polder is calculated totally wrong. A similar problem occurs in the Raciborz reservoir in the upper part of the Odra near the Polish-Czech border. There the storage volume of 185 million m³ is correctly calculated. But the percentage of a flood wave similar to the flood wave in

[7] PAD, p. 38.

[8] Subcomponent 1.A.3 in: PAD, p. 40.

[9] 19.23 m height of water layer * 52 million m² area of Międzyodrze = 1 billion m³. The planned dikes have a height of around 2 m. And since the polder is situated in the lowlands, dikes of a height of 19 m would make no sense at all, since the River Odra could not fill the polder due to its height, this could only fictitiously be done by many huge pumping stations.

1997 that could be stored in the reservoir is calculated totally wrong, showing that the reservoir is totally ineffective since it can by far not store enough flood water.[10]
The consequences of also this wrong estimation of the Raciborz reservoir are discussed in chapter 7.

3.1.2 The Międzyodrze area is already part of natural flood plains making it impossible to store there an additional amount of flood water

It further has to be mentioned that the new polder is situated in an already existing natural flood detention basin which is flooded naturally every year during every flood, so the new polder cannot host an additional amount of flood water. Therefore The World Bank´s statement:

"This wetland of 5,200 ha forms the former overflow plain situated between the two parallel arms of the Lower Odra between Gryfino and Szczecin."[11]
is evidently false, since the Międzyodrze area does not form any "former" overflow plain, but instead it forms an enormous natural existing overflow plain.

3.1.3 Due to the small storage capacity of the new polder a flood wave cannot be reduced significantly, additionally such a storage effort deteriorates flood protection for the towns sidewards and upstream of the polder

One other problem arises when the new polder is used:
Typically for the River Odra are longer flood waves stretching usually several 100 km along the river and its adjacent rivers such as e.g. River Warta. Compared to this length of the flood wave and its water amount, the polder in the Międzyodrze is really small. Taking this into account, the new polder has to be kept empty for a longer time during a flood wave in order to be opened in the right moment to "catch" the peak of the flood wave. But until this right moment is reached in a later time, the polder has to be kept empty during the first phase of the flood wave. This means that the danger of floods for the towns and villages upstream will be raised (compared with the current situ-

[10] Please see in detail the first preliminary statement from hydro engineer Janusz Żelaziński in the Annex of this document.
[11] Refer to The World Bank´s PAD, p. 40, subcomponent 1.A.3

ation), since the new, empty polder will create a new and dangerous bottleneck for floods endangering the towns and villages upstream.

In such a dangerous situation the flood gates of the polder have to be opened for the floods in order to reduce the danger of a bottleneck for floods upstream to not endanger settlements upstream. But this would also mean that the polder is being opened too fast and will run full of water too fast. This happens in a time where the peak of the flood wave has still not reached the polder, but is still further upstream. So, a new flood danger will occur: The polder – being full of water now and having closed its flood gates again in order to store the water – is again a dangerous blockade and bottleneck for the peak of the flood wave being still upstream, raising again the flood danger for the towns and villages upstream of the polder.

In such a situation the flood gates of the polder would have to be opened. So all the water can run through the polder from upstream to downstream. However, in this situation the polder would completely loose its storage capacity showing that it is totally useless to build this polder.

In such a situation the flood gates of the polder would have to be opened so that all the water can run through the polder from upstream to downstream. But in this situation the polder would totally loose its storage capacity showing that it is totally useless to build this polder.[12]

3.1.4 The new polder also cannot reduce the danger of a collision between a flood wave from upstream and a flood wave caused by winds from downstream,therefore it cannot reduce the flood danger for Szczecin

But even if the polder would work in times of a shorter flood wave, and if the polder could be closed in exactly the right moment storing the peak of the flood wave:

The new polder is already very close to Szczecin, it is also not higher than Szczecin, which means it will not be able to store a potential upstream flood wave from the

[12] Even if the polder would be closed again later during the peak of the flood wave, this would have (nearly) no storage effect, because the polder was already filled before by the streaming water! Quite the opposite, to close the polder during the long peak of the flood wave means that the water upstream of the polder then has – when it passes the polder – only space in the River Odra (Western and Eastern Odra) and not any more space in the polder, so that the flood danger for the town of Gryfino and other adjacent towns and villages upstream and sideward of the polder grows dangerously.

South with sufficient distance or height from a possible downstream flood wave coming from the Szczecin lagoon created by northern winds. So, since the new polder extends directly into the "flood-wave-collision-zone" at Szczecin, there is strong doubt that the danger of a collision of both flood waves (from the South and from the North) in Szczecin can be significantly reduced by the establishment of this polder in the Międzyodrze area. The avoiding of the collision of a flood wave from the South with a flood wave from the North is the justification for the erection of the polder in the Międzyodrze area, according to the West Pomerania Board of Amelioration and Hydraulic Structures in Szczecin (ZZMiUW) being responsible for the erection of the polder.[13]

So, if this collision of both flood waves cannot be significantly reduced by the new polder, the establishment of the polder loses totally its justification.

[13] According to ZZMiUW, verbal statement at the conference on November 20, 2015 in Criewen, where Brandenburg state officials were given first informations by the ZZMiUW; this can also be read in The World Bank´s PAD, p. 38.

3.2 Concerning Subcomponent 1A.5 stage 3: Modernization of the Pumping Station in the Marwice Polder

It is unclear why an existing and working pumping station in a front dike has to be modernized, since the existing pumping station works properly in order to reduce floods in the polder so that no flood danger occurs to adjacent villages since this polder has no backward dikes which could protect the villages.

A repair / renovation of the pumping station which would not raise

- neither its pumping capacity
- nor the pumping time during the year

would be understandable. But the phrase "modernization" implicates the raise of the technical pumping capacity of the pumping station. The raise of its pumping capacity is not necessary for flood protection – instead, a modernization of the pumping station can enable a stronger drainage of the land in order to intensify farming.

3.3 Concerning Subcomponents 1B.1 and 1B.2: The Stream Basin Development of the River Odra

The justification for these measures is the need for icebreakers to prevent ice floods.

3.3.1 Strong doubts whether a stream basin development could improve the use of icebreakers in the mid-term

A stream basin development can also lengthen lower water periods. Ice floods in the past occurred as a result of both, too heavy ice floes not breakable by icebreakers and of a lack of bypasses near bottlenecks, not as a result of too shallow water for icebreakers. If the administration would really fear that icebreakers would be too deep for the river, it would have used also during the last years icebreakers with a shallower draught such as used in River Elbe. The river bed shall be dredged, in order to achieve more water depth for icebreakers. This leads to a drainage of the adjacent wetlands.
Additionally, the old groynes shall be rebuilt and even raised bigger than ever before, also new groynes shall be built, which will also deepen the river bed and shall ensure a sufficient long-term deepening of the river bed (see for details chapter 2 and chapter 5.5).

The groynes shall avoid an erosion of the river shores and instead lead to a planned erosion of the riverbed (Groynes reduce the cross-section of the river, so the water speed accelerates which erodes the river bed deeper, until the cross-section of the river is as big as it was before. Then the water speed slows down again and the erosion of the river bed stops according to the planners). So the river shall keep its necessary water depth for icebreakers, also in the mid-term. But the erosion of the river bed often does not stop and continues also after the date when the cross-section of the river is as big as it was before: Then the erosion of the river bed becomes from a planned erosion to an unplanned erosion, often due to the reason, that the river cannot erode to its sides so that it cannot build up new underwater sandbanks, and that its former underwater sandbanks also do not exist any more due to dredging. Therefore that new underwater sandbanks – natural barriers which stop soil erosion in the river – cannot develop any more, so the soil erosion of the river continues - what was not planned by planners.

According this, the erosion will only in the short term provide a shipping lane for icebreakers. In the mid-term both, first the planned erosion of the river bed (during low water periods) and later the unplanned erosion of the river bed (also during middle water periods), can increase the drainage effect on the wetlands. This intensified drainage can severely damage the soil pores and consequently the water storage capacity of the wetlands.

So both,

- the draining of the wetlands during lower water periods (due to the deepening of the river bed as a result of both dredging and groynes)
- and as a result the destruction of the water storage capacity of the wetlands,

risks the lengthening of low-water periods during the year. This will not only raise the danger of droughts in adjacent areas – but will also threaten the potential use of icebreakers in the mid-term since the water depth of the river can be reduced instead of being raised. A comparable scenario can be watched at the River Vistula at Warsaw. There the river was also developed as a shipping lane and now a water depth of less than 1 meter can be found during longer periods of the year. This makes navigability impossible during these longer periods. A similar scenario can also be watched at the River Odra near Brzeg Dolny.

So, there is strong doubt if a cost-intensive stream basin development is also in the mid-term and in the long term a successful measure in order to enable icebreakers to approach to ice barriers. Therefore, icebreakers with a shallower draught, e.g. such type of icebreaker which is used at the River Elbe (a river similar to the Odra) are suggested by us as both, cost-efficient and an ecological better alternative (for details, see chapter 4.4.2, **alternative B**).[14]

Janusz Żelaziński, a hydro engineer experienced in flood protection in Poland since decades, highlights the fact that of course icebreakers are necessary against ice barriers. But he argues that the disastrous ice flood at the River Vistula in 1982 in Poland

[14] Please see in detail the first preliminary statement from Janusz Żelaziński in the Annex of this document.

was caused by the fact that the ice was too heavy, so that the icebreakers could not break the ice barriers (the river was deep enough for the icebreakers, this was indeed not the problem), and that there was no bypass for the water around the ice barrier which was not inhabited by people. Therefore Janusz Żelaziński urgently recommends for dangerous bottlenecks which raise the danger of ice barriers the following: the relocation of dikes and the planning of near-natural flood relief channels in order to create bypasses at these bottle necks.[15]

3.3.2 There is no case in the past where icebreakers could not use the River Odra due to a lack of navigability or due to too shallow water

Additionally it has to be highlighted, that on July 18, 2016, the government of Brandenburg state answered to the written question No. 1839, that there have been no known cases of icebreaker deployments failing due to a lack of navigability or because of shallow waters in recent years. This answer is noteworthy, since it also includes the Polish icebreakers on the River Odra. The German and Polish icebreakers always operate together under one command.

So, if the case that icebreakers were stopped by low water levels never has happened before, this case is a 100 % theoretical case. The question then is, if this case is only a theoretical scenario and which models were used in order to predict such a future scenario where icebreakers cannot be used due to shallow water. This raises also the question which likelihood for such a case was predicted by the models?

[15] Please also see in detail the first preliminary statement from Janusz Żelaziński in the Annex of this document.

3.4 Concerning subcomponents 1 B.1 and 1B.2: Stream Basin development of Odra, in combination with subcomponent 1A.6: Polder in Międzyodrze

We also do not understand why World Bank money is being used

- on the one hand to "improve" the water way for icebreakers (subcomponent 1B.1 and 1B.2) and
- simultaneously on the other hand it is being used to re-erect dikes and flood gates in the Międzyodrze area (subcomponent 1A.6). Exactly this combination of new dikes and flood gates together with the existing Odra bridges at Mescherin and Gryfino[16] can create new and dangerous bottlenecks for ice barriers . This new flood danger is not examined in any paper of The World Bank project.

[16] Both bridges contain pillars which are directly located in the River Odra (see pictures of Western bridge at Mescherin: http://oder-neisse-blogger.de/wp-content/uploads/2015/05/Br%C3%BCcke-Mescherin.jpg and http://www.gartz.de/news/index.php?rubrik=1&news=163725 and of Eastern bridge at Gryfino: http://www.noz.de/lokales/samtgemeinde-bersenbrueck/artikel/414597/von-bersenbruck-nach-gryfino#gallery&0&0&414597); ice floods here would not only endanger the downtown parts of the towns of Gryfino and Gartz and adjacent villages, but also the huge power plant situated very close to these bridges at the Eastern Odra at the Polish village Krajnik.

4 Infringement on the EU Water Framework Directive

4.1 Preliminary Note

During the last years the EC conducted an infringement procedure concerning Polish water policy. Concerning this infringement procedure, the EC wrote per email in 2013:

"[...] Now, with regard to the dike, indeed there is a horizontal problem in Poland with regard to flood control and river regulation measures. These measures are often carried out without any strategy or plan, i.e. without strategic environmental assessment or water framework directive assessment, their flood control impact is uncertain, their cost-benefit ratio is doubtful and existence of public interest justifying these investments is often absent. Indeed, as you rightly point out, often these so called flood control measures are in reality used to reclaim more arable land (e.g. for CAP payments). The Commission is aware of this problem. To address this problem the Commission launched a horizontal infringement procedure against Poland regarding rivers regulation in the context of flood control. We had a meeting with the Polish authorities in June to discuss among others this issue. At the meeting the authorities presented some ideas how to rectify this problem, e.g. by introducing changes to the Polish Water Act. The Commission position is that the prosed amendment will not fully address the problem (although with some respects it's going in the right direction) because it's not sufficiently addressing the horizontal problem of lack of strategic planning and public interest. We are therefore continuing the dialogue with the Polish authorities in view of fully addressing the problem. We are also in contact with other Commission services (DG AGRI and REGIO) to ensure that EU co-financing is allocated only to projects and activities which comply with EU law. [...]"

The authors of The World Bank´s EA on the OVFMP write in the beginning, that during this infringement procedure Polish authorities together with the EC´s DG Environment decided on a preliminary positive list of items being "acceptable because well manageable and not requiring basin wide analysis", and that all measures of the OVFMP were part of this positive list.[17]

[17] Please refer to EA, p. 6; unfortunately Annex 7 of the EA which contains the positive list, is not included in the public version of the report: therefore this cannot be verified from an outside perspective.

However, it has to be noted, that even if all measures of the OVFMP are on this positive list, this does not mean that DG Environment thinks that these measures are automatically all in compliance with the WFD – DG Environment only made clear that these measures seem to be manageable without the need for a whole basin-wide analysis. But of course, also for these measures WFD assessments (and also Habitats Directive impact assessment, see next chapter) have to be carried out. They are not automatically in compliance with the WFD.

This has to be noted especially before the background that Polish authorities acted very intransparent concerning the full extend of the planned measures within the OVFMP. So it is not even clear, if and how much details the DG Environment really knew about the full plans of the OVFMP. Only half a year ago, after The World Bank´s EA was written and after the OVFMP was approved, the European Court of Justice (EJC) judged that Poland´s Water Act indeed had infringed on the WFD (Case C-648/13).

Of course, it is true what the authors of The World Bank´s EA write: the WFD allows the deterioration of the ecological status of a river and its wetlands, if there is an overriding public interest. So it seems that the authors of The World Bank´s EA seem to agree after all on the fact that several subcomponents of the OVFMP have at least the potential to deteriorate the ecological status of the Rivers Odra and Vistula.

4.2 The Ecological Deterioration of the River Odra, concerning Subcomponents 1B.1 and 1B.2: the Stream Basin Development of River Odra

Indeed the WFD is massively affected, since the ecological status of at least the River Odra (its structure including its river bed and its adjacent wetlands) is massively deteriorated due to

- the excavation and homogenization of its river bed,
- due to its river bed erosion (due to groynes),
- which additionally results in a draining of its huge wetlands,

as shortly described in chapter 2 above and as shown in first preliminary studies of Environmental NGO.

Also The World Bank admits a general deterioration in its ESMF, Annex 1, unfortunately this deterioration is not examined in this Annex in detail. It is also not distinguished between the different subcomponents. Also the deteriorations are only described very generally. Especially no endangered species are named here:[18]

[18] Refer to p. 9-12 of Annex 1 of The World Bank´s ESMF. The World Bank names the Natura 2000 sites partially incorrect: The Natura 2000 Birds Directive site PLB320003 is named correctly, but the Natura 2000site "PLB320037" does not exist. Instead the Natura 2000 Habitats Directive site PLH320037 is meant by The World Bank!

Component of the environment	Type of impact	Significance	Likelihood of impact	Spacial scale of impact	Temporal scale of impact
Category: regulation and maintenance works in the riverbeds and inter-embankment zones of natural parts of waters, artificial or heavily modified parts of waters and drainage ditches					
Surface and ground waters					
Hydromorphological elements, physical and chemical parameters of the flow of surface waters	Increase in the velocity of water flow, change in roughness of the ground, change in capacity of the riverbed – impact on the flow regime.	Significant	Certain	SWB (local)	Long-term (stage of exploitation)
	Changes in morphology of the riverbed and interembankment zone, liquidation of riverbed and by riverbed structures, increase of bottom erosion, change in dynamics of fluvial processes, change in longitudinal profile – impact on hydromorphological elements of SWB.	Significant	Certain	SWB (local)	Long-term (stage of exploitation)
Protected Areas					
Lower Odra Valley PLB320003	Modernization of inter-flood bank area – liquidation of valuable natural habitats and habitats of species	Significant	Most likely	Local	Long-term (phase of exploitation)
	Changes in water conditions within habitats of valuable species of birds	Significant	Most likely	Local	Long-term (phase of exploitation)
Lower Odra PLB320037	Modernization of inter-flood bank area – liquidation of valuable natural habitats and habitats of species	Significant	Most likely	Local	Long-term (phase of exploitation)
	Changes in water conditions within habitats of valuable species of birds	Significant	Most likely	Local	Long-term (phase of exploitation)
	Dredging the canal connecting branch of the Oder, possible changes in water conditions within the adjacent bird habitats	Moderate	Most likely	Local	Long-term (phase of exploitation)
Flora and Fauna					
Oxbow lakes (3150) and related communities of vegetation and animal species assemblages	Backfilling, liquidation, shallowing water bodies	Oxbow lakes and associated flora and fauna communities	Most likely	Local	Long-term (phase of implementation exploitation)
Fauna and flora communities directly associated with the riverbed	Dredging the riverbeds - the destruction of the structure of the bottom, animal habitats, the increase in suspension in the riverbed (temporary deterioration of the occurrence conditions for organisms)	Fauna and flora communities directly associated with the riverbed	Most likely	Local	Long-term (phase of implementation exploitation)

Tab. 4: Table Category: regulation and maintenance works in the riverbeds and inter-embankment zones of natural parts of waters, artificial or heavily modified parts of waters and drainage ditches - Affected Natura 2000 Sites
Source: The World Bank: ESMF, Annex 1

One first example for endangered species is given here, by far not including all the ecological deterioration. Here we focus only on one fish species, since

- this fish species is globally vulnerable,
- it is directly endangered by the planned measures,
- and it is not protected by Habitats Directive Annex II and IV.

The endangering of this fish species is by far not the only ecological deterioration of the River Odra, since the indirect deterioration of the planned measures (e.g. the draining of the huge adjacent wetlands as an indirect result of the excavation of the river and of the raise of the groynes) is not examined here due to a lack of resources at this moment.

In the next chapter 5 we also focus on further species and habitats which are protected by EU Natura 2000 law, so those fish species which are protected under Habitats Directive Annex II and IV are not examined in this chapter.

Showing that the maraene (*Coregonus maraena*) as an according to IUCN globally threatened fish species (category Vulnerable) is endangered by the planned measures, shall show that the planned measures clearly deteriorate the ecological status of the River Odra which affects clearly the WFD:
One component of the Ecological Status of a river is, according to the WFD, the fish fauna. And according to the rule "one out all out" a river has to be judged as completely ecologically deteriorated, if even only one component is ecologically deteriorated. As a result, the planned measures deteriorate the whole ecological status of the River Odra since they clearly deteriorate at least its natural fish fauna. Therefore the measures clearly affect the WFD:

- Excavating / dredging the river bed on its whole width to a depth of 1.80 m destroys the underwater sandbanks which destroys the spawning habitat of the according to IUCN globally threatened fish species maraene (*Coregonus maraena*) and many further fish species.

- Raising of groynes and erection of new groynes also leads to the result of a deepening and homogenization of the river bed which destroys the underwater sandbanks which eliminates the habitat of the according to IUCN globally vulnerable fish species maraene (*Coregonus maraena*) and many further fish species.

This will be described in detail now.

- **The Maraene (*Coregonus maraena*) – Code: 5068**, is not specially protected by Habitats Directive Annexes II and IV, but as *Coregonus spp.* by Annex V. It is also indirectly protected under the fish fauna component of the WFD. The maraene is globally threatened according to the IUCN Red List[19] Its whole geographical range worldwide contains only the Baltic Sea basin including its tributaries. The maraene is a migrating species which also migrates upstream of the River Odra up to Eisenhüttenstadt / Kłopot (border between Poland and Germany), in order to spawn in winter (November to December) on the underwater-sandbanks in the midst of the stream (informations according to Christian Wolter, Leibniz-Institute of Freshwater Ecology and Inland Fisheries (IGB), pers. Comm.).

- **Negative direct impact:** A stream basin development would be an ecological catastrophe for *Coregonus maraena*, since the underwater-sandbanks which are necessary for this species as spawning areas would be totally destroyed by the excavating of the river bed. The River Odra is the only bigger stream in Germany where this species still reproduces in a relevant number. The reason is that the River Odra is the only bigger German stream which still contains these underwater-sandbanks, since no intensive stream basin development was conducted there (all these informations according to Christian Wolter, Leibniz-Institute of Freshwater Ecology and Inland Fisheries (IGB), pers. Comm.).

In spite of the fact that the North Sea population and the Baltic Sea population of *Coregonus maraena* is seen as one species (*Coregonus maraena*, taxonomic classification of both populations as one single species is controversial), only the North Sea

[19] Status "vulnerable" according to the IUCN Red List: http://www.iucnredlist.org/details/135672/0

population of *Coregonus maraena* is protected by Annex II and IV Habitats Directive. The Baltic Sea population of *Coregonus maraena* is only listed in Annex V Habitats Directive (according to the German Federal Agency for Nature Conservation the species *Coregonus oxyrinchus* is mistakenly listed in Annex II and IV Habitats Directive, since this species is already extinct worldwide for more than 100 years. The species *Coregonus oxyrinchus* listed in Annex II and IV Habitats Directive means according to the taxonomic classification which is used nowadays the North Sea population of *Coregonus maraena*).[20]

In spite of the fact that the Baltic Sea population of *Coregonus maraena* is not listed in Annex II and IV Habitats Directive, even though it is globally threatened, this population is indirectly protected by the WFD. Since following Annex V no. 1.1.1., 1.1.2., 1.1.3. WFD the fish fauna (including its diversity abundance and age structure) is one of the biological quality components of the WFD, the quality components serve as the base in order to categorize the ecological state of a water body. If one quality component is deteriorated, the whole river is judged to be deteriorated. Concerning fishes the ecological state of a water body is defined by finding out how close to a natural state the composition and abundance of fish species in the examined water body is (according to Annex V no. 1.2.1., 1.2.2., 1.2.3. WFD).

The EJC clarified on July 1, 2015, after an allegation by the NGO BUND (Friends of the Earth Germany) concerning the River Weser, that all projects – also a stream basin development, which deteriorate the ecological state of a water body – affect the WFD, and have to be judged under the obligations of Art. 4 Sect. 7 WFD (Case C 461/13).

The EJC judged that

- member states are obliged to fulfil both obligations of the WFD independent of each other: the obligation to not deteriorate the ecological state of a water body and the obligation to improve the ecological state of a water body,
- a deterioration of the ecological state of a water body is not only given, if a worse category described in Annex V WFD of an ecological state is realized; a

[20] Please refer to http://www.ffh-anhang4.bfn.de/ffh-anhang4-nordseeschnaepel.html

deterioration of the ecological state is already given if it is a smaller deterioration within one category described in Annex V WFD,

- a deterioration of the ecological state of a water body is also given if the deterioration is happening in a river which is already categorized with the worst category described in Annex V WFD,
- as a result member states are obliged to judge all projects which deteriorate the ecological state of a water body or which makes it impossible to reach a better ecological state under the obligations of Art. 4 Sect. 7 WFD.[21]

According to Art. 4 Sect. 7 S. 1 no. c) WFD a deterioration of a good ecological state can only be legitimated if an overriding public interest is given or similar reasons are given. Such as the benefit for health, security or a sustainable development are higher than the benefit of the goals of the WFD for environment and for the public.

According to Art. 4 Sect. 7 S. 1 no. d) WFD an overriding public interest or similar reasons (higher benefit for health, security or sustainable development) can only be declared if there is no reasonable alternative to the planned project.

As a result, if the population of *Coregonus maraena* in the River Odra is deteriorated, this is also a clear deterioration of the ecological state of the River Odra, both in Poland and Germany. So both countries face the danger of a violation of the WFD. A deterioration of the ecological state of a river as a result of a stream basin development is only justifiable by an overriding public interest or similar reasons such as that the benefit for health, security or a sustainable development are higher than the benefit of the goals of the WFD for the environment and for the public, and if there is no reasonable alternative.

[21] Please refer to http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62013CJ0461&from=DE

4.3 The Ecological Deterioration of the River Odra, Concerning subcomponent 1A.6 (Polder in Międzryodrze)

Creating artificially a conflict in nature protection aims where there was no conflict before: deteriorating the ecological connectivity of the water arms versus deteriorating the drying of the wetlands.

Even if the Regional Directorate for Environmental Protection (RDOŚ) Szczecin can keep its promise they made at the conference in Criewen (Germany) on November 20, 2015 to protect the huge peatlands of the Międzryodrze area as a huge natural carbon and nitrogen sink against drainage[22], this would mean that during low water periods at least a significant number of the new flood gates in the dikes have to be closed in order to reduce the drainage effect during low water periods.

- Since the many natural river arms have to be intensively cleansed in order to improve the flood protection at least a little bit (most likely still with no significant impact on flood protection, see chapter 3),
- and since most of the flood gates which will be rebuilt now are located in the natural river arms[23], the artificial drainage will grow during low water periods even in spite of the fact that no pumping stations will be built.

Therefore it will be necessary to close a significant amount of the flood gates of the many still natural and in the future cleansed river arms during low water periods in order to avoid a non-natural drainage of the wetlands in the Międzryodrze area. As a result the river connection between the Międzyodrze area and the River Odra is clearly deteriorated, compared with the situation now.

[22] A promise which seems difficult to keep, since at the same meeting in Criewen on November 20, 2015 the ZZMiUW and also the leader of the Landscape Parks of West Pomeranian Voivodeship (ZPKWZ), Dorota Janicka, told that it is indeed planned to conduct a dry mowing in parts of the area, for a dry mowing the water level must be lower as it is now during the whole year. Both the ZZMiUW and also Dorota Janicka spoke at the conference that in their opinion the Międzryodrze area was “too wet”. So there is still suspicion that it is planned to drain the area.

[23] Only very few flood gates are situated in old artificial channels. If most flood gates would be situated in the few old artificial channels, of course these channels could be cleaned and the flood gates of these channels closed in order to avoid drainage, and this would also not deteriorate the ecological connection between the river arms in the Międzryodrze and the main River Odra (Western Odra and Eastern Odra outside of Międzryodrze).But most flood gates are not situated in the old channels but in the natural river arms there where they meet the River Odra.

As a result of the planned cleaning of the natural rivers in combination with the planning of the restoration of the old dikes and flood gates, an artificial conflict of two protection aims is created in the future due to the planned measures. This is a conflict which does not exist at the moment:

- either the drainage is too much (when the flood gates are open)
- or the ecological connectivity between the natural river arms in the Międzyodrze area and the Odra is significantly reduced (when the flood gates are closed)
- or both happens, if a compromise is developed between reducing the drainage effect and still trying to enable a minimum of ecological connectivity.

Therefore a massive negative impact of the planned measures

- on the central aim of the WFD, to protect and improve the ecological state of aquatic ecosystems and their depending land ecosystems and wetlands (Art. 1 a) WFD) and as part of this aim,
  - the protection aim of not draining wetlands on the one hand
  - and on the other hand the protection aim of keeping the existing ecological connection between the natural river arms and the main River Odra (Western Odra and Eastern Odra)
- and on species specially protected by Natura 2000 law holding strong regional populations on the affected SCI (Site of Community Importance) and SPA (Special Protection Area),
  - many of them needing not drained wetlands on the one hand
  - and many of them needing sufficient ecological connection on the other hand (e.g. Habitats Directive Annex II species *Misgurnus fossilis* and *Anisus vorticulus* need both, neither a drainage nor a deterioration of ecological connectivity, see chapter 5 below, where the infringement on Natura 2000 directives is examined)

is the consequence.

4.4 Infringement on the Water Framework Directive

As the authors of The World Bank´s EA correctly point out, an ecological deterioration of a river does not infringe on the WFD, if an overriding public interest is given, according to Art. 4 Sect. 7 WFD.

Of course flood protection is a very important public interest,

- but as was drafted in chapter 3, it is doubtful if the planned measures will have a significant improvement on flood protection; additionally, there is a real danger that these measures create adverse effects deteriorating flood protection,
- moreover, even if these measures would have a significant positive impact on flood protection, even in this case an overriding public interest does only exist, if there do not exist other reasonable alternative measures with a better cost-benefit-ratio.

In The World Bank´s Environmental Assessment (EA) of the project many potential alternatives have not been examined, they have not even been named! Therefore the following alternatives also have not been named in The World Bank´s EA:[24]

4.4.1 Alternative A: The possibility of the relocation of dikes along several parts of the Odra in order to enlarge the natural flood detention basins – reducing flood levels and therefore reducing danger to settlements and cities such as Szczecin

This alternative has not been examined within The World Bank´s EA, in spite of the fact that such huge wetlands exist along the Odra which could reduce the flood level, areas. These are diked at the moment with no settlements, parts of it are not used at all and being wilderness areas and already in state property. Other parts are used only on a very small scale for agriculture and forestry (the forested areas and parts of the meadows are also partly in state property).

In order to name only two examples:

[24] Please refer to EA, p. 102 - 103.

Huge wetlands North-East of Szczecin east of the River Odra, especially in the areas between Stepnica and Święta and between Święta and Lubczyna (additionally also between Lubczyna and Czarna Łąka, also north of Szczecin Dąbie, also north of Czarnocin, and also west of the Odra near Police) exist, with a space of minimum 5,000 ha and up to 13,000 ha- These potential areas offer a much better flood protection for Szczecin against the collision of flood waves from the North and also from the South than a polder in the Międzryodrze area, because

- these 5,000-13,000 ha are diked at the moment and not part of the flood detention basin; so if the dikes there would be destroyed and a new backward dike would be built around these wetlands, they create additional huge space for floods (different to the 5,200 ha in in the planned Międzryodrze Polder which are already now part of the natural flood detention basin and do not create additionally space for floods)
- and they create additionally space of floods at the right geographical point so that the water height in Szczecin due to a collision of flood waves from the South and from the North can be reduced (different to the 6,000 ha in the planned Międzryodrze Polder which is situated already in the collision zone of both flood waves at Szczecin; so that the planned polder cannot store the flood wave from the South in sufficient distance to the flood wave from the North; so the Międzryodrze Polder cannot reduce the collision of both flood waves and therefore not reduce the water height in Szczecin – see for details chapter 3):

  Since such a relocations of dikes in these huge areas especially north-east of Szczecin will

  - not only be able to create much more space for a flood wave resulting from Northern winds from the Szczecin lagoon
  - but also be able to create much more space for a flood wave from the South from upstream, in spite of the fact that this area is 15 km downstream of Szczecin, since a relocation of dikes has especially the effect to reduce the height of the flood wave coming from upstream. For example the dike relocation of only 400 ha at the River Elbe at Lenzen resulted in the fact that the flood wave 2013 was reduced at the place of the dike relocation for maximum 49 cm and 15 km upstream for already 15 cm.[25]

[25] Heinzelmann et al. (2016), p. 12-13.

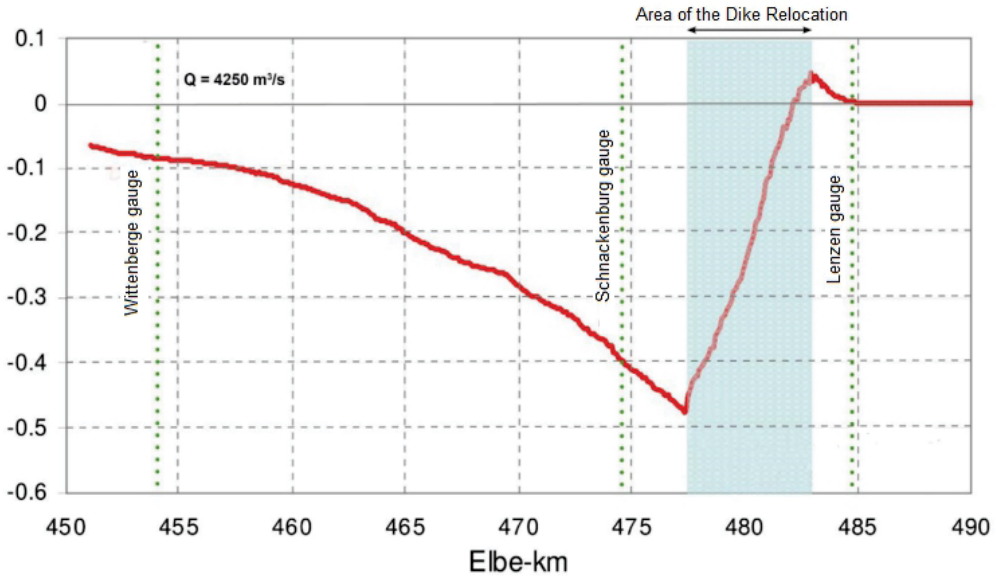

Fig. 5: Effect of Dike Relocation at Lenzen on Reducing Elbe Flood wave 2013

Source: Promny et al.(2014)

As mentioned, significant parts of these areas, especially between Stepnica and Święta, are in relevant parts not used at all and in state property. In other parts the areas are used for small-scale-mowing which is only done in order to receive EU CAP subsidies. After 1990 and before 2004, these meadows were not used at all. The CAP subsidies could also be paid if the land is too wet after a relocation of dikes, e.g. in Sweden and in Germany subsidies can be paid to farmers also in natural river basins and during years where they cannot mow. Another possibility could be to pay compensation to farmers so that they stop the use of their land which would enlarge the existing wilderness areas being attractive to both biodiversity, new inhabitants of the region and wilderness tourists; e.g. the moose uses this area already for reproduction.

In the northern part of the Warta Mouth National Park at the mouth of the River Warta into the River Odra at Kostrzyn nad Odrą (120 km upstream of Szczecin) exists a huge polder of around 5,000 ha north of the River Warta. At the moment this cannot be used in order to store floods, because a backward dike to the adjacent villages further North is totally missing. So if a backward dike would be built, this existing polder can be used for storing floods,

- raising the natural flood detention basin for an additionally 5,000 ha
- and being able to store an upstream flood wave from the south in sufficient distance to Szczecin.

For this, in both ways it would work much better than a new polder in the Międzryodrze area which is too close to Szczecin and which is situated in an existing flood detention basin and therefore cannot offer any additional space for floods.

It could also be examined – after the backward dike is built – whether it would be better to destroy parts of the front dike between the polder and the River Warta, so that this area would not only be used as a polder, but as a near-natural flowing flood storage. According to hydro engineers from The Netherlands this is most-likely better than a full polder, because

- as was shown in chapter 3, the River Odra has very long flood waves, so that polder generally have a lower flood storage effect and
- a (half) open flowing flood storage can better planish the height of a flood wave since it homogenizes the flood wave better. To simulate this planishing process with a polder is very difficult, and in case that the polder is filled too fast, its flood gates have to be opened again in order to avoid that the peak of the flood wave finds less space in the river bed and endangers adjacent settlements behind the dike due to the already filled polder. However, different to the Międzryodrze area, even a full polder in the Northern Part of the Warta Mouth National Park would not endanger adjacent settlements more than now since such a Polder raises in every case the spaces for floods and will be built in areas that are fully diked at the moment, and no new dikes are built in the natural flood detention basin (different to the Międzryodrze Polder, where new dikes are built in the natural flood detention basin which raises the flood danger for adjacent and upstream towns, see chapter 3).

As mentioned, this polder is already now part of the Warta Mouth National Park, it is a huge wetland area, and it is only used for small-scale mowing. If this polder would be used as a real polder, no additional cost would arise except the building of a new backward dike, since the water level would not be higher than now. So mowing could be continued. Only in the rare cases when the polder is used during a huge flood wave land use would be reduced during the time when the polder is filled. In the case that

this polder would be partially opened by destroying part of the front dike, then the water level will raise also during normal high water times which can raise the costs for farmers. But the CAP subsidies could also be paid. if the land is too wet after a relocation of dikes. For example in Sweden and also in Germany subsidies can be paid to farmers in natural river basins even during years where they cannot mow. Another possibility could be to pay compensation to farmers so that they stop the use of their land which would enlarge the existing wilderness areas, being attractive to biodiversity, new inhabitants of the region and wilderness tourists. Since the area is property of the state, this seems relatively easy to handle.

It has to be mentioned that such a relocation of dikes further away from the shore would not only help in cases of normal floods but also in cases of floods due to ice barriers. So such a relocation of dikes further away from the shore

- is not only a much better alternative to the subcomponent 1A.6 (polder in Międzryodrze)
- but also a much better alternative to the subcomponents 1B.1 and 1B.2 (the stream basin development of River Odra for icebreakers), especially, if such relocations of dikes are combined with the use of flood relief channels (see alternative C) and icebreakers with a shallower draught (see alternative B).

4.4.2 Alternative B: The use of a flotilla of icebreakers with a shallower draught

This alternative has not been examined within The World Bank´s EA, too. Such ice breakers with a shallower draught are used e.g. at the River Elbe in Germany only 300 km west of River Odra.

Fig. 6: Icebreakers of WSA Lauenburg – Ice breaking upstream Geesthacht at River Elbe

Source: WSA Lauenburg (2013)

Vessel name	Year of cons.	Tmax [m]	Tmin [m]	L [m]	W [m]	Kw	t max
Keiler	2011	1.55	1.45	33.23	8.54	810	227
Wolf	1966	1.45	1.38	29.63	7.48	559	167

Tab. 5: Capacity of selected Elbe icebreakers

Source: WSA Lauenburg (2013)

It is noteworthy that the 2011 built and 5 million euro expensive Elbe icebreaker "Keiler" has – in spite of its shallow depth – more ice breaking capacity than nearly all the older and deeper icebreakers.[26]

[26] Please refer to WSA Lauenburg (2013), p. 25. Also for these reasons the German Federal Environmental Agency (UBA) already rejected in 2005 the demand of the German shipping and waterways administration of an excavation of the River Elbe and demands instead to invent more ice breakers

At the River Elbe it was also planned in the past to raise the depth of the river up to 1.80 m (= 1.60 m useable depth for ships) in order to improve commercial shipping. However, these plans have been fully stopped now.[27]

4.4.3 Alternative C: The use of flood relief channels, e.g. in Szczecin and Osinów

This alternative has also not been examined within The World Bank´s EA. Such flood relief channels are realized e.g. in Nijmegen in The Netherlands or upstream of the River Odra in the cities of Raciborz, Opole and Wrocław.[28] A potential route for a near-natural flood relief channel in Szczecin could stretch from the Międzryodrze area to the North-East crossing the eastern branch of the River Odra near the Motorway 10 and discharge into the utmost southern section of the Jezioro Dąbie. This route would be free of any settlements and would only need bridges for the railway line and for 3 roads.

4.4.4 Alternative D: The restoration of wetlands in the basin of River Odra in order to help avoiding the beginning of floods by repairing the natural flood storage of the landscape

This task would also reduce the danger of low water periods improving the navigability of the River Odra. This alternative has not been examined within The World Bank´s EA. Instead, the Polish drainage authorities destroyed wetlands on a large scale during the last years in order to get more arable land – also these practices lead to the WFD infringement procedure against Poland as described above.

with a shallower draught and the relocation of dikes at potential bottlenecks. Please refer to p. 41 and 49, https://www.umweltbundesamt.de/sites/default/files/medien/publikation/long/2848.pdf

The current state is that even the status quo of the actual dredging of the River Elbe will be reduced, see for details footnote 27.

[27] Please refer to the German newspaper article of MAZ: http://www.maz-online.de/Lokales/Prignitz/Das-war-s-mit-1-60-Meter-Fahrrinnentiefe;please also refer to press release of Federal Association of German Inland Water Transportation (BDB): http://binnenschiff.de/content/pressemitteilung/wohin-steuert-die-schifffahrt-auf-der-elbe-bundes-verkehrsministerium-stellt-bisheriges-unterhaltungsziel-an-der-elbe-in-frage/

[28] Janusz Żelaziński, hydro engineer from Poland and experienced in flood management since decades, wrote in his first preliminary statement, that indeed icebreakers are important in order to fight ice barriers, however, during the ice flood in 1982 at the River Vistula, the icebreakers could not break the ice barriers at all, the ice barriers were much too massive, and the only chance to avoid this flood would have been if there would have been natural flood relief channels or polder without settlements which would have enabled a bypass for the floods around the ice barriers. His first preliminary statement can be found in the Annex to this document.

4.4.5 Evaluation of Alternatives

So these alternatives A, B, C and D

- are not only a much better alternative to the subcomponent 1A.6 (polder in Międzryodrze)
- but also a much better alternative to the subcomponents 1B.1 and 1B.2 (the stream basin development of River Odra for icebreakers), especially, if such relocations of dikes are combined with the use of flood relief channels (see alternative C) and ice breakers with a shallower draught (see alternative B).

Concerning the **general flood protection** especially the a**lternatives A, C and D** are viable. Concerning the **protection against ice floods** also the **alternative B in addition to the alternatives B), C), D)** are viable.

Therefore the assessment of alternatives for flood protection has not been conducted sufficiently, so that an overriding public interest for these planned measures of subcomponents 1A.6, 1A.5 stage 3, 1B.2, 1B.1 for flood protection has not been demonstrated sufficiently at the moment. As a result, the planned measures infringe on Art. 4 Sect. 7 EU WFD.

It is strange that in their reply to Polish and German NGO both, The World Bank and also the Polish Ministry of Environment (MŚ), do not answer to all these arguments posed by Polish and German NGO in their letter to The World Bank. Not even a single argument is answered (letters and answer letters are attached in the Annex).

5 Infringement on EU Natura 2000 Framework Directives

5.1 Preliminary Remarks

But also the Natura 2000 directives are massively affected. As shortly stated above in chapter 2 and as described more in detail in first preliminary studies of NGO, many populations of even national importance of by Natura 2000 law protected river and wetland species are endangered by the planned measures of the subcomponents 1A.6, 1A.5 stage 3, 1B.2, 1B.1. This can not be mitigated or compensated, as will be shown in the further.

However, the endangering of even a local population of species protected by Natura 2000 law already endangers the coherence of Natura 2000. And even an imperative overriding public interest without any alternative can not justify the endangering of the coherence of Natura 2000. As a result, the planned subcomponents infringe on Art. 6 sect. 4 Habitats Directive. This will be shown in the following sub-chapters.

So, the Natura 2000 directives have – concerning the weight of an imperative overriding public interest – much harder restrictions than the WFD. **It is very strange, that The World Bank uses in its answer to Polish and German NGO the wrong argument that no Natura 2000 area was affected.** This answer is contradictory to the fact that even The World Bank´s own Environmental Assessment clearly lists the many Polish Natura 2000 areas which are directly affected by the planned measures.[29]

Also The World Bank admits in its ESMF, Annex 1 a general deterioration. Unfortunately this deterioration is not examined in this Annex 1 in detail. It is also not distinguished between the different subcomponents, and the deteriorations are only described very generally, especially no endangered species are named here:[30]

[29] Please refer to EA, p. 43-44.

[30] Please refer to ESMF, Annex 1, p. 11-12. The World Bank names the Natura 2000 sites partially incorrect: The Natura 2000-Birds Directive-site PLB320003 is named correctly, but the Natura 2000-site "PLB320037" does not exist, instead the Natura 2000-Habitats Directive site PLH320037 is meant by The World Bank.

Component of the environment	Type of impact	Significance	Likelihood of impact	Spacial scale of impact	Temporal scale of impact
Category: regulation and maintenance works in the riverbeds and inter-embankment zones of natural parts of waters, artificial or heavily modified parts of waters and drainage ditches					
Protected Areas					
Lower Odra Valley PLB320003	Modernization of inter-flood bank area – liquidation of valuable natural habitats and habitats of species	Significant	Most likely	Local	Long-term (phase of exploitation)
	Changes in water conditions within habitats of valuable species of birds	Significant	Most likely	Local	Long-term (phase of exploitation)
Lower Odra PLB320037	Modernization of inter-flood bank area – liquidation of valuable natural habitats and habitats of species	Significant	Most likely	Local	Long-term (phase of exploitation)
	Changes in water conditions within habitats of valuable species of birds	Significant	Most likely	Local	Long-term (phase of exploitation)
	Dredging the canal connecting branch of the Oder, possible changes in water conditions within the adjacent bird habitats	Moderate	Most likely	Local	Long-term (phase of exploitation)
Flora and Fauna					
Oxbow lakes (3150) and related communities of vegetation and animal species assemblages	Backfilling, liquidation, shallowing water bodies	Oxbow lakes and associated flora and fauna communities	Most likely	Local	Long-term (phase of implementation exploitation)
Fauna and flora communities directly associated with the riverbed	Dredging the riverbeds - the destruction of the structure of the bottom, animal habitats, the increase in suspension in the riverbed (temporary deterioration of the occurrence conditions for organisms)	Fauna and flora communities directly associated with the riverbed	Most likely	Local	Long-term (phase of implementation exploitation)

Tab. 6: Affected Natura 2000 Sites and Flora and Fauna

Source: The World Bank: Environmental and Social Management Framework

The World Bank´s Environmental Assessment (EA) clearly comes to the result that:

"During further works associated with implementation of particular attention should be paid to Natura 2000 sites: Dolina Dolnej Odry PLB320003, Dolina Środkowej Odry PLB080004, Dolna Odra PLH320037 covering large areas of valuable natural habitats an habitats of species associated with the Valley of Odra."[31]

[31] Please refer EA, p. 45.

So, it seems that even The World Bank´s opinion written in its own EA is that an Habitats Directive impact assessment for at least these named Natura 2000 areas has to be conducted for legal reasons. This opinion is shared by Environmental NGO. **Therefore the question is why now The World Bank answers to NGO that no Natura 2000 site was affected – clearly contradicting its own EA?**

Additionally it has to be mentioned that within The World Bank´s EA none of the adjacent German Natura 2000 sites being part of the River Odra have been taken into consideration. None was even named, especially the following German Natura 2000 sites:[32]

[32] The Waterways and Shipping Administration in Germany (WSV) plans the same stream basin development on the German side of the Odra also using the argument that this was necessary for icebreakers. This German project together with the Polish project of a stream basin development of the River Odra (as part of the Polish World Bank project) was agreed in a contract between the transport / shipping ministries of both states and then signed by the Polish and German government on April 27, 2015. The departments responsible for Natura 2000 and Nature conservation of the German Ministry of Environment (BMUB) were not or not fully informed about this project. Except of the especially mentioned bottlenecks in the German-Polish agreement, the German WSV made clear during several meetings with German NGO that it sees 99 % of this project as "maintenance", not as a stream basin development, therefore the German WSV plans no Environmental Impact Assessment for these 99 % of the project (including the raise of groynes and the excavation of the river bed). The shipping administration plans to conduct this stream basin development just by doing it, without any assessment. Therefore, German environmental NGO currently prepare charges against this practice of the German WSV. This is something that Polish NGO unfortunately cannot do since there are no legal possibilities in Poland to approach against administrational projects which are carried out without any formal decision by the administration (the goal of the German WSV, to label a clear stream basin development into a "maintenance" is used since many years by the shipping administration).
It has to be noted that German environmental NGO have won several similar cases in the court against the Waterways and Shipping Administration in the last years. For example the stream basin development of the River Havel between Berlin and the town of Brandenburg was totally stopped by court due to the fact that German NGO could prove that there existed no overriding public interest justifying a stream basin development.
It is noteworthy that the same German WSV, which plans a stream basin development at the River Odra using the argument of icebreakers, does not plan such a stream basin development for icebreakers at the River Elbe (which has similar depths and flow conditions and ice dangers as the River Odra). At the River Elbe there was no consensus between the German WSV/German Federal Ministry of Transport (BMVI) on the one hand and the German ministry of environment on the other hand (since its Natura 2000 / nature conservation departments were fully informed before), the German WSV until now could not prove an overriding public interest for a stream basin development for the River Elbe (compare also footnotes 26and 27).
As a result of this conflict between German ministry of environment, environmental NGO and the huge nature-based bicycle tourism sector along the River Elbe (gaining hundreds of million euros out of nature based bicycle tourism, refer to http://elbeinsel.de/2016/542/) on the one side and on the other side the German WSV / German BMVI and private harbour companies and shipping companies, after decades of blocking each other in this conflict, a common approach of developing together a common consensus has been started some years ago (http://www.wwf.de/2016/mai/sohlerosion-stoppen/). Such a common consensus which is practised along the River Elbe between the former conflict parties could be a very good role model for the River Odra.

Site Code	Site Name
DE2951302	Unteres Odertal
DE2951401	Unteres Odertal
DE3151301	Oderwiesen Neurüdnitz
DE3252301	Odervorland Gieshof
DE3352301	Oderaue Kienitz
DE3353301	Oderaue Genschmar
DE3453301	Oderinsel Kietz
DE3453422	Mittlere Oderniederung
DE3553308	Oder-Neiße Ergänzung
DE3653301	Eichwald und Buschmühle
DE3653302	Oderwiesen nördlich Frankfurt
DE3754303	Mittlere Oder
DE3954301	Oder-Neiße

Tab. 7: Affected German Natura 2000 Sites

Source: Own creation

Due to the fact that the Lower and Middle Odra Valley has important roosting sites for migrating birds even not only the effects on with the OVFMP areas coinciding or adjacent Natura 2000 sites need to be assessed. The corridor function of the Odra Valley, but with strong on fish, The World Bank mentions, too:

"The Valley of Odra River also performs an important function of ecological corridor connecting northern and southern regions of Poland as well as a migratory route for fish migrating between upper part of Odra River Basin and the Baltic Sea."[33]

But this is only done for the Border Odra without a transboundary point of view. For example the Międzyodrze wetland is an internationally important roosting site for migrating geese and cranes. These birds are using the wetland for roosting and extensive surrounding areas for foraging. Substantial parts of the preferred foraging areas of geese and cranes roosting in the Międzyodrze wetland are included in the SPA Randow-Welse-Bruch (DE2751421) and Unteres Odertal (DE 2951401). Any negative impacts on the birds in Międzyodrze wetland will therefore directly affect the status of target species in these Special Protection Areas.

[33] Please refer to ESMF, p. 14.

5.2 By the planned Measures affected Species protected by EU Natura 2000 Law in the Międzryodrze Area (Subcomponent 1A.6: (Re-)Construction of the Międzryodrze Polder)

Not only The World Bank´s EA describes the excavation / dredging of the river arms. And the excavation / dredging of the river arms is also not only justified by the will to enable that floods can run fast into the Międzryodrze area. The ZZMiUW stated in its presentation in Criewen in November 20, 2015, that the excavating / dredging of the natural river arms and the cleansing of their vegetation was also necessary, because the area was "too wet" – also from an ecological point of view, as they said.[34] It is very difficult to understand why a natural wetland is "too wet" from an ecological point of view, since wetlands are inhabited by species which depend on these wet circumstances and which are endangered, if the area is drained. Also farmland species which breed in the River Odra basin need natural wet areas, too. They do not need dry areas, because this can endanger them. Mowing or grazing in order to support these farmland species can also be conducted in wet and non-drained areas (e.g. wet mowing or wet grazing with water buffalo as methods of paludiculture concepts, presented by Professor Michael Succow at the same meeting in Criewen). Therefore mowing or grazing does not need any draining.[35]

The question also arises, if for the protection of farmland species it would not be better to only use a smaller area for agriculture, in order to avoid a significant reduction of the huge unique wilderness areas in the Międzryodrze and in order to avoid a reduction of those species which depend on the huge wilderness areas. For protecting farmland species, it could be more useful to focus on adjacent wetlands, e.g. on those wetlands

[34] The ZZMiUW states that the too high water level on the non-drained "meadows" in the natural wetlands of the Międzryodrze would "endanger" the habitat for aquatic warbler (*Acrocephalus paludicola*) and Whooper swan (*Cygnus cygnus*) in the Międzryodrze.
Please refer to ZZMiUW (2015), unpublished presentation held on November 20, 2015, p. 21. This presentation is available in the Annex to this document.
According to all independent ornithological experts the opposite is the case: Both species are not endangered by natural high water levels, quite the opposite: Especially the aquatic warbler is endangered by a drainage.

[35] "Paludiculture ("*palus*" – lat. "mire, morass") is the wet cultivation of marshland. On the one hand it includes traditional processes of peatland cultivation (reed mowing, litter usage), on the other hand new processes, for example the energetic utilization of biomass of the marshes, are used. In these processes the preservation of peat is always the most important/main objective. In many cases even renewal of peat (peat renewal) occurs for example in reed usage. There the biomass above ground is skimmed off and the biomass located underground accumulates new peat which is required for the renewal of peat." http://www.paludiculture.uni-greifswald.de/en/index.php

in the Marwice Polder where small-scale agriculture is already conducted at the moment.

In any case it is not justifiable to endanger local populations of by Natura 2000 law specially protected species which depend on the wilderness areas of the Międzryodrze, even if some by Natura 2000 law specially protected farmland species could profit from agriculture. So, from an ecological point of view it can make sense to conduct in a small part of the Międzryodrze area agriculture, so that farmland species can profit. But in any case it has to be avoided that the wilderness areas of the Międzryodrze will be significantly reduced. This would endanger those existing species which depend on this wilderness. Also in case that in a smaller area agriculture is conducted for farmland species, no drainage is needed, no dikes are needed and no excavating and cleansing of the natural river arms in the Międzryodrze are needed. This can endanger farmland species, too. The dredging / excavating and the cleansing of the natural river arms of the Międzryodrze area and also the erection of dikes and flood gates endanger directly several by Natura 2000 law specially protected species – even in case that the excavated and cleansed river arms together with the dikes and flood gates would never be used for a drainage.

So, also without any drainage, only the dredging / excavating and the cleansing of the river arms and also the erection of dikes and flood gates endanger several Natura 2000 species, as will be shown in the further.

5.2.1 Ramshorn snail (Anisus vorticulus) – Code: 4056

Listed on Habitats Directive Annex II and IV, according to the SDF (Natura 2000 Standard Data Form) the SCI PLH320037 (Dolna Odra) hosts a relevant population of this endangered species.

Negative direct impact:

Significant parts of its reproduction habitat in the river arms will be destroyed by the planned measures (cleansing and excavating the natural river arms which is planned by the ZZMiUW) since this species reacts[36]

- very sensitive to direct changes of the structure of vegetation and biotope (excavation and cleansing),
- sensitive to changes in hydrology and hydrodynamic (excavation and cleansing),
- sensitive to barriers (planned flood gates),
- it reacts also very sensitive to eutrophication (especially Nitrogen), sensitive to agriculture and sensitive to siltation, the cleansing of the water arms and channels will not reduce the eutrophication and siltation. Instead it can lead to a growing nutrient input (especially Nitrogen) as a result of the mineralization of the organic substance due to drainage, and even if drainage is not conducted the flood gates will have to be closed during low water levels in order to avoid drainage so that siltation will grow in those smaller river arms that are not cleansed since they are not necessary for flood protection. At the moment siltation does exist in several parts but is not a problem since all water arms and old channels are connected to the River Odra and its water flow in a natural state. This allows siltation in the area as an important part of natural processes (important for many species and also important for peat development as a carbon and nutrient sink). However, this avoids a growing siltation in the area due to the open water flow.

As a result the planned measures will endanger this species

- on the one hand due to destruction of vegetation and habitat structure in those river arms that are cleansed and excavated
- and on the other hand due to growing non-natural siltation in those smaller river arms that are not cleansed due to the lack of water flow in these river arms when the flood gates are closed during low water periods in order to avoid a drainage (if the flood gates are not closed the drainage will rise which

[36] According to http://ffh-vp-info.de/FFHVP/Art.jsp?m=2,1,6,4; also to www.nlwkn.niedersachsen.de/download/50867

will also endanger this species due to growing eutrophication, especially Nitrogen).

5.2.2 European Weatherfish / European Weather Loach (Misgurnus fossilis) Code: 1145

Listed on Habitats Directive Annex II, it is listed in SDF of the SCI PLH320037 (Dolna Odra) the Międzryodrze area hosts the strongest source population of this species in West Pomeranian Voivodeship (according to Furdyna, pers. Comm.).

Negative direct impact:

Significant parts of its reproduction habitat in the river arms will be destroyed by the planned measures (cleansing and excavating the river arms, erecting dikes and flood gates) since this species reacts[37]

- very sensitive to direct changes of the structure of vegetation,
- to changes of the ground (it needs non-disturbed mud),
- of the whole biotope,
- of the hydrology and hydrodynamic,
- also very sensitive to dikes and flood gates (which destroy the ecological connection to the river, raise the mortality and raise the danger of fast, non-natural siltation),
- to eutriphication.

As a result the planned measures will endanger this species

- on the one hand due to destruction of vegetation, ground and habitat structure in those river arms that are cleansed and excavated,
- on the other hand due to growing non-natural siltation in those smaller river arms that are not cleaned due to the lack of water flow in these water arms when the flood gates are closed during low water periods in order to avoid a drainage (if the flood gates are not closed the drainage will rise which will also endanger this species due to growing eutrophication, especially Nitrogen). These measures will also endanger this species due to the barriers of the flood gates / dikes which cut the ecological connectivity to the River Odra.

[37] According to http://ffh-vp-info.de/FFHVP/Art.jsp?m=2,1,2,19, also to www.nlwkn.niedersachsen.de/download/26045

5.2.3 Black tern (Chlidonias niger) – Code: A197

Listed on Birds Directive Annex I; according to SDF the SPA PLB320003 (Dolina Dolnej Odry) hosts 120-140 breeding pairs which is more than 2 % of the whole breeding population of Poland.

Negative direct impact:

Significant parts of its breeding habitat will be destroyed by the planned measures due to the fact that this species breeds especially on water soldier (*Stratiotes aloides*), a rare water plant which has a strong population in the Międzryodrze and which will be significantly reduced by the ZZMiUW's planned cleansing of the river arms. The ZZ-MiUW in Criewen even told on November 20, 2015 in Criewen that there was "too much" Water Soldier in the river arms which would "destroy" the habitat for the black tern, as a result of the "non-drained meadows".[38]

But also here according to all ornithological experts exactly the opposite is true: The black tern needs for an optimum breeding habitat a strong and huge population of water soldier. Of course it could be stated that a compensation measure could be to use small artificial breeding rafts instead of water soldier for the black tern in order to compensate the deterioration of water soldier as breeding habitat. Indeed, breeding rafts are used by ornithologists for this species. Also in the Międzryodrze breeding rafts are used and the black tern indeed breeds on them. It is true that in those regions where water soldier is on the edge of extinction, breeding rafts are used in order to avoid a total break down of the population of the black tern. However, breeding rafts are clearly not sufficient as a compensation measure. If they would be sufficient, the black tern would not be an endangered species. It would breed everywhere where ornithologists put breeding rafts, but it does not. Instead, the best populations of the black tern being stable also in the longer term are situated there where a sufficient amount of water soldier is available for them. So, artificial breeding rafts cannot sufficiently compensate the destruction of the Międzryodrze as a outstanding natural breeding habitat of one of Central Europe´s strongest populations of the black tern.

[38] Please refer to ZZMiUW (2015), unpublished presentation held on November 20, 2015, p. 21. This presentation is available in the Annex to this document.

5.2.4 White-winged tern (Chlidonias leucopterus) – Code: A198

This species is not listed on Birds Directive Annex I. However, it is also protected under Natura 2000 law: Art. 5 Sect. d) i.c.w. Art. 2 i.c.w. Art. 3 Sect. 1 Birds Directive protects the populations of all European bird species; also an exceptional permission based on Art. 9 Sect. 1 Birds Directive must not infringe on Art. 9 Sect. 4 Birds Directive which clarifies that an exceptional permission must not contradict the aims of the Birds Directive: to ensure a stable population of each species, including its local populations.

According to SDF the SPA PLB320003 (Dolina Dolnej Odry) hosts only 5 breeding individuals; according to ornithological experts the Międzryodrze hosts 5 breeding pairs,[39] this seems to be not much. But it has to be noted that together with the adjacent German Lower Oder Valley National Park and together with the nearby Polish Warta Mouth National Park and the German nearby Peene river valley the Międzryodrze area hosts the only existing metapopulation of this species at the very Western edge of its whole worldwide geographical distribution. This metapopulation covers several 100 breeding pairs. Therefore, the Międzryodrze together with the adjacent and nearby river wetlands are of a very high importance of the geographical range of this species and therefore also of a very high importance of the Natura 2000 coherence protecting this geographical range of this species.

Negative direct impact:

Significant parts of its breeding habitat will be destroyed by the planned measures due to the fact that

- the water plants on which this species breed will be significantly reduced by the cleansing of the river arms planned by the ZZMiUW
- the very shallow waters which are needed by this species as breeding and feeding habitat will be destroyed
  - first due to the excavating / dredging of the river arms planned by the ZZMiUW
  - and potentially additionally by drainage of the wetlands if the dry mowing which is planned by the ZZMiUW would be realized, because such a dry

[39] Please refer to Marchowski & Mrugowski (2013), p. 30.

mowing needs a closing of the flood gates after the higher water in spring time has flown downstream so that the area can be drained at least temporarily in order to enable a dry mowing.

It has to be mentioned that

- this species returned as a breeding species to those habitats of the German Peene river valley and of the German Lower Oder Valley National Park (and also in a few pairs to the German River Havel) after a dry mowing in these habitats was stopped, after drainage of the meadows was stopped, and after excavation / dredging / cleansing of river arms was stopped. Therefore these habitats could recover to natural wetlands with very shallow water being an optimal habitat for this species.

Some years ago, in all these areas a dry mowing was conducted, and no pair of this species bred there successfully during these time. In the German Lower Oder Valley National Park in the past several times the breeding of this species was interrupted when the habitat was drained in order to enable dry mowing.

5.2.5 Conclusion

If the planned measures at the Międzryodrze area are realized which would clearly deteriorate the habitats of these species (if it can be proven that they are of an imperative overriding public interest (e.g. flood protection, but the positive effect on the flood protection is doubtful, see chapter 3) and if there was no reasonable alternative (but there are reasonable alternatives, see chapter 4.4)), the resulting ecological deterioration of protection aims of Natura 2000 law might be legally justifiable if mitigation and / or compensation measures could be found which sufficiently avoid an endangering of the coherence of the Natura 2000 network. That means that avoid an endangering of the local populations of the Natura 2000 species which are affected by the planned measures as described above.

Such compensation measures cannot be conducted in the Międzryodrze area itself, because there is no area which ecological state could be improved in order to serve as a compensation habitat for the endangered Natura 2000 species described above (all

these species hosting strong populations of regional and partially also national importance in the Międzryodrze area):

- since the planned measures will lead to a deterioration of many habitats of these species,
- and those habitats which will be not deteriorated by the planned measures are already in a extraordinary good natural state for these species so that these habitats cannot be improved.

And since it is planned to cleanse big parts of the natural river arms, it is most likely that the populations of these endangered and by Natura 2000 law specially protected species listed above – which inhabit these natural river arms – will loose significant parts of their habitats, so that their strong local populations in the huge Międzryodrze area which are even important on a regional and national level will be significantly reduced, so that it is most likely that the whole local population and as a result also regional populations of these species will be heavily deteriorated.

Therefore from a legal point of view suitable compensation measures which have to compensate the deterioration in the Międzryodrze area in an ecological similar and sufficient way could only be to find areas which are

- outside of the by the planned measures totally deteriorated Międzryodrze area and
- which are not too far away from the Międzryodrze area and
- which are of similar size as the Międzryodrze area and
- which contain at least the rests of old water arms in order to restore sufficient habitats of sufficient size.

In these areas wetlands with rests of old water arms must be reconnected again to the River Odra (or to adjacent rivers) and the drainage of these wetlands must be stopped by destroying existing drainage systems and destroying existing dikes and other barriers which cut these areas from the River Odra. Such measures could be a sufficient compensation.

The problem is that there simply no areas exist which contain enough old water arms that could be reconnected to the Odra or adjacent rivers in order to create enough new habitats for these species in order to compensate the deterioration of these species in the Międzryodrze area. Also in those areas which are described in chapter 4.4 which seem to be very suitable to relocate the dike further away from the shore in order to improve the flood protection, there are only a few old water arms which could be re-connected to the river.

The Międzryodrze area is unique also due to its numerous water arms that stretch like a huge inland delta between the Western and the Eastern Odra. Therefore it is doubtful if a relocation of dikes and a reconnection of water arms to the river in areas close to the Międzryodrze area can sufficiently compensate the deterioration of the Międzryodrze area for the local populations of the Natura 2000-species described above.

So, the planned measures

- neither can be compensated inside the Międzryodrze area
- nor can be compensated outside the Międzryodrze area!

So, the relocation of dikes in those areas proposed in chapter 4.4

- is indeed a very suitable alternative for flood protection to the planned measures in the Międzryodrze area making the planned measures in the Międzryodrze area totally unnecessary;
- but is not a sufficient compensation measure for the destruction of the Międzryodrze area, especially the destruction of its natural river arms and depending species and habitats.

As a result, the planned measures in the Międzryodrze area

- **will not only deteriorate local populations of specially by Natura 2000 law specially protected species, as shown in the beginning**
- **but can also not be mitigated and / or compensated.**

As a result, the planned measures violate EU Natura 2000 law.

This is another strong legal reason

- to only conduct the relocation of dikes north and south of the Międzryodrze area as an alternative (= alternative A) described in detail in chapter 4.4) to the planned measures in the Międzryodrze area, in order to sufficiently improve the flood protection and also to improve the ecological situation;
- and to totally stop the planned measures in the Międzryodrze area.

5.3 By the Stream Basin Development affected Species protected by EU Natura 2000 Law living in the River Odra and adjacent Wetlands

(Subcomponent 1B.2 Modernization works on boundary sections of Odra River, together with Subcomponent 1B.1 Reconstruction of river control infrastructure on Odra River. Adaptation to the conditions of Class III roadway. Stage II)

It is planned[40]

- to dredge the river bed of the Odra on its whole width in order to achieve a water depth of 1.80 m on its whole width during 90 % of the year downstream of the Warta River mouth and during 80 % of the year upstream of the Warta River mouth,
- to re-establish the groynes and even build new groynes.

Both, the dredging and the (re-)establishment of groynes would

- homogenize (= destroy) the underwater habitat for many species
- lead in the mid-term to a planned (and likely an additional unplanned) erosion of the river bed which would drain also adjacent wetlands during lower water periods deteriorating the habitats for many further species.

This endangers numerous Natura 2000 species on huge Natura 2000 sites such as PLH320037, PLB320003, PLB080004 (to name only some Natura 2000 sites, many further Natura 2000 sites are also affected, also on the German side, see below).

According to IUCN Red List even globally vulnerable fish species will be endangered by these measures. The globally threatened maraene and its endangering due to the planned measures was already considered in chapter 4 (WFD). This species is protec-

[40] According to The World Bank´s PAD,
- the dredging and the achievement of a water depth of 1.80 m is described in no. 26 on p. 38,
- the erection of also new groynes is also described in no. 26 on p. 38,
- the achievement of navigability class III and the water depth of 1.80 m for both subcomponents 1.B.1 and 1.B.2 is additionally described on p. 40.

The fact that this is done on the whole width of the river derives from the fact that icebreakers always operate on the whole width of the river, driving side by side.

ted by Habitats Directive Annex V,[41] but not by Annex II or IV. Therefore the maraene is not considered here again.

Code	Scientific Name	Habitats Directive	Birds Directive	IUCN (global)
Amphibians				
1203	*Hyla arborea*	Annex IV		LC
1434	*Bombina bombina*	Annex II & IV		LC
1166	*Triturus cristatus*	Annex II & IV		LC
Birds				
A197	*Chlidonias niger*		Annex I	LC
A198	*Chlidonias leucopterus*		Article 1[42]	LC
A294	*Acrocephalus paludicola*		Annex I	VU
Fish				
1130	*Aspius aspius*	Annex II & V		LC
1145	*Misgurnus fossilis*	Annex II		LC
1149	*Cobitis taenia*	Annex II		LC
5348 (1146)	*Sabanejewia baltica* (parent species: *Sabanejewia aurata*)	Annex II		LC
5328 (1124)	*Romanogobio belingi* (parent species: *Gobio albipinnatus*)	Annex II		LC
5068	*Coregonus maraena*	Annex V		VU
Invertebrates				
4056	*Anisus vorticulus*	Annex II & IV		DD

Tab. 8: Exemplary selection of protected species threatened by OVFMP

Source: Own creation

LC = Least Concern; VU = Vulnerable; DD = Data Deficient

5.3.1 Northern golden loach (Sabanejewia baltica) – Code: 5348

Note: The northern golden loach (*Sabanejewia baltica*) is a newly described species that receives the same level of protection as its parent species as *Sabanejewia aurata* (code 1146).[43]

[41] *Coregonus spp.* (except *Coregonus oxyrhynchus* — anadromous populations in certain sectors of the North Sea)

[42] This species is not mentioned in the annexes, but it is covered by the general protection regime provided by Article 1 of the Directive to all species of birds naturally occurring in the wild state in the European territory of the Member States to which the Treaty applies.

[43] The northern golden loach (*Sabanejewia baltica*) was described in 1994 as a sub-species of *Sabanejewia aurata* which is listed in Annex II of the Habitats Directive. Since a few years the northern

Habitats Directive Annex II, inhabiting several Natura 2000 areas along the River Odra; the only population of this species in Germany lives in the River Odra along the Polish-German border near Reitwein in EU-SCI DE3553308. It lives in small streams between small islands which could develop due to the fact that the groynes there were not maintained since World War II (all these informations according to Christian Wolter, Leibniz-Institute of Freshwater Ecology and Inland Fisheries (IGB), pers. Comm.). The northern golden loach inhabits especially bigger parts of the Polish part of the River Odra.[44]

Negative direct impact:

This species depends on especially such islands and smaller streams which were established naturally by the River Odra due to the fact that the groynes were not maintained after World War II – habitats structures which are endangered now due to the planned stream basin development (all these informations according to Christian Wolter, Leibniz-Institute of Freshwater Ecology and Inland Fisheries (IGB), pers. Comm.).

When these few groynes at Reitwein will be restored, a new model of island-like groynes will be used which ensures that the islands and small streams behind the rests of the old groynes could be preserved.[45]

An endangering is not avoidable if a stream basin development in big parts of the River Odra is conducted. Even if in the whole River Odra everywhere island-like groynes would be used (as was done it Reitwein), the whole morphology and hydrodynamic of the River Odra caused by dredging and groynes still would be deteriorated for this species causing a

- reduction of the underwater habitats due to homogenization (erosion due to dredging and groynes)
- and the reduction of streaming water in the adjacent smaller river arms which would reduce the adjacent habitats for this species – due to a raised drainage

golden loach is described now as a single species *Sabanejewia baltica*. Due to the fact that *Sabanejewia baltica* was seen as belonging to the species *Sabanejewia aurata* when the Habitats Directive was adopted in 1992, the legal conclusion is drawn that it is the clear aim of the Habitats Directive to also include *Sabanejewia baltica* in Annex II Habitats Directive, this conclusion is also drawn by the BfN which sets the binding legal and scientific standards for Habitats Directive impact assessment in Germany; please refer to BfN (2015), gloss 23; refer also to WSA Eberswalde (2012B), p. 11f.

[44] Please refer to http://maps.iucnredlist.org/map.html?id=135655

[45] Please refer to WSA Eberswalde (2012B), p. 29, 33; compare also Figure 3.

during low water periods (as a result of the erosion due to dredging and groynes)

As a result several local populations of this species will be endangered, which would also most-likely endanger the whole population of this species in the River Odra (such a deterioration did not happen in Reitwein, since Reitwein was a single case where a place for a local population could be preserved by island-like groynes which did not only preserve the small streams in the back of the groynes. But these few groynes did not change the whole morphology and hydrodynamic of the adjacent parts of the River Odra).

5.3.2 Northern Whitefin Gudgeon *(Romanogobio belingi) – listed as White-finned Gudgeon (Gobio albipinnatus) – Code: 5328*

Note: The northern whitefin gudgeon (*Romanogobio belingi*) is a newly described species that receive the same level of protection as its parent species as *Gobio albipinnatus* (code 1124 and synonym of *Romanogobio albipinnatus* with code 6144).[46]

Habitats Directive Annex II, inhabits slowly flowing big streams, mostly on sandy ground, inhabiting several Natura 2000 areas along the River Odra in strong populations, according to the SDF, e.g. PLH320037, DE2951302, DE3754303 , DE3553307, DE3151301. The River Odra probably hosts some of the strongest populations in Poland and Germany, since in both countries there occur only few other Natura 2000 sites outside the River Odra which also host this species.[47]

[46] Thiel & Backhausen (2006), p. 170.: "According to Naseka and Freyhof (2004), the white-finned gudgeon of the Odra was recently classified as *Romanogobio belingi* (Slasteneko, 1934); however the white-finned gudgeon is still listed as *Gobio albipinnatus* (Lukasch, 1933) in the Annex II of the Habitats Directive.", compare also Wolter (2006).

[47] All Natura 2000-sites hosting the parent species can be displayed, if "*Gobio albipinnatus*" for "search sites by species" on the website http://natura2000.eea.europa.eu/#

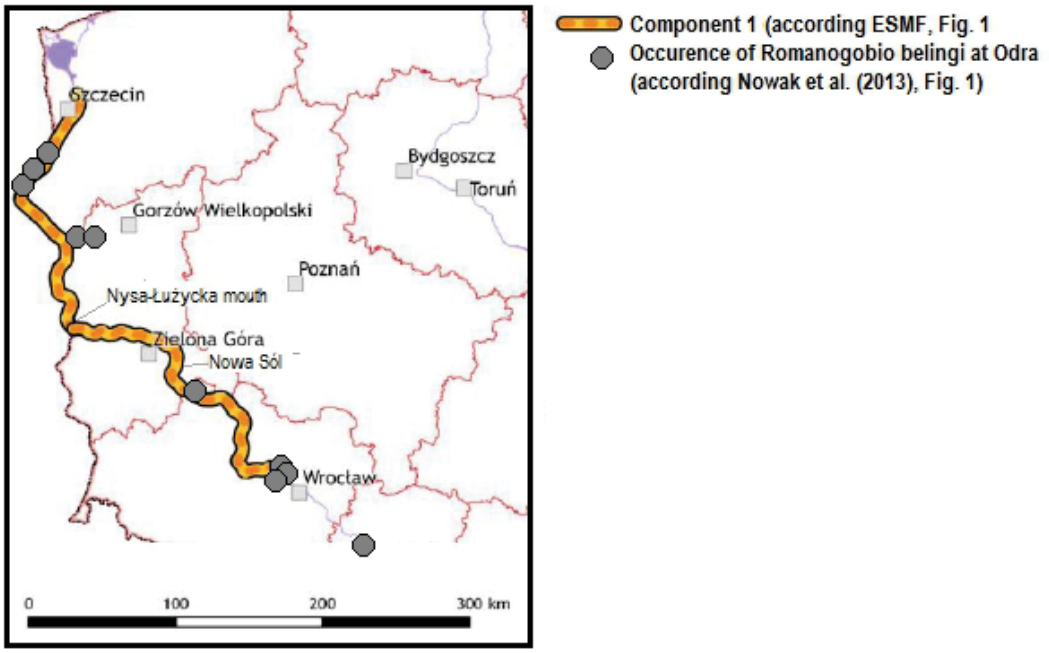

Fig. 7: OVFMP component 1 and occurrence of northern whitefin gudgeon

Source: own modification of ESMF; Nowak et al.(2014)

Negative direct impact:

Endangered by changes of the morphological conditions and / or of the hydrodynamic conditions.[48] At Reitwein situated at the River Odra this species was the most-frequent species found around the islands in the stream. These serve as important spawning areas for this species. But it also prefers the habitats in the middle of the stream.

An endangering by the building of groynes at Reitwein could be excluded since this measure was a single measure which did not influence relevant parts of the river bed of the River Odra[49]. If relevant parts of the River Odra are "improved" by a stream basin development it is most likely that this will deteriorate several local populations with a relevant probability to even deteriorate the whole population of the River Odra. The deterioration will result out of

- the dredging / excavation of the river bed and
- the (re-)erection of groynes.

Both is causing

- destruction of spawning habitats in the main river bed,

[48] Please refer to http://ffh-vp-info.de/FFHVP/Art.jsp?m=2,1,2,13 and http://ffh-vp-info.de/FFHVP/Wirkfaktor.jsp?m=1,2,2,2

[49] Please refer to refer to WSA Eberswalde (2012B), p. 29 and also compare figure 3.

- erosion of river bed which drains smaller adjacent river arms during lower water periods, drawing into account that smaller river arms serve as winter habitats for this species.[50]

5.3.3 Asp (Aspius aspius) – Code: 1130

Habitats Directive Annex II and V[51], inhabiting several Natura 2000 areas along the River Odra in relevant populations, according to the SDF, e.g. PLH320037, PLH080014, PLH080012, PLH080028, DE3754303, DE3553307, DE3453301, DE3352301, DE3151301, DE2951302. So the River Odra is inhabited by a widespread and strong population, but in an inadequate conservation status. The population of the asp reaches the Western border of its global distribution in Germany. The conservation status of its population is "inadequate" nearly everywhere in Europe.[52]

Negative direct impact:

The asp needs running streams, the deterioration of its population is most-likely due to the following reasons:

- its larvae need shallow waters which are not running too fast in direct contact to the river, so the larvae are most-likely negatively affected by the building of new groynes since they find better habitats in old and destroyed groynes due to the fact that the river could develop more natural habitats there,[53]
- and also the excavation / dredging of the riverbed together with the new groynes (no matter if these are built island-like or not) leads to an erosion of the river bed which endangers this species critically since it destroys the spawning habitats in the river bed.[54]

There is no endangering of this species at Reitwein due to the fact that the construction measure there only influenced a very small part of the river, and this species inhabits

[50] Scholten & Thiel (2005), p. 14.
[51] *Barbus spp* .
[52] The full extent of the population of this species including its conservation status of its population in the River Odra can be seen if „*Aspius aspius*" is used in the button „search sites by species" on the website http://natura2000.eea.europa.eu/.
[53] Scholten & Thiel (2005), p. 11.
[54] Please refer to https://publikationen.sachsen.de/bdb/artikel/11424/documents/11744, http://ffh-vp-info.de/FFHVP/Art.jsp?m=2,1,2,14 , refer also to Scholten & Thiel (2005), p. 14.

bigger parts of the river outside this construction measure at Reitwein.[55] But when an excavation / dredging of bigger parts of the River Odra is conducted, the local populations of this species and also the whole population of this species in the River Odra will be most-likely deteriorated on a large scale.

5.3.4 Spined loach (Cobitis taenia) – Code: 1149

Habitats Directive Annex II, inhabiting several Natura 2000 areas along the River Odra in relevant populations, according to the SDF, e.g. PLH080028, DE3352301, DE3151301, DE2951302.

When the range of this species in the whole EU is displayed on the Natura 2000 Network viewer (http://natura2000.eea.europa.eu)

- it is interesting to see that the conservation status of the population is „favourable“ in all those areas which belonged before 1989 to the so-called “Iron Curtain-countries” in Eastern Europe; one reason (amongst others) to explain this fact could indeed be that this is due to the fact that in the bigger rivers of the “Iron Curtain-countries” (including the Odra as well as the Middle Elbe which belonged to the former GDR) only partial stream basin developments were conducted and therefore also the bigger rivers there offer better habitat conditions for this species until now;
- and it is interesting to see that in the biggest parts of Western Europe the conservation status of the population is only “inadequate“, also in the bigger rivers Rhine, Weser, lower Elbe; one reason (amongst others) could be that in all these rivers heavy stream basin developments were conducted during the last decades (only small areas within Western Europe occur where the conservation status is „favourable“, especially there where smaller rivers and lakes occur or there where strong conservation efforts were made along bigger rivers).

Negative indirect impact:

This species reacts very sensitive[56]

[55] WSA Eberswalde (2014) p. 29.

[56] According to http://ffh-vp-info.de/FFHVP/Art.jsp?m=2,1,2,19 , also to www.nlwkn.niedersachsen.de/download/26045.

- to direct changes of the structure of vegetation,
- to changes of the ground,
- of the morphology,
- of the hydrology and hydrodynamic.

There is no endangering of this species at Reitwein due to the fact that the construction measure there only influenced a very small part of the river, and this species inhabits bigger parts of the river outside this construction measure at Reitwein[57]

When a stream basin development is conducted for big parts of the River Odra, a deterioration of the population of this species in the River Odra is most likely. Since the spined loach inhabits especially the small river arms in the adjacent wetlands of big rivers,[58] this species will be endangered indirectly by a stream basin development due to a drainage of the wetlands and their river arms as a result of

- the excavating / dredging of the river bed of the Odra and
- the new groynes which lead to a planned erosion of the river bed of the Odra and also in many cases to an additional unplanned erosion of the river bed.

Both types of erosion (planned and unplanned) were described in chapter 3. An unplanned erosion as an unplanned result of groynes can be observed already now e.g. in the upper part of the River Odra at Brzeg Dolny, also in the River Vistula at Warsaw and also in the River Elbe near Dessau, where the shipping administration started to put gravel into the river bed in order to stop the erosion but until now did not succeed in stopping it, therefore the shipping administration plans additionally to also reduce groynes and to reconnect the smaller river arms to the main River Elbe again.[59]

So, a deterioration of the population of this species in the River Odra is most-likely, if the groynes are (re)built and if the river bed is excavated / dredged.

[57] WSA Eberswalde (2014), p. 29.
[58] Please refer to Scholten & Thiel (2005).
[59] Please refer to http://www.ast-ost.gdws.wsv.de/betrieb_unterhaltung/Elbe/Erosion/index.html

5.3.5 European tree frog (Hyla arborea – formerly Rana arborea) – Code: 1203

Habitats Directive Annex IV[60], according to the SDF of PLH320037 this species is "common" on this Natura 2000 site. This means that this site hosts a strong population of this species.[61] This species is also present in the adjacent German site DE3754303.[62]

Negative direct impact:

Since the European tree frog is a typical species in the wetlands of big rivers, this species will be endangered indirectly by a stream basin development due to a drainage of the wetlands as a result of

a) the excavating / dredging of the river bed of Odra and

b) the (re-)erection of the groynes which lead to a planned erosion of the river bed of the River Odra and also in many cases to an additional unplanned erosion of the river bed.

Both types of erosion (planned and unplanned) were described in chapter 3. An unplanned erosion as an unplanned result of groynes can be observed already now e.g. in the middle / upper part of the River Odra at Brzeg Dolny, also in the River Vistula at Warsaw and even in the River Elbe near Dessau. At the Middle Elbe the German WSV started to put gravel into the river bed in order to stop the erosion. But until now it did not succeed in stopping it. Therefore the WSV plans additionally to reduce groynes and to reconnect the smaller river arms to the Elbe again.[63]

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[60] Habitats Directive Annex IV provides protection (for those species listed in this Annex) for all individuals in all habitats where this species occurs, also outside Natura 2000 sites: It is even prohibited to deteriorate or to destroy reproduction habitats and resting habitats of single individuals of these species also outside of Natura 2000-sites (according to Art. 12 Sect. 1 d) Habitats Directive). Only if there is no satisfactory alternative and if there is an imperative overriding public interest and if the derogation is not detrimental to a favourable conservation status of the local populations, it can be allowed to deteriorate habitats of single individuals of these species listed on Annex IV (according to Art. 16 Sect. 1 c) Habitats Directive).
All local populations of species listed in Habitats Directive Annex II or IV or Birds Directive Annex I are protected against an endangering, in all cases only an imperative overriding public interest can justify an endangering as long as the local population is not endangered, if the local population is endangered, even an imperative overriding public interest cannot justify an endangering – this is the same to all species listed in one of the three Annexes. But for those species listed in Habitats Directive Annex IV also single individuals also outside of Natura 2000 sites are protected and have to be taken into account.

[61] Please refer to http://natura2000.eea.europa.eu/Natura2000/SDF.aspx?site=PLH320037

[62] Please refer to http://natura2000.eea.europa.eu/Natura2000/SDF.aspx?site=DE3754303

[63] Please refer to http://www.ast-ost.gdws.wsv.de/betrieb_unterhaltung/Elbe/Erosion/index.html

Already the planned erosion of the river bed causes a significant drainage of the wetlands during low water periods. Additionally, an unplanned erosion of the river bed leads to ecological catastrophic results for many species, of which the European tree frog is one of the first being affected. Ernst Paul Dörfler, ecologist and well-known all over Germany for the protection of the River Elbe during the last 40 years, was impressed when he heard the strong population of European tree frogs in the wetlands of the River Odra along the Polish-German border. The ecologist states that nearly the whole population of the European tree frog has disappeared in the wetlands along the River Elbe.

Especially this occurred at the region of Dessau, as a result of the drainage as a clear result of the erosion of the river bed of the River Elbe – caused by the groynes. This expert warns by explaining that it should be done what is possible in order to avoid a stream basin development along the River Odra. This will destroy the whole population of European tree frog in the wetlands of the River Odra. Even though (similar to the River Odra) in the River Elbe there also was not conducted a stream basin development along the whole river during the last decades. The erection of groynes 150 years ago and the maintenance of groynes and partially re-erection of groynes along some parts of the River Elbe during the last decades, e.g. around Dessau, was strong enough to cause a strong erosion of the river bed massively deteriorating the population of European tree frog. Ernst Paul Dörfler also said that the German shipping administration always was sure that their models were right, that an unplanned erosion was totally impossible. However, this unplanned erosion always happened, showing that the models of WSV obviously were wrong.

According this, there is strong doubt if the German and Polish shipping administrations will be right, when they argue that an unplanned erosion of the river bed of the River Odra could not happen. Therefore the precautionary principle combined with the polluter-pays-principle, both underlying principles of Natura 2000 law, would lead to the result that there is strong doubt if the shipping administration could sufficiently prove that an unplanned river bed erosion will not happen, since this happened in the past at the River Odra, at the River Elbe and at the River Vistula, even though also in

the past the German shipping administration (WSV) always was sure that such an unplanned river bed erosion could not happen – but it happened (Ernst Paul Dörfler, personal comm.).

Note: Limiting the frequency and reach of flooding will have a considerable adverse effect to all amphibians living in the flood plain. Considerable species among others are the fire-bellied toad (*Bombina bombina* – Code: 1434) and the crested newt (*Triturus cristatus* – Code: 1166). Both species are listed in Habitats Directive Annex II and IV and occur in with OVFMP coinciding Natura 2000 sites (both e.g. in PLH080028 and PLH080014, *Bombina bombina* also in PLH080012 and PLC080001).

5.3.6 Conclusion

Especially concerning the Natura 2000 species, the planned measures endanger important regional populations of these species, in some cases important even on the national level on both the Polish and German side of the river, in some cases situated on the edge of their global distribution. It is not possible that these measures can be mitigated and / or compensated, since in the River Odra even the use of island-like groynes – which would indeed be an improvement, compared to the actual planning, where nearly everywhere only old-fashioned groynes are used – cannot sufficiently compensate the habitat destruction for these species, since the use of island-like groynes can

- not sufficiently compensate the homogenization of the river bed (e.g. destruction of underwater banks) caused by
  - the dredging / excavation of the river bed
  - and the planned and unplanned river bed erosion due to groynes
- not reduce the draining of the adjacent water arms and the adjacent wetlands causing a habitat destruction caused by the
  - dredging / excavation of the river bed
  - and the planned and unplanned river bed erosion (described in chapter 3) during lower water periods

and outside the River Odra there is no other area of similar size as the River Odra nearby which could be improved for these endangered species as a compensation measure.

As a result, the planned measures in the River Odra

- **will not only deteriorate local populations of specially by Natura 2000 law specially protected species, as shown in the beginning**
- **but can also not be mitigated and / or compensated.**

Therefore, according to Art. 6 Sect. 4 and Art. 7 Habitats Directive the planned measures even infringe on the Habitats Directive even if there would be an imperative overriding public interest without an alternative, since it is not possible to find sufficient measures of mitigation and / or compensation for these species.

As a result, the planned measures violate EU Natura 2000 law.

This is another strong legal reason

- to only conduct the alternatives A, B, C, D suggested in chapter 4.4 in order to sufficiently improve the flood protection and also to improve the ecological situation.
- and to totally stop the planned stream basin development in the River Odra.

5.4 By the Modernization of the Pumping Station in the Marwice Polder affected Species Protected by EU Natura 2000 Law (Subcomponent 1A.5 stage 3 Modernisation of the pumping station in the Marwice Polder)

5.4.1 *Aquatic warbler (Acrocephalus paludicola)* – Code: A294

Listed on Birds Directive Annex I; according to SDF the SPA PLB320003 (Dolina Dolnej Odry) hosts 2-4 breeding pairs, it is part of the so-called "Pomeranian population" of this globally threatened species (category Vulnerable) which breeds here at its Western edge of its very small geographical range and connected to the last breeding places of this species in Germany in the adjacent Lower Oder Valley National Park.[64]

Parts of the planned flood protection measures include the modernization of the dike and the pumping station of the Marwice polder.[65]
The Marwice Polder is part of the SPA PLB320003 and contains the SPA´s only breeding places of the aquatic warbler.

"[...] modernization of the Marwicki Polder, including the reconstruction of the 3.49 km long dike with protective screens and a top road, as well as the modernization of the Krajnik pumping station. [...] The Marwicki Polder is part of the Special Protection Area Dolina Dolnej Odry (PLB320003). It is partly designated as an Użytek ekologiczny and is since 2008 the last breeding site of the aquatic warbler between Kostrzyn and the Szczecin Lagoon. It was a project site for the LIFE project "Conservation of the aquatic warbler". Clear evidence exists that there is a regular exchange between aquatic warblers in Marwicki polder and the adjacent German Lower Oder Valley National Park [this German National Park is also part of an SPA, SPA DE2951401, author´s note]. The existence of this breeding site likely depends on this exchange, because the current size of habitats in Marwicki Polder is probably too small for a self-sustaining population of the species. The existing pumping station has been operated in an "on demand" mode since 2009. Despite this fact, the water management of the Marwicki Polder is currently insufficient to achieve the conservation targets according to the designation as a part of the network Natura 2000. High water

[64] Please refer to http://www.iucnredlist.org/details/22714696/0 and to http://maps.iucnredlist.org/map.html?id=22714696.
[65] Please refer to EA, p. 80.

levels need to be maintained during the breeding season until mowing in late summer. Pumping operation affect water tables in the core areas for protected birds in an unsustainable way. In order to be able to maintain high water levels in the key areas, the After-LIFE Conservation Plan (as of 2012) foresees that water retention facilities should be installed. According to the documents from the LIFE project which are available to the relevant authorities in West Pomeranian Voivodeship, this action is essential to achieve the envisaged targets. We expect that the planned modernisation of the pumping station will lead to lower water tables in the polder, and by this increased negative impacts on biodiversity and loss of the habitats of aquatic warbler."
(refer to Jochen Bellebaum, Michael-Succow-Foundation, notice in writing)

Therefore a massive negative impact of the planned measures on a transborder local population of national importance (especially for Germany) of species specially protected by Natura 2000 law on the affected SCI and SPA is the consequence.

5.5 Affected Habitat Types (including Priority Habitat Types on a large Scale) protected by EU Natura 2000 Law in the whole River Odra Basin

Concerning by the planned measures negatively affected habitats protected by Natura 2000 law, the scientists from Klub Przyrodników (Naturalists' Club) write:

"In the Odra valley, the project will affect an entire chain of protected areas (including 8 Natura 2000 sites and 4 landscape parks), which runs uninterrupted from Malczyce to Szczecin. The project's objective, i.e. concentrating and deepening the Odra riverbed, intended to limit the frequency and reach of flooding, runs counter to aim of preserving the integrity of those areas, where alluvial ecosystems, which depend on such flooding, are protected. Limiting the flooding will have a considerable adverse effect on all the alluvial habitats (especially riparian alluvial forests of willow, alder and ash (91E0), riparian mixed forests of Quercus robur, Ulmus laevis and Ulmus minor (91F0), and alluvial meadows of river valleys of the Cnidion dubii (6440)), and the scope of that impact may extend to all of such habitats in the Odra valley. All along the middle and lower Odra, the activities to be undertaken as part of the project pose a critical risk to habitats on muddy river banks (3270) because the crucial element of those habitats, i.e. the muddy banks themselves, are to be transformed as part of the planned works."

(Klub Przyrodników, notice in writing)

Annex I Code	Habitat Type Name
3270	Rivers with muddy banks with *Chenopodion rubri pp* and *Bidention pp* vegetation
6440	Alluvial meadows of river valleys of the *Cnidion dubii*
91E0*	Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)
91F0	Riparian mixed forests of *Quercus robur*, *Ulmus laevis* and *Ulmus minor*, *Fraxinus excelsior* or *Fraxinus angustifolia*, along the great rivers

Tab. 9: Annex I Habitat types directly affected by OVFMP

Source: Own creation

** indicates priority habitat types*

Without a sufficient compensation the natural range of these habitats will be significantly deteriorated, since the River Odra is a "backbone" of these habitats in Central

Europe. River wetlands in such a huge dimension are really unique in this part of Europe, they are also unique compared with Western Europe.

Such a huge deterioration of habitats cannot sufficiently be mitigated or compensated since there is no other river of similar size where similar habitats could be restored. A mitigation and / or compensation is obviously impossible.

Therefore the planned measures – due to their drying of the wetlands as a result of both the dredging and also the building of groynes – cause with a very high likelihood:

- a deterioration of these habitat types not only on single areas, but also in a huge region,
- a deterioration that cannot be mitigated or compensated and
- that is caused on such a large scale that these habitat types are endangered on a relevant part of their geographical range so that the planned measures clearly endanger the coherence of Natura 2000.

Even it cannot be proved that this deterioration will happen to 100 %, the deterioration will happen with a very high likelihood (as can be seen at many big rivers in Western Europe, where a stream basin development was conducted which lead to the result that these habitat types became rare along these big rivers in Western Europe).

Therefore the precautionary principle together with the polluter-pays-principle as underlying principles of the Natura 2000 directives result in the fact that the planned subcomponents infringe clearly also for this reason on Art. 6 Sect. 4 Habitats Directive. They endanger with a very high likelihood the geographical range of these habitat types described above and therefore endanger the coherence of Natura 2000. This cannot be justified by an imperative overriding public interest according to Art. 6 Sect. 4 Habitats Directive.

Additionally, it has to be mentioned that **the priority habitat type 91E0 (habitats with alluvial forests) on a large range** can – according to the SDF – be found in several SCI along the River Odra. It is also spread along relevant parts of the whole river.

This can be seen when the range reported under Article 17 Habitats Directive is displayed on the Natura 2000 Network Viewer.[66] Especially the priority habitat type 91E0 covers many thousands of hectares along the whole river.

The deterioration of the coherence of Natura 2000 is in any case prohibited, for each specially protected habitat type (not only for the priority habitat types), and therefore no imperative overriding public interest can justify an endangering of habitat types on a large scale. But different to the other specially protected habitat types, **also each single site of a priority habitat type is protected on a very high level** – even if the planned measures would only be conducted on a single site so that the coherence of Natura 2000 would not be deteriorated. It has to be mentioned that according to Art. 6 Sect. 4 s. 3 priority habitat types situated on an SCI can only be deteriorated for the following reasons:

- human health or public safety,
- to beneficial consequences of primary importance for the environment or,
- further to an opinion from the Commission, to other imperative reasons of overriding public interest.

Therefore not any imperative overriding public interest can justify a deterioration of a habitat type on a single area, but only those kind of imperative overriding public interest defined in Art. 6 Sect. 4 s. 3. So, each single area where this habitat type can be found is protected on this very high level defined by Art. 6 sect. 4 s. 3.

The argument of public safety would be the only one that could fit here, but it is not viable here, because

- as was shown in chapter 3, the positive effect on flood protection of the planned subcomponents is doubtful with a real possibility of even creating negative adverse effects deteriorating flood protection.
- and as was shown in chapter 4.4, there exist reasonable alternatives enabling a better and also more efficient flood protection.

[66] Please refer to Natura 2000 Network Viewer: http://natura2000.eea.europa.eu

5.6 Infringement of Natura 2000 Law

If there are deteriorations endangering by Natura 2000 law specially protected species (listed in Annex II Habitats Directive and Annex I Birds Directive) or habitats (Annex I Habitats Directive) on a Natura 2000 site (SPA, SCI) or also endangering of by Annex IV Habitats Directive specially protected species (protected also outside of Natura 2000 sites) which cannot be sufficiently mitigated or compensated, the planned measures are only legal if there is an imperative overriding public interest without a reasonable alternative which justifies the deteriorations caused by the planned measures (according to Art. 6 Sect. 4 and Art. 7 Habitats Directive).

As was shown in the last sub-chapters, there is no possibility to sufficiently mitigate and / or compensate the danger to the regional populations of by Natura 2000 law protected species. Of course, flood protection is an imperative overriding interest which would justify a deterioration of species even if no sufficient mitigation and / or compensation measures can be found, according to Art. 6 Sect. 4 Habitats Directive.

But as was shown in chapter 3 there is strong doubt whether these planned subcomponents (stream basin development in the River Odra (Subcomponent 1B.2 together with subcomponent 1B.1); (Re-)Construction of the Międzryodrze Polder (subcomponent 1A.6); Modernization of the pumping station in the Marwice Polder (subcomponent 1A.5 stage 3)) can significantly improve flood protection, additionally it was drafted in chapter 3 that there is the danger of adverse effects deteriorating flood protection. So, there is strong doubt if the planned measures significantly improve flood protection, so an imperative overriding public interest is at least very questionable.

Even if there would be an imperative overriding interest, as was shown in chapter 4.4 there are alternatives that have even been not named in The World Bank´s Environmental Assessment (EA):

- Concerning general flood protection especially the alternatives A, C, D described in chapter 4.4
- Concerning the protection against ice floods also the alternative B in addition to the alternatives A, C, D described in chapter 4.4.

But even if there was an imperative overriding public interest without a reasonable alternative it has to be ensured by compensation measures that at least the ecological co-

herence of the Natura 2000 network as a base for the range and the size of the local populations and distribution of by Natura 2000 law specially protected species and habitats are not endangered by the measures.

According to Art. 6 Sect. 4 Habitats Directive the overall coherence of Natura 2000 has to be protected in any case, even if an imperative overriding public interest without any reasonable alternative would exist. According to Art. 3 Sect. 1 Habitats Directive the overall coherence of Natura 2000 shall enable the natural habitat types and the species' habitats specially protected by Natura 2000 law to be maintained or, where appropriate, restored at a favourable conservation status in their natural range.

This means in order to ensure the overall coherence of Natura 2000, it is necessary to protect

- the reproduction habitats, resting habitats and migrating habitats and corridors for the by Natura 2000 law specially protected species in order to avoid that the local population of these species is endangered, which would lead to the effect that the natural range of these species is reduced which would deteriorate the coherence of Natura 2000 defined by Art. 3 Sect. 1 Habitats Directive.
- also the range of the natural habitat types for the by Natura 2000 law specially protected habitat types in order to avoid that the natural range of these habitat types is reduced which would also deteriorate the coherence of Natura 2000 defined by Art. 3 Sect. 1 Habitats Directive.

So, as could be shown, the protection

- of the local population of Natura 2000 species in their natural range
- and of the natural habitats in their natural range

is the aim of the “Natura 2000 overall coherence“ of the Habitats Directive.

Therefore, according to Natura 2000 law a deterioration of the coherence of Natura 2000 (which is mainly (but not only) based on the SCI and SPA)

- caused by an endangering of local populations of by Natura 2000 specially protected species or
- caused by an endangering of the natural range of habitat types of by Natura 2000 specially protected habitat types

(especially) in Natura 2000 areas is even not justifiable if there is an imperative overriding public interest, according to Art. 6 Sect. 4 (i.c.w. Art 7) i.c.w. Art. 3 Sect. 1 Habitats Directive.

As was shown in the sub-chapters of this chapter 5 above, regional populations (in some cases even of national importance) of specially by Natura 2000 law protected species are endangered by the planned subcomponents without the possibility of sufficient mitigation and / or compensation measures. The same goes for the habitat types in their natural range described above.

Therefore, the planned subcomponents infringe in every case on Natura 2000 law, even in case that there would exist an imperative overriding public interest without reasonable alternative!

In addition, an imperative overriding public interest is doubtful, as was shown above. It has to be noted that it is also not justifiable to endanger local populations of by Natura 2000 law specially protected species using the argument that other by Natura 2000 law specially protected species would benefit from these measures (this argument is also used by the authorities in order to justify the planned measures e.g. in the Międzryodrze area). Also in this case this is only legal

- if there is no reasonable alternative
- and if no local population of an other specially by Natura 2000 law protected species is endangered.[67]

In order to protect endangered Natura 2000 farmland birds in the Międzryodrze area it is even not necessary at all to clean the natural river arms, it is also not necessary to restore the dikes and flood gates, it is totally sufficient to conduct wetland agriculture (grazing done by cattle which is adapted to wetlands such as water buffalo or mowing by machines which are adapted to wetland mowing) on a smaller scale in the Międzry-

[67] For species listed in Annex II Habitats Directive and Annex I Birds Directive: According to Art. 6 Sect. 1 i.c.w. Sect. 2 i.c.w. Sect 3 i.c.w. Art. 7 Habitats Directive it has to be noted that all species of Annex II Habitats Directive or Annex I Birds Directive which are protection aims of a Natura 2000 site and therefore listed in the SDF of this Natura 2000 site are protected, so it is clearly not justifiable to endanger a local population of an Natura 2000 species, even if another Natura 2000 species might profit from the planned measures.

odrze area, it is totally not necessary to destroy the huge natural wilderness ecosystems of the Międzryodrze area and to drain them in order to protect farmland species.

Therefore there also exists a better alternative concerning the protection of farmland species in the Międzryodrze area, this is a further reason why it is legally not possible to justify the planned measures in the Międzryodrze area by stating they would have a good effect on farmland birds. It also has to be mentioned that – if a drainage is be conducted – this will endanger most of the farmland bird species which live in the Międzryodrze area since they need wetlands.

Since there is sufficient suspicion that the planned subcomponents

- endanger the regional populations of the Natura 2000-species named above (as was shown above)
- endanger also habitat types in their natural range

the authorities (since they are also the investors) carry the burden of proof that the planned measures do not endanger local populations of specially by Natura 2000 law protected species or habitat types in their natural range. This is a result of the precautionary principle and the polluter-pays-principle as underlying principles of EU Natura 2000 law.

Therefore the authorities as investors have to clearly prove that

- no local population of specially by Natura 2000 law protected species can be endangered, if a deterioration of a population specially by Natura 2000 law protected species cannot be excluded, Natura 2000 law is violated,
- no habitat type in its natural range is endangered, f a deterioration cannot be excluded, Natura 2000 law is violated.

Environmental NGO are convinced that

- at least concerning the described local populations of Natura 2000 species being of regional and in some cases even of national importance
- and at least concerning the described habitat types in their natural range

it is impossible to avoid a deterioration of these, if the planned measures of The World Bank project are realized.

Therefore we are astonished that neither The World Bank nor the Polish Ministry (MŚ) for Environment examined the endangering of Natura 2000 species as a result of the planned subcomponents, as The World Bank´s EA and the answer letter of The World Bank and the answer letter of the Polish MŚ to the NGO show clearly.[68]

[68] The answer letters of the World Bank and of the MŚ can be found in the Annex of this document.

6 Environmental Impact Assessments

6.1 Preliminary Remarks

One question is if EIA and an SEA (Strategic Environmental Assessment) will be conducted. The Environmental NGO are convinced that they are legally necessary. It seems that also The World Bank agrees at least partially on this, concerning at least EIA for single subcomponents, because in the table on p. 97-98 of its EA, The World Bank lists:

- for the Erection of the Polder in the Międzryodrze area (subcomponent 1A.6): "EIA report – 2017"
- for the Modernization of pumping station at Krajnik Dolny (subcomponent 1A.5 phase III): "EIA report 2016",
- for the stream basin development of River Odra:
  - subcomponent 1B.2: "EIA report 2017",
  - subcomponent 1B.1 "EIA report 2010"

Note: it is probably meant "EIA report 2018".[69]

However, The World Bank stated in its answer letter from September 19, 2016:
*"Every specific sub-project to be funded under the project **will** have its own Environmental Impact Assessment (EIA) [...]"*[70] (emphasis added)

So it seems that The World Bank agrees on the clear legal necessity of EIA and especially predicts the EIA for the future. Contradictory the MŚ states in its answer letter from November 15, 2016:

*"In the case of the FRMPs [Flood Risk Managemement Plans] related to the border Oder, a letter was sent to the Federal Republic of Germany informing about the draft FRMPs development and the beginning of work on the SEA, together with a summary of the results and conclusions **of the conducted environmental impact assessment**. At this point I want to inform you that the Polish Government approved the uRBMP [up-*

[69] Also in The World Bank´s ESMF on p. 44 exactly the same table occurs, and here is written for subcomponent 1B.1 "EIA report 2018".
[70] Please refer to the answer letter of The World Bank, p. 2, section 3 in the Annex of this document.

dated River Basin Management Plan] and the FRMP on 18 October this year."[71] (emphasis added)

But the Polish MŚ does not write where to find the EIA. Even none of the NGO does know about any EIA conducted. Also at the OVFMP Coordination Unit's (PCU) website no EIA (and SEA) can be found.[72] There are only mitigation and compensation plans, but not the EIA (or SEA) to which these plans may belong. And, as written above, in The World Bank´s EA and ESMF and also in The World Bank´s letter to NGO it is written that EIA will be conducted in the following years and are not conducted yet!
So the question is why the Polish MŚ states that at least the EIA for the Border Odra (which would be subcomponent 1.B.2 for which the EIA report is predicted for 2017 in The World Bank´s EA) has already been carried out? So it is doubtful if – and if yes – which EIA for which subcomponent has really been carried out. Since many of the subcomponents influence each other significantly, we are convinced that from a legal point of view one big EIA is necessary instead. And if EIA (and an SEA maybe as part of the FRMP) really were carried out – why was there no transparent information to the Environmental NGO enabling their participation? An open question is: Where are the reports belonging to the EIA (and SEA)?

In summary, The World Bank states that the EIA will be conducted in the future, while the Polish MŚ explains that the EIA for at least subcomponent 1.B.2 was already conducted in the past, and even the uRBMP and the FRMP are approved now.

This raises the question whether an EIA was really conducted or not! And this raises the concrete suspicion that the Polish MŚ does not tell the truth concerning the EIA and that it indeed wants to do the same as the German shipping administration, to build (at least the biggest part of) the project without any official administrative act and EIA.

[71] Please refer to the answer letter of MŚ, p. 3 (English version) in the Annex of this document.
[72] Please refer to http://odrapcu.pl/index.html

6.2 Reasons for the legal Necessity of a transboundary EIA for the Międzyodrze Area (subcomponent 1A.6) and the Marwice Polder (subcomponent 1.A.5 Phase III)

According to Art. 4 Sect. 2 i.c.w. Annex II Environmental Impact Assessment Directive (EIA Directive) an Environmental Impact Assessment can be conducted if a project

- contains flood relief works (Annex II no. 10. f)) – this is obviously the case in the Międzryodrze region.
- contains water management projects for agriculture, including irrigation and land drainage projects (Annex II no. 1. c)) – this might also the case in the Międzryodrze area, but this is not sure, since both the West Pomerania Board of Amelioration and Hydraulic Structures in Szczecin (ZZMiUW) and the Regional Directorate for Environmental Protection (RDOŚ) Szczecin officially stated in the conference in Criewen (November 20, 2015) that they do not plan a drainage since they want to protect the huge peatlands of the Międzryodrze as a huge carbon sink and as a huge nitrogen sink and want to avoid to turn this sink into a carbon and nitrogen source, so they do not plan a drainage, especially not for agriculture. However, this criteria is named here since at least some kind of drainage is most likely to happen since the ZZMiUW and the RDOŚ in Szczecin also stated at the same conference in Criewen that they indeed plan dry mowing measures on a significant scale and at least some kind of drainage which shall enable conventional methods of dry mowing, since the area was "too wet".

  Even if their justification for the mowing is not agriculture but species protection (ZZMiUW and RDOŚ do not take into account that mowing based on drainage endangers also farmland wetland species and does not protect them, as discussed above in chapter 5), it can be said that at least a small drainage is planned in order to enable conventional dry mowing which is in fact typical agriculture so that the criteria no. 1. c) in Annex II would be fulfilled (new methods of wet mowing which do not need a drainage are not planned). Even if this conventional dry mowing would be used for nature conservation aims as claimed by ZZMiUW and RDOŚ, dry mowing still is a typical agricultural measure and enables e.g. to receive EU CAP agricultural subsidies (only one of these criteria needs to be fulfilled).

Following Art. 4 Sect. 3 i.c.w. Annex III EIA Directive an Environmental Impact Assessment based on Art. 4 Sect. 2 i.c.w. Annex II EIA Directive has to be carried out if planned measures have a considerable impact on subjects of protection. Annex III defines the following criteria which result of Art. 4 Sect. 3 EIA Directive which must be checked in order to find out if a project will have a considerable impact on subjects of protection.

Size of the project

- **No. 1 a) considers the size of the project**
  - the planned measures contain an area of 5,200 ha[73] (Międzryodrze area) and an additional area of around 800 ha (the adjacent Marwice Polder), the inherent and operational negative impacts of the measures described in chapters 3 and 4 reaches out to a much huger transborder region having negative effects
    - on flood protection both on the German and Polish side,
    - on transboundary populations of by Natura 2000 law specially protected species,
    - potentially also on huge peatlands, the Międzryodrze area is the hugest peatland river system in Western Europe!

- **No. 1 b) the cumulation with other projects**
  - the planned measures in the Międzryodrze area are only part of much more and similar measures in the River Odra basin all included in The World Bank´s "Odra-Vistula Flood Management Project", they are connected with the planned Stream Basin Development of the River Odra conducted by the Polish government (subcomponents 1B.1 and 1B.2 as part of The World Bank´s OVFMP) and also the German government, therefore the inherent and operational impacts of the planned measures in the Międzryodrze area cumulate with many other similar inherent and operational impacts of similar measures together influencing the huge ecologically connected ecosystem of the River Odra and its basin.

[73] Please refer to PAD, p. 40 – subcomponent 1.A.3.

Location of the Project

Environmental sensitivity of affected areas concerning:

- **No. 2 a) the existing land use**
  - since there is practically no land use at all at the moment in the Międzryodrze area, inherent and operational impacts of the planned measures affect an ecologically very natural area
  - only the Marwice Polder is used on a very low scale for agriculture.

- **No. 2 b) the relative abundance, quality and regenerative capacity of natural resources in the area**
  - since the Międzryodrze area and the Marwice Polder host very high natural values such as a large number and abundance of both species and habitats specially protected by Natura 2000 law (refer to chapter 4 and 5) situated in natural river wetland ecosystems and peatlands on a size of 6,000 ha, unique in Western Europe, and since these wetlands and these species react very sensitive to the inherent and operational impacts of the planned measures as shown in chapter 4 and 5 the inherent and operational negative impacts of the planned measures affect an ecologically very sensitive area of a very high international conservation importance, its wetlands and species are not able to regenerate if the planned measures are conducted.

- **No. 2 c) the absorption capacity of the natural environment, paying particular attention to the following areas:**

  i) wetlands
  - the inherent and operational impacts of the planned measures affect and endanger massively wetlands which are unique in Western Europe (as shown in chapter A 2.1-2.3)

  iv) nature reserves and parks
  - inherent and operational impacts of the planned measures affect the Międzryodrze area which is protected by Polish conservation law as a Landscape Park Dolina Dolnej Odry

v) Natura 2000 SCI and SPA

- the Międzryodrze area is protected by the EU Birds Directive as Special Protected Area PLB320003 Dolina Dolnej Odry,[74] protected also by the EU Habitats Directive as a Site of Community Interest PLH320037 Dolna Odra,[75] the inherent and operational impacts of the planned measures affect and endanger massively these Natura 2000 sites and their species (as shown in chapter 5).

Characteristics of the potential impacts

The potential significant effects of projects must be considered in relation to criteria set out in points 1 and 2, and having regard in particular to:

- **No. 3 a) the extent of the impact (geographical area and size of the affected population)**
  - flood protection is dubious, with a real danger of adverse effects deteriorating flood protection also on the German side (EIA subject of protection: humans – as was described in chapter 3).
  - the affected area is the biggest river peatland in Western Europe and hosts strong populations of by Natura 2000 law specially protected species, the inherent and operational impacts of the planned measures
    - affect and endanger massively the whole populations of these species (as shown in chapter 4 and 5)
    - and also have the potential to turn the huge peatlands from a huge carbon and nitrogen sink into a huge carbon and nitrogen source

- **No. 3 b) the transfrontier nature of the impact**
  - the inherent and operational impacts of the planned measures create adverse effects deteriorating flood protection for humans on both sides of the Polish-German border

[74] Please see the description in the SDF http://natura2000.eea.europa.eu/Natura2000/SDF.aspx?site=PLB320003

[75] Please see the description in the SDF http://natura2000.eea.europa.eu/Natura2000/SDF.aspx?site=PLH320037

- the inherent and operational impacts of the planned measures will negatively affect the populations of several ecosystems in the whole region since those species which are endangered by the planned measures host strong source populations in the Międzryodrze area and endangered populations in the Marwice Polder which are relevant for the metapopulation of these species in the whole region (especially concerning the population of aquatic warbler in the German Lower Oder Valley National Park, but also concerning the black tern, the white-winged tern, the ramshorn snail, the European weather loach), (as shown in chapter 5).
- the inherent and operational impacts of the planned measures additionally have the potential to negatively affect the atmosphere (Carbon emission), the nutrient level of water and land ecosystems downstream (e.g. Nitrogen emissions) if a drainage is conducted,e.g. in order to enable a dry mowing as planned by the ZZMiUW and RDOŚ.

- **No. 3 c) the magnitude and complexity of the impact**

  The magnitude and complexity of the inherent and operational impacts of the planned measures is very high:
  - adverse effects deteriorating flood protection for humans,
  - negative impacts on many different species specially protected by Natura 2000 law and on many ecological niches of the wetland ecosystems, on the ecological connectivity, on the river structure, on natural hydrology, in case of a drainage also on nutrient level of adjacent land and water ecosystems (Nitrogen), on atmosphere (Carbon emission).

- **No. 3 d) the probability of the impact**
  - the negative inherent and operational impacts of the planned measures described in chapter 3, 4 and 6 are practically not avoidable at all concerning flood protection and concerning several populations of species which are specially protected by Natura 2000 law, so their probability is nearly 100 %,
  - the negative impact caused by a drainage in the Międzryodrze area is theoretically avoidable, as promised by RDOŚ, but it is unclear how a drainage

shall be avoided in the Międzryodrze area when a dry mowing is planned there.

- **No. 3 e) the duration, frequency and reversibility of the impact**
  - the inherent and operational impacts of the planned measures will continue timely unlimited, permanent, and a reversibility of the measures is not planned by the responsible authorities.

As a result Environmental NGO are convinced that an EIA is legally evidently necessary for all the planned measures together in the Międzryodrze area and the adjacent Marwice Polder!

In general the EIA Directive describes the process of an assessment and the necessary criteria of this assessment, it does not fix the decisions which have to be met by the authorities as a result of the EIA. The question if the decisions are legal which are met by the authorities pro or contra the planned measures in the Międzryodrze area and which are based on the EIA is a question of the special law which is affected by the planned measures, in this case especially the Natura 2000 Directives and the WFD. Even though the Habitats assessment and also the WFD assessment is independent of an EIA since it has its own strict legal implications separate from the legal implications of an EIA (which are of a processual nature), an EIA for a project which obviously affects a Natura 2000 site negatively and which does not lead to correct results concerning the necessary Habitats Impact Assessment fails its legal objective (this results out of Art. 4 Sect. 2 i.c.w. Annex II no. 10. f) i.c.w. Art. 4 Sect. 3 i.c.w. Annex III No. 2 c) v) EIA Directive).
As a result an EIA of a project which deteriorates Natura 2000 sites has to prove that there is an overriding public interest without reasonable alternative (according to Natura 2000 (and WFD) as *Lex specialis*) and, in case that there is an overriding public interest without reasonable alternative, that no local population of by Natura 2000 law specially protected species is endangered (according to Natura 2000 law as *Lex specialis*).

These criteria can not be fulfilled in the Międzryodrze area, was was shown in chapters 4 and 5. If these criteria are not fulfilled, the granting of a permission based on the EIA is illegal. Therefore, if the Habitats Assessment cannot fulfil these criteria, the EIA is also wrong.

The Impact of the planned measures also influences significantly the German side of the border region,

- flood protection is dubious, with a real danger of adverse effects deteriorating flood protection also on the German side (EIA subject of protection: humans – as described in chapter 3).
- especially the German parts of the transborder metapopulations of by Natura 2000 Law specially protected species are negatively affected, such as black tern, white-winged tern (at the western edge of its global distribution), aquatic warbler (last population in Germany is breeding in the adjacent German Lower Oder Valley National Park, it is very small and in fact only a sub-population which depends on the exchange with the sub-population in the Marwicki Polder, both sub-populations form together a small and highly endangered metapopulation), ramshorn snail, European weather loach (see chapter 5)
- they also have the potential to turn the peatlands as huge carbon and nitrogen sinks into huge Carbon and Nitrogen sources influencing climate water quality on the Polish and German side, if a drainage is conducted.

Therefore another member state likely to be significantly affected (in this case Germany) can request (according to Art. 7 Sect. 1 second clause) the member state in which territory the project is conducted (in this case Poland) to grant access to the EIA procedure (transboundary EIA procedure). According to Art. 7 Sect. 3 a) EIA Directive all affected member states have to inform the concerned public likely to be affected by the project, this includes also German environmental NGO (according to Art. 7 Sect. 3 i.c.w. Art. 1 Sect. 2 e) EIA Directive). German environmental NGO also have the right to forward their opinion in the public EIA procedure before the decision on the project is made by the responsible authorities (according to Art. 7 Sect. 3 b) i.c.w. Art. 1 Sect. 2 e) EIA Directive). Those participants of the public EIA procedure who have a suffi-

cient interest have the right to bring an action to court against the decision which is made by the authorities concerning the EIA (according to Art. 11 Sect. 1 i.c.w. Sect. 3 S. 2,3). This right is explicitly also granted to environmental NGO (according to Art. 11 Sect. 1 i.c.w. Sect 3 s. 2+3 i.c.w. Art. 1 Sect. 2 e)). As a result Polish and German environmental NGO are convinced that a transboundary EIA is legally necessary granting – both Polish and German NGO the right to be part of the transboundary EIA – both the right to take an action before Polish courts against the decision which is made by the responsible authorities concerning the Międzryodrze area.

6.3 Reasons for the legal Necessity of a transboundary EIA for the Stream Basin Development of the River Odra

(Subcomponent 1B.2 Modernization Works on Boundary Sections of Odra River, together with Subcomponent 1B.1 Reconstruction of River Control Infrastructure on Odra River. Adaptation to the Conditions of Class III Waterway. Stage II)
As described in the beginning of this chapter, within The World Bank´s OVFMP it seems that EIA are planned in the future for the stream basin development. However, it is doubtful if EIA will be conducted since the Polish Ministry of Environment (MŚ) states in its answer letter to Polish and German NGO[76] that all EIA were already conducted, but the MŚ does not tell where to find the EIA reports. So, there is doubt whether EIA are conducted or will be conducted.

In Art. 11 of the (to the OVFMP related) Polish-German "Agreement on joint Steps to improve the Situation on Waterways in the German-Polish Border Region" signed on April 27, 2015 and concerning flood protection and shipping on the River Odra,[77] it is also agreed that the both parties Poland and Germany let each other participate in transborder EIA in all measures which are part of this treaty.

However, the German WSA Eberswalde told during a meeting on December 17, 2015 in the German parliament that they only plan to conduct EIA for those few measures of the agreement which are obviously not maintenance works but clearly new measures which have never been realised before, which are obviously part of a stream basin development. The German WSV is convinced that most of the planned measures were only "maintenance works", since these measures have been conducted during the stream basin development of the River Odra in the end of the 19th century / the first half of the 20th century. Therefore the German WSA Eberswalde states in its legal opinion that these measures are only maintenance works and therefore they do not need an EIA. The WSA Eberswalde says the fact that these measures have not been conducted during the last 70 years (which lead in fact to a huge re-naturalisation of the

[76] The answer letter of the Polish MŚ can be found in the Annex of this document.
[77] Please refer to BMJV (2015).

River Odra) means for them only that there is a huge „70-year-long lack of maintenance of the River Odra“ or in other words: a “70-year-long maintenance backlog“.[78]
Polish and German NGO fear that the Polish administration plans to act in the same way as the German shipping administration, stating that all planned measures were just “maintenance“, and therefore no official permission including EIA would be necessary in the opinion of the Polish authorities. This legal opinion of the German WSV (and probably also of the Polish administration) is not in compliance with the EIA Directive and evidently false due to the following reasons.

It has to be mentioned that the first stream basin development of the River Odra was conducted in historically totally differing legal and political circumstances, when the biggest parts of the River Odra belonged to Germany. Now the River Odra has re-naturalized itself in a fantastic way during the last 70 years, over a long period, which is the main goal of the WFD. Now the River Odra is governed under a totally differing legal frame compared with the situation more than 70 years ago, it is governed under the Frame of Water and Environmental law of the European Union, the Republic of Poland and the Federal Republic of Germany. It is obvious that maintenance works can only conserve an existing state.
And since the River Odra has now and since a long time, since 70 years, another and much better and much more natural ecological structure and state than it had during a short time in totally differing historical, political and legal circumstances at the beginning of the 20th century, **it is obvious that the planned measures do not conserve an existing state of a river or at least a state that the river had only few years ago and during a longer period. So, the “maintenance”- argument is obviously false.**

If this legal argument of the shipping administration would be right, it could be also used e.g. to justify the restoration of for example some former Roman aqueducts as “maintenance” works, since they did exist in the past, so it could be argument that there was a 2000-year-”maintenance”-backlog of these aqueducts, so that it was legal

[78] German environmental NGO prepare charges against the German WSV concerning its legal interpretation and its conclusions, that the planned measures would not need any permission or EIA and could just be conducted directly now.

to "maintain" (=restore) these old Roman aqueducts without a need for any permission.

Even the authorities state that their aim is to "improve" the flood protection and the waterway for ships, compared with nowadays and compared with the historical situation. The German WSA Eberswalde told during the meeting on December 17, 2015 several times that the whole river shall be "improved". Also the Polish-German agreement carries in its title that its aim are "joint steps to improve the situation on waterways in the German-Polish border region".[79]

This improvement is also officially admitted in The World Bank´s PAD,

- where the erection of new groynes
- and the dredging of the river bed

in order to achieve a water depth of 1.80 m on its whole width during 90 % of the year downstream of the Warta river mouth and during 80 % of the year upstream of the River Warta mouth in order to achieve class III shipping navigability is described.[80]

This improvement is also visible in the new study ("An update of the concept for regulation of the Border Odra watercourse") of the German Federal Waterways Engineering and Research Institute (BAW) conducted together with the Polish shipping administration (KZGW), which serves as the scientific base both on the German and also the Polish side for the stream basin development of the River Odra there where the River Odra flows along the Polish-German border.
Also this "update of the concept for regulation of the Border Odra watercourse" shows that it is not "only" planned to conduct "maintenance" works (which would be after 70 years of "non-maintenance" already be a stream basin development). But indeed a totally new approach is used, with the results that the height of the groynes, their dis-

[79] Bundesregierung Deutschland (BReg) (2015)

[80] According to The World Bank´s PAD,
- dredging of the river bed is described in no. 26 on p. 38,
- the erection of also new groynes is also described in no. 26 on p. 38,
- the achievement of navigability class III and the water depth of 1.80 m for both subcomponents 1.B.1 and 1.B.2 is additionally described on p. 40.

The statement of the PAD that the groynes on the German site would have been built already during the last 10 years is not true. Instead, these measures are still planned, German NGO such as BUND – Friends of the Earth Germany prepare charges against these plans of the German WSV, since they infringe on the Natura 2000 Directives and on the WFD.

tance to each other between both sides of the river (distance of streak lines) and their groynes heads are totally modified,[81] with the result that in the short term during a little higher water level the water height is raised a little bit due to the groynes[82], which shows clearly that the groynes indeed will be constructed bigger than before!

Therefore, the planned measures altogether are a clear stream basin development. As already mentioned above in chapter 4 and 5, the ecological state of the River Odra judged by the WFD is clearly deteriorated and huge Natura 2000 sites and regional populations of Natura 2000 species are endangered by the planned measures on a large scale.

Also in this case an **EIA for the whole region affected by the planned measures is obligatory due to the heavy influence of the planned measures on the subjects of protection which meet the relevant criteria described in the EIA Directive** (according to Art. 4 Sect. 2 i.c.w. Annex II no. 10. f) i.c.w. Art. 4 Sect. 3 i.c.w. Annex III No. 1 a-c, 2 a, b, c i, c iv, c v, 3 a-e EIA Directive, the legal argumentation here is similar to chapter 6.2).

Since due to a most likely deterioration of local populations of by Natura 2000 law specially protected species or of indirectly by the WFD protected species in huge regions on both sides of the Polish-German border (see chapter 4 and 5) a transboundary EIA is necessary, granting both Polish and German Environmental NGO the right to take actions against the decisions of the authorities based on an EIA (see for ecological details chapter B 2.1, for legal details chapter A 2.4 d.).

[81] Please refer to BAW (2014). For this study also a new reference water level was designed, the EMW$_{2010}$, as the middle water level between the years 1981 and 2010, see p. 26. The EMW$_{2010}$ serves as the base for the planning of the groynes; SRK-V5 is the chosen alternative, see p. 167 f., which show the totally new design of the groynes.

[82] Please refer to BAW (2014), pictures 6-81 and 6-82 on p. 160 f.

7 Suspicion that the Polish Government tries to use The World Bank´s OVFMP for achieving higher Classes of Navigability instead of achieving a higher Level of Flood Protection

The stakeholders of the OVFMP present this project as a flood protection project. Yet at the same time the OVFMP project description states that the target is to achieve at least class III navigability[83] on the River Odra, which creates strong doubts as to whether the real target of the project is mainly flood protection.

Indeed, on June 14, 2016, the Polish RM outlined new projects in its Resolution. No 79; 'Assumptions for the plans for the development of inland waterways in Poland for the years 2016-2020 with perspective to 2030' stating their aims of achieving up to class IV navigability or higher on the rivers Odra, Vistula, Bug and Notec. This will include

- artificial barrages and
- artificial ponds / tanks / reservoirs in order to supply the rivers with water for shipping.

[83] The achievement of navigability class III and the water depth of 1.80 m for both subcomponents 1.B.1 and 1.B.2 is additionally described in PAD, p. 40. The statement of the PAD that the groynes on the German site would have been built already during the last 10 years is not true! Please also compare footnote 80.

7.1 Artificial Barrages

Even though barrages are not part of the OVFMP and are only part of the Resolution. No. 79: 'Assumptions for the plans for the development of inland waterways in Poland for the years 2016-2020 with perspective to 2030' of the Polish government, the barrages have to be noted here in order to show the contradiction of the Polish government, also concerning the actual OVFMP.

Artificial barrages raise the danger of floods instead of reducing them due to two reasons:

- The water level is raised permanently which reduces the flood storage space in the river basin.
- Ice barriers occur especially at barrages and ice barriers at barrages are very difficult to overcome by ice breakers and therefore are always a reason of concern, as can be seen at the barrage at Geesthacht[84], at the lower part of River Elbe (300 km west of River Odra).

The fear of ice barriers is one of the most important official reasons for the whole OVFMP – it is the main official reason for subcomponents 1B.2, 1B.1 (the stream basin development of the River Odra) which shall officially improve the River Odra for icebreakers.

In the mean time the Polish government plans a lot of barrages in the River Odra creating a lot of real dangerous choke points for ice barriers.

So, it seems that the Polish government does not really take care of the danger of ice floods and just uses the OVFMP (deepening and homogenization of the river bed, building of groynes) just as a first stage of extension of the navigability, in order to realize, after the end of the OVFMP, the next stage of extension, the erection of barrages there were groynes and deepening of the river bed are not sufficient in order to achieve the higher navigability class IV.

[84] This is described for the barrage at Geesthacht at the River Elbe, the only barrage that exists between the German-Czech border and the River Elbe mouth at the North Sea, refer WSA Lauenburg (2013).

7.2 Artificial Ponds (Reservoirs or Tanks)

Also several artificial ponds (or reservoirs or tanks), planned in RM's Resolution. No. 79 (‘Assumptions for the plans for the development of inland waterways in Poland for the years 2016-2020 with perspective to 2030’), are raising the danger of pollution of big parts of the River Odra due to transport of nutrients and pollutants:

These ponds would store nutrients and pollutants from high water periods during spring time from the whole upper river basin and then insert these nutrients and pollutants in a very short time of the year) during low water periods into the lower parts of the rivers, potentially even endangering the Baltic Sea. Even though the OVFMP does not include such artificial ponds also they have to be noted here in order to show the contradiction of the Polish government – also concerning the actual OVFMP and the former World Bank´s ORFPP.

Concerning the actual debate about the Raciborz dry reservoir planned as a dry reservoir for flood protection as component A in the former World Bank´s project no. P086768 "Odra River Basin Flood Protection" (ORFPP): It is noteworthy that the Polish government now tries to change the use of the Raciborz reservoir from a dry reservoir into a wet reservoir in order to improve shipping on the River Odra.[85]
Changing the Raciborz reservoirs from a dry into a wet reservoir in order to be able to feed the Odra with water during longer periods of low water for raising the river´s navigability would only work in line with flood protection if floods would only regularly occur during normal high water periods in spring time, then the flood water could be stored and then be emitted again during summer time during low water periods improving navigability without contradiction to flood protection. The problem is that the catastrophe flood from 1997 (one of the main reasons for the OVFMP and ORFPP) occurred very suddenly due to huge rain falls in few days during a normal low water period in summer. The same goes for the catastrophe floods in the River Elbe in the years

[85] Please refer to http://tvn24bis.pl/z-kraju,74/zbiornik-raciborz-dolny-ministerstwo-rozwaza-zmiane-koncepcji,684949.html

2002 and 2013 – they also occurred due to huge rain falls in few days during normal low water periods. That means, that

- if the Raciborz reservoir shall be useful for flood protection it has to be totally empty
- if it is partially full of water for achieving better navigability during low water periods, this reservoir can by far not achieve its full potential for flood protection.

It has to be mentioned that already now the Raciborz reservoir is not as useful as it is stated in the ORFPP, Polish hydrologists found out recently that this reservoir cannot significantly reduce such a flood catastrophe as happened in 1997, since it cannot reduce the flood wave as much as it was calculated before.[86]

So, the Raciborz reservoir cannot repair the huge natural water storage of the original water basin of the upper River Odra and its tributaries which existed in the past. It is also not possible to enlarge the Raciborz reservoir in order to store more floods, because this would not only cause much more harm to the environment, this would make it also necessary to relocate / resettle much more people from bigger villages and towns. Already now - for the actual size of the reservoir – few hundred people had to be relocated / resettled.

So, in this state, where the Raciborz reservoir is already now not sufficient for flood protection and cannot be enlarged without huge damage to people, property and environment, where the reservoir can also not compensate the natural water storage of the former wetlands of the upper River Odra basin, it is strange that the Polish government wants to change the Raciborz reservoir from a dry reservoir into a more and more wet reservoir supplying water for shipping – this will reduce the already now low flood storage capacity of the reservoir more and more.

So, this is a second hint that the Polish government does not really take care about floods. It seems again that the Polish government uses the flood argument and The World Bank´s projects ORFPP and OVFMP only in order to achieve a first stage of extension of the navigability.

[86] Please see in detail the first preliminary statement from hydro engineer Janusz Żelaziński in the Annex of this document.

7.3 Navigability of the River Odra

Of course shipping is a legitimate goal, but this should be openly named, not using arguments such as "flood protection" while in reality another goal is realized.

The Polish Government´s idea in the Resolution. No 79; 'Assumptions for the plans for the development of inland waterways in Poland for the years 2016-2020 with perspective to 2030' is to create a waterway between the Black Sea and the Baltic Sea via the river Danube, via a channel between the River Danube and the River Odra and via the River Odra itself.[87]

The Polish government claims that such a waterway was needed for economic reasons. However, it is more than doubtful if such a waterway between the Black Sea and the Baltic Sea using the River Odra makes any economic sense, since

- both the Austrian government and also the German government have claimed several times that they are not interested at all in this idea, since this idea is much too expensive and does not provide any economic benefit,
- for the same reason the Austrian and the German government refused the idea to establish the Danube-Elbe-channel, since they also don´t see any benefit for a Danube-Elbe-waterway connecting the Black Sea with the North Sea
- also on the huge Rhine–Main–Danube Canal the ship traffic declines massively, so much that many public sources state that the construction of this channel was a total flop[88]

The Rhine–Main–Danube Canal already connects the Black Sea via the largest European waterways (Danube, Rhine) directly with the North Sea, the Northern Atlantic and huge harbours such as Rotterdam and Antwerpen at the North Sea. Therefore the Rhine-Main-Danube-Waterway offers already now much better economic conditions for ship transport than a Baltic Sea-Odra-Danube-Black Sea waterway, since it offers a much shorter connection from the Black Sea to the North Sea and the Northern Atlantic Ocean than an Odra-Danube waterway could do (the importance of the Baltic

[87] Refer to the article of the Polish portal igryfino.pl (2016).
[88] Refer to the article of the German newspaper Welt (2014) and the press release of BN (2012).

Sea for large ship transport results mainly from the fact that it is indirectly connected with the North Sea and with the Northern Atlantic ocean).

So, even though the Rhine-Main-Danube-Channel offers much better economic conditions than an Odra-Danube waterway, the economic benefit of the Rhine–Main–Danube Canal is very doubtful:

- the total amount of goods transported on this channel raised for a short time after the opening of the channel, but decreased between 2000 and 2013 for more than 25 % reaching now the level which was predicted in the beginning of the 1980´s before the fall of the iron curtain and before the EU eastern enlargement
- 80 % of its annually operating costs has to be financed by the German ministry of transport using public money, only 20 % can be financed by the channel charge which the skippers have to pay[89]

This is also result of the fact that railway transport has become much more important than ship transport, which is ecologically the best alternative. Of course that transport on roads has become much more important than ship transport, which is ecologically not a good alternative (the European Commission works on methods how to combine more efficiently railway transport with road transport in the EU).

As was highlighted in the letter of Polish NGO to The World Bank in August, 11, 2016, the Polish railway system can easily transport the amount of goods which could be transported on Polish rivers if they would achieve class IV navigability.[90] So, also for this reason, there is no need to change the Polish rivers into class IV-water ways.

Therefore it is very doubtful if a massive stream basin development of the whole River Odra in order to achieve ship navigability class IV during most parts of the year, as actually planned by the Polish government, is justifiable by ship transport, since it is very doubtful that ship transport is of an imperative overriding public interest – due to a lack of economic reasons. In order to improve shipping on the River Odra in a natural

[89] Please refer to https://de.wikipedia.org/wiki/Main-Donau-Kanal

[90] Please refer to the letter from Polish NGO to The World Bank. This letter is in the Annex of this document: OFVMP: Statement from Polish NGO to The World Bank, August 11, 2016

way (however, probably still not enabling a navigability class IV), the restoration of wetlands in the basin of River Odra would make sense. This would help repairing the natural flood storage of the landscape

- which would reduce the danger of floods
- as well as reduce the low water periods which would indeed improve the navigability of the River Odra.

Instead, unfortunately the Polish drainage authorities destroyed wetlands on a large scale during the last years in order to get more arable land in order that landowners can receive EU CAP subsidies – also these practices lead to the WFD infringement procedure against Poland as described above in chapter 4.1.

8 Appendices

Annex (available as a separate pdf-file)

First preliminary statement by Dr. Janusz Żelaziński (hydro engineer), November/December 2016

OFVMP: Cover Letter to Statement from Polish NGO to The World Bank, August 11, 2016

OFVMP: Statement from Polish NGO to The World Bank, signed by more than 60 Polish NGO, scientists and politicians, August 11, 2016

OFVMP: Statement from Polish NGO to The World Bank, signed by more than 60 Polish NGO, scientists and politicians, August 11, 2016

OVFMP: Letter from Polish and German NGO to The World Bank, signed by Radosław Gawlik (EKO-UNIA), Paweł Pawlaczyk (KP), Michael Succow (MSF), Hubert Weiger (BUND), August 1, 2016[91]

OFVMP: Answer from The World Bank to the joint letter of Polish and German NGO, September 19, 2016

OVFMP: Answer from Polish Ministry of Environment to the joint letter of Polish-German NGO, November 15, 2016

OFVMP: Tasks, which are planned from the West Pomerania Board of Amelioration and Hydraulic Structures in Szczecin with resources of The World Bank (original in German: *"Aufgaben, die durch die Westpommersche Verwaltung für Melioration und Wasseranlagen in Szczecin zur Ausführung aus Mitteln der Weltbank geplant sind"*), ZZMiUW, (presentation held in Criewen, German), November 20, 2015

[91] Radosław Gawlik, former secretary of state of the Ministry of Environment, Poland, now chairman of EKO-UNIA, one of Poland´s largest environmental NGO; Paweł Pawlaczyk, cooperating intensively with the European Commission since many years concerning the implementation of Natura 2000 Directives and WFD in Poland, treasurer of Klub Przyrodników, one of Poland´s largest environmental NGO; by Michael Succow, one of the World´s leading specialists in wetland and peatland science and protection, laureate of the Right Livelihood Award for the protection of huge ecosystems in Eurasia, chairman of Michael-Succow-Foundation, an NGO very experienced and worldwide known for the protection of wetlands worldwide; Hubert Weiger, Chairman of BUND – Friends of the Earth Germany, one of Germany´s largest environmental NGO

9 Bibliography

Primary sources

BMJV (2015): Announcement of the agreement on joint steps to improve the situation on waterways in the German-Polish border region from June 12, 2015 (original in German: “Bekanntmachung des deutsch-polnischen Abkommens über die gemeinsame Verbesserung der Situation an den Wasserstraßen im deutsch-polnischen Grenzgebiet (Hochwasserschutz, Abfluss- und Schifffahrtsverhältnisse) vom 12. Juni 2015”). Bundesgesetzblatt, year 2015, Part II, No. 17: 845-852.[92]

BAW (2014): An update of the concept for regulation of the Border Odra watercourse (original in German: “Aktualisierung der Stromregelungskonzeption für die Grenzoder”), BAW 3.02.10132.3, Report

BfN (2015): Species occurring in Germany listed in Annexes II, IV and V of the Habitats Directive (original in German: “Liste der in Deutschland vorkommenden Arten der Anhänge II, IV, V der FFH-Richtlinie (92/43/EWG)**”, March 25, 2015, online:https://www.bfn.de/fileadmin/BfN/natura2000/Dokumente/artenliste_mit_erlaeuterungen_20150325_barrierefrei_neu.pdf

EJC (2015): Judgement of the Court, Reference for a preliminary ruling — Environment — EU action in the field of water policy — Directive 2000/60/EC — Article 4(1) — Environmental objectives relating to surface waters — Deterioration of the status of a body of surface water — Project for the development of a navigable waterway — Obligation of the Member States not to authorise a project that may cause a deterioration of the status of a body of surface water — Decisive criteria for determining whether there is a deterioration of the status of a body of water, Case C-641/13, July 1, 2015

EJC (2016): Judgement of the Court, Failure of a Member State to fulfil obligations — Environment — European Union water policy — Directive 2000/60/EC — Monitoring of the ecological status and the chemical status of surface waters — River basin management plans, Case C-648/13, June 30, 2016

Government of the Federal State of Brandenburg (2016): Answer of the Government of the Federal State of Brandenburg to the written question No. 1839 (original in German: “Antwort der Landesregierung auf die Kleine Anfrage Nr. 1839 des Abgeordneten Benjamin Raschke Fraktion der BÜNDNIS 90/DIE GRÜNEN – Drucksache 6/4389 – Biologische Vielfalt und Hochwasserschutz an Oder und Elbe”), printed matter 6/4619, July 18, 2016

[92] Please also refer to: http://g.ekspert.infor.pl/p/_dane/akty_pdf/MPO/2015/222/1273.pdf#zoom=90, Polish translation in the first part, German translation in the second part.

RM (2016): Resolution No. 79 of the Council of Ministers on the adoption of the "Assumptions for the plans for the development of inland waterways in Poland for the years 2016-2020 with perspective to 2030" (original in Polish “Uchwała Nr 79 Rady Ministrów z dnia 14 czerwca 2016 r. w sprawie przyjęcia »Założeń do planów rozwoju śródlądowych dróg wodnych w Polsce na lata 2016–2020 z perspektywą do roku 2030«”. Monitor Polski, Pos. 711.

The World Bank (2015): Odra-Vistula Flood Management Project, Environmental Assessment and Management Framework, Report No: E4745, February 6, 2015 (the annexes are online available: http://www.odrapcu.pl/en_popdow_dokumenty.html)

The World Bank (2015): Odra-Vistula Flood Management Project, Environmental and Social Management Framework, Final Document, Report No: SFG1100, April 1, 2015

The World Bank (2015): International Bank for Reconstruction and Development Project Appraisal Document on a prosed loan in the amount of Euro 460 million (US$504 million equivalent) to the Republic of Poland for a Odra-Vistula Flood Management Project, Report No: PAD1203, July 1, 2015

Secondary sources

BDB (2015): Wohin steuert die Schifffahrt auf der Elbe? - Bundesverkehrsministerium stellt bisheriges Unterhaltungsziel an der Elbe in Frage, press release, July 29, 2015, online: http://binnenschiff.de/content/pressemitteilung/wohin-steuert-die-schifffahrt-auf-der-elbe-bundesverkehrsministerium-stellt-bisheriges-unterhaltungsziel-an-der-elbe-in-frage/

BReg (2014): Germany / Poland: Further reinforcing excellent relations, press release, April 27, 2015, online: https://www.bundesregierung.de/Content/EN/Reiseberichte/2015/2015-04-27-deu-pol-konsultationen_en.html

BN (2012): Ein umkämpftes Prestigeprojekt der bayerischen und bundesdeutschen Regierung wird 20 Jahre alt: BUND Naturschutz zieht verheerende ökologische und ökonomische Bilanz, September 10, 2012, press release, online: https://www.bund-naturschutz.de/fileadmin/_migrated/content_uploads/PM-078-12-20-Jahre-RMD-Kanal_01.pdf

Heinzelmann C., Alexy, M. & Hector Montenegro, H. (2016): Hochwasserschutz im Einklang mit Naturschutz – Die Deichrückverlegung Lenzen an der Elbe, conference paper, January 8, 2016, online: http://www.iww.rwth-aachen.de/download/pdf/symposium/proceeding/IWASA2016/IWASA2016_Tagungsbeitrag_Heinzelmann.pdf

igryfino.pl (2016): Odra popularną drogą wodną?, February 11, 2016, online: http://www.igryfino.pl/wiadomosci/3199,odra-popularna-droga-wodna

Marchowski, D. & Mrugowski, W. (2013): Wyniki monitoringu w 2013 r. dla wybranych gatunków ptaków w przyrodniczym obszarze Doliny Dolnej Odry w wojew ództwie zachodniopomorskim oraz kraju związkowym Brandenburgia. Derkacz Crex crex, kropiatka Porzana porzana, rybitwa czarna *Chlidonias niger*, rybitwa białowąsa *Chlidonias hybrida* i rybitwa białoskrzydła *Chlidonias leucopterus*, orlik krzykliwy *Aquila pomarina*, bocian czarny *Ciconia nigra*, online: http://www.einzigartiges-unteres-odertal.eu/assets/PDF-PL/MONITORIG-PTAKI.docx.pdf

Mönninghoff, W. (1997): Deutsche Nationalparke – Nationalpark Unteres Odertal, Berlin

MAZ (2015): Das war's mit 1,60 Meter Fahrrinnentiefe, September 20, 2015, online: http://www.maz-online.de/Lokales/Prignitz/Das-war-s-mit-1-60-Meter-Fahrrinnentiefe

Nowak, M., Klaczak, A., Szczerbik, P., Mendel, J. & Popek, W. (2013): Rapid range expansion of the "whitefin" gudgeon *Romanogobio cf. belingi* (Teleostei: Cyprinidae) in a lowland tributary of the Vistula River (Southeastern Poland), in: Ann. Limnol. - Int. J. Lim. (49), pp. 319–326 online: http://www.limnology-journal.org/articles/limn/pdf/2013/04/limn130027.pdf

Promny, M., Hammer, M. & N. Busch (2014): Untersuchungen zur Wirkung der Deichrückverlegung Lenzen auf das Hochwasser vom Juni 2013 an der unteren Mittelelbe, KW - Korrespondenz Wasserwirtschaft, (6,) pp. 344-349

Scholten M, & Thiel R. (2005): Die Fischfauna in Buhnenfeldern, Strom und Aue –Bewertung, Habitatnutzung und Maßnahmen zur Verbesserung des fischökologischen Zustands, online: http://elise.bafg.de/servlet/is/7220/17_Scholten_Thiel_Leipzig2005f82c.pdf?command=downloadContent&filename=17_Scholten_Thiel_Leipzig2005.pdf

Świerkosz, K. & Obrdlik, P. (2002): Natura 2000 in the Oder River Valley, Wrocław

Thiel, R. & Backhausen, I. (2006): Survey of NATURA 2000 fish species in the German North and Baltic Seas, in: Nordheim, H. (ed.): Progress in marine conservation in Europe : NATURA 2000 sites in German offshore waters, Berlin, pp 157-178.

UBA (2005): Bedeutung der Elbe als europäische Wasserstraße, online: https://www.umweltbundesamt.de/sites/default/files/medien/publikation/long/2848.pdf

Welt (2014): Wie der Main-Donau-Kanal zum großen Flop wurde, online: https://www.welt.de/regionales/bayern/article134111381/Wie-der-Main-Donau-Kanal-zum-grossen-Flop-wurde.html

Wolter (2006): Vorkommen und Verbreitung des Stromgründlings *Romanogobio belingi* (Slastenenko, 1934) in der unteren Oder, in: Nationalpark-Jahrbuch Unteres Oder-

tal, (), pp. 55-63, online: http://nationalpark-unteres-odertal.de/de/publikationen/vorkommen-und-verbreitung-des-stromgr%C3%BCndlings-romanogobio-belingi-slastenenko-1934-der

WSA Eberswalde (2012A): Planfeststellung für die Instandsetzungsmaßnahme Oder Reitwein (Od-km 604,6 bis 605,5), Umweltverträglichkeitsstudie, March 7, 2012, online: http://www.wsd-ost.wsv.de/aktuelles/Planfeststellung/Instandsetzungsmassnahmen_an_der_Oder_bei_Reitwein_%28Od_-_km_604,6_bis_605,5/Sammelmappe4.pdf

WSA Eberswalde (2012B): Planfeststellung für die Instandsetzungsmaßnahme Oder Reitwein (Od-km 604,6 bis 605,5), FFH-Verträglichkeitsuntersuchung, March 7, 2012, online: http://www.wsd-ost.wsv.de/aktuelles/Planfeststellung/Instandsetzungsmassnahmen_an_der_Oder_bei_Reitwein_%28Od_-_km_604,6_bis_605,5/Sammelmappe6.pdf

WSA Lauenburg (2013): Eisbekämpfung durch die Wasserstraßen- und Schifffahrtsverwaltung (WSV) des Bundes auf der Elbe, online: http://www.wsa-lauenburg.wsv.de/Eisaufbruch/Anlagen/Eisbekaempfung5119766226297622013.pdf

COMPLAINT (REQUEST FOR INSPECTION) FORM

To:

The Executive Secretary, The Inspection Panel, The World Bank, MSN: MC 10-1007
1818 H St., NW, Washington, DC 20433, USA. Fax: +1(202)-522-0916. Email: ipanel@worldbank.org

Section 1: Complaint

1. What harm do you believe the World Bank-financed project caused or is likely to cause to you or your community? Please describe in as much detail as possible.

We must draw the Inspection Panel attention to the fact that the Kłodzko Valley Flood Risk Management project, financed by the World Bank, raises serious doubts, in our opinion, as to its compliance with European law:

1. Inadequate strategic environmental assessment (SEA) of the flood risk management plan adopted by Poland, on the basis of which the investments are carried out

Investments in Kłodzko Valley are being implemented as part of the FRMP (Flood Risk Management Plans) adopted by Poland. The environmental impact assessment of the FRMP assumed, however, that the dry basins had little impact on the environment, as it was assumed that when a dry basin was constructed, the entire area in its bowl would remain in its current state and a river would be regulated only over a short part leading to a dam and an outlet below the dam. It was also assumed that dry basins significantly reduce the need for river regulation. Meanwhile, the actual method of execution of dry basins differs from these assumptions, which

2. Odra Vistula Flood Managment Project

3. Where is the World Bank project located? (Please include country name)

Poland, Klodzko Valley

4. Do you live in the project area?

Yes or we own land in the area

5. Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

We have written several times to the grievances team, to Berina Uwimbawazi, to Mister Ciril Muller, to the World Bank President, to Nicola Ille . We are not satisfied with the World Bank representatives and their partners lack of transparency. You may see more details in attachments. We were receiving answears after many weeks or at all. We still have not received protocol from the meeting of Mister Nicola Ille, W. Krochmal and people from Wroclaw in Stary Gieraltow: 5 June 2019

6. If known, please list the World Bank's operational procedures you believe have not been followed.

We reported infringment of the ESS10 Stakeholder Engagement and Information Disclosure from June 2018: CAS-00734-G0C4P7 GRSHQ:0449023. We believe the Project should have "A" not "B" category because of involuntary replacement and a lot of harm made to enviroment, to protected species from I Annex Bird Directive, IV Annex to Habitat Directive, habitats from I Annex to Habitat Directive and

7. Do you expect any form of retaliation or threats for filing this complaint to the Inspection Panel?

No

Section 2: Contact Information

8. Are you complainants or a representative of complainants?
Complainants: ☐ Representing a complainant or community: ☐ We are Complaintants and represent many people from local community as Alliance for Klodzko Valley (Sojusz na Rzecz Ziemi Klodzkiej). [redacted] cares about this fanpage:

https://www.facebook.com/Niedlazbiornikow/

You may see on this fanpage dedicated to dry reservoirs how the Project inluences Nature and landscape in Klodzko Valley.

9. Would you like your name and contact details to be kept confidential? *(The Inspection Panel will not disclose your identities to anyone without your prior consent.)* Yes ☐ No ☐ We want to submit this complaint as Alliance for Klodzko Valley (Sojusz na Rzecz Ziemi Klodzkiej)

10. Complainants' Names (Minimum two names and signatures are required):

Complainant 1	Complainant 2
Name [redacted]	Name [redacted]
Address [redacted]	Address [redacted]
Phone [redacted]	Phone [redacted]
Email [redacted]	Email [redacted]

11. We, the undersigned, request the Inspection Panel to investigate the issues described above.

Signatures *(More signatures can be sent as an attachment document):*

[redacted]	[redacted]

NOTES:

- Please attach supporting documents, if available.
- If you have any difficulty in completing the form, please contact the Inspection Panel at ipanel@worldbank.org or by phone: +1-202-458-5200.

We must draw the inspection panel attention to the fact that the Kłodzko Valley Flood Risk Management project, financed by the World Bank, raises serious doubts, in our opinion, as to its compliance with European law:

1. Inadequate strategic environmental assessment (SEA) of the flood risk management plan adopted by Poland, on the basis of which the investments are carried out

Investments in Kłodzko Valley are being implemented as part of the FRMP (Flood Risk Management Plans) adopted by Poland. The environmental impact assessment of the FRMP assumed, however, that the dry basins had little impact on the environment, as it was assumed that when a dry basin was constructed, the entire area in its bowl would remain in its current state and a river would be regulated only over a short part leading to a dam and an outlet below the dam. It was also assumed that dry basins significantly reduce the need for river regulation. Meanwhile, the actual method of execution of dry basins differs from these assumptions, which makes the conclusions of SEA FRMP unrealistic. There are indications that these basins are implemented in a technology excessive for dry basins, but aimed at their future transformation as wet basins. At the same time, a far-reaching regulation of rivers is assumed to take place in parallel with the implementation of the basins. Consequently, the actual implementation of the FRMP for Kłodzko Valley differs significantly from the assumptions on the basis of which the impact of the plan on the environment was strategically assessed. There are indications that in Kłodzko Valley, PZRP would not have undergone the SEA procedure if assumptions corresponding to today's Project implementation methods had been adopted.

The SEA did not fully capture the significant cumulative impacts, e.g. the accumulation of the current investments in Kłodzko Valley seems to be a threat to the most important regional stronghold of the stream lamprey, which was not identified in the SEA at all.

2. The scale and cost of the investment disproportionate to the reduction of flood risk

Investments in Kłodzko Valley were placed in the FRMP only as slogans, without full recognition of their scope and flood protection effectiveness. More detailed analyses carried out later do not confirm the assumed scale of flood risk reduction, i.e. the effectiveness of the investment is much lower than the estimated effectiveness on the basis of which it was included in the FRMP.

3. Doubts about the application of Art. 4.7 WFD to the implemented investments

Investments within the project are carried out on the basis of derogations from Article 4.7 of the Water Framework Directive. However, the fulfilment of the derogation conditions raises serious doubts.

3.1 Not all practical steps have been taken to limit the adverse impact of the investment on the state of water bodies.

During the design and construction of dry basins, elements were introduced which are not necessary to achieve the functionality of a dry basin, but which have a negative impact on the water level and the environment, in particular:

- cutting down coastal trees in the bowl of the basin, degrading the edge zone of water courses (while in a typical dry basin such trees are left);

- excessive regulation of watercourses in the bowl of the basin and below the dam (it is technologically necessary only to stabilize the trough line introduced into the outlet, but the bottom of the watercourse may remain in its natural state; and also to strengthen the short outflow section to prevent washing out the dam body);
- the use of "debris traps" intercepting natural transport of debris even when the basin is not dammed up, which will result in an imbalance of debris in the sections of the watercourses below - with consequences in the form of excessive cutting of the water courses, unfavourable increase in the energy of the stream at floodplains, destabilization of coarse rock debris below the basins, which will have a destructive effect in case of floods;
- exploitation of gravel from the bowl of basins, destabilizing the relationship of watercourses with groundwater in the valley.

3.2 Lack of proper consideration of alternatives

Never, either at the FRMP stage or in the EIA procedures for individual projects, have alternatives to widen the corridor of flood water flow across the river bed to free fluvial terraces from investment and single or bilateral lowering of the fluvial terrace to river levels (either by artificial lowering of the terrace or by appropriate addition of gravel material and execution of a sequence of riffle-stream pool in the river bed) been examined in more detail. Meanwhile, such an alternative would potentially be environmentally friendly and could be beneficial for reducing flood risk (although it increases the frequency of flooding on the terrace, it significantly reduces the destructive power of flooding), as well as for reducing the effects of droughts. There are also examples of its effective implementation on rivers of a similar nature as in Kłodzko Valley.

3.3 Doubts about overriding public interest

Although limiting flood risk is a public interest, its scale, and thus its superiority, raises doubts. On the one hand, current studies suggest that the reduction of flood risk will be relatively small. On the other hand, investments threaten other important interests of the Kłodzko Land community.

4. Infringements of species protection requirements resulting from Article 5 of the Birds Directive and Article 12 of the Habitats Directive

4.1 Derogations are also granted for derogations which are not necessary for the execution of the investment and thus - even when the execution of the investment itself is decided - alternative solutions exist and the overriding public interest is not convincing

The destruction of breeding and resting places of species from Annex IV of the Habitats Directive during the execution of the project was also allowed in the bowl of the basins, whereas from the point of view of the functionality of the basins it is possible to do without interference with the habitats in their bowl.

4.2 Granting of derogations although they will have a negative impact on the achievement of the objectives of the Birds Directive / species conservation status of Annex IV of the Habitats Directive

The destruction and disturbance of the likely breeding site of the eagle owl *Bubo bubo* is permitted, which, given the rarity of the species in the Sudety Mountains and in Poland as a whole, will have an impact on the objectives of the Birds Directives for this species.

5. doubts about the quality of the EIA procedures

5.1 Acceptance of incomplete environmental impact reports in the EIA procedure and consequently lack of identification of all significant impacts

5.2 Lack of taking into account in the EIA procedure the accumulation of impacts of various parts of the investment

A separate environmental permit was granted without an EIA for road construction projects related to the construction of the basin, not taking into account the fact that they are an element of the basin construction. Meanwhile, for the purpose of these investments, e.g. gravel is extracted from the bowl of the basin, which unnecessarily deepens the impact of the basin on the environment.

Oriana K. Bolvaran

From: [redacted]
Sent: Wednesday, September 04, 2019 12:08 PM
To: Birgit Kuba
Cc: [redacted]
Subject: Re: Panel inspekcyjny

[External]
Good afternoon Birgit,

thank you for your quick answear.
We will contact you in a few days with one more problem. We have serious concerns about water pollution in Roztoki dry reservoir. Please be so kind and look at these pictures:

https://www.facebook.com/photo.php?fbid=3099352170106963&set=a.672230536152484&type=3&theater

https://www.facebook.com/Niedlazbiornikow/photos/a.843601175980777/920695398271354/?type=3&theater

https://www.facebook.com/Niedlazbiornikow/photos/a.843601175980777/920695321604695/?type=3&theater

https://www.facebook.com/Niedlazbiornikow/photos/a.843601175980777/920695248271369/?type=3&theater

https://www.facebook.com/Niedlazbiornikow/photos/a.843601175980777/920695164938044/?type=3&theater

Pollution may influence quality of underground water also: it is a big underground water reservoir Snieznik-Gory Bialskie below. On some pictures you may see plants from Batriachum sp. which are not present in the EIA report..Batriachum sp. creates a habitat 3260* Ranunculion fluitantis from the I Annex to Habitat Directive. It means that EIA report was not reliable at all.

As far as water pollution is concerned we have taken samples of ground and water and will send them to independent laboratory abroad.

I have spoken and written to to the Police of Bystrzyca Klodzka about water pollution and about Batriachum sp. but I can see it is working very slowly. It is possible the Inspection Panel will help us with a problem of water pollution also?. EIA report does not say that pollution will kill some vulnerable species like Batriachum because because:

1) potentially drirty and harmfull tecnology is not examined carefully in the EIA report,
2) there is no Batriachum sp. in the EIA report..

The EIA procedure for all 4 dry reservoirs is doubftull. As you may see from attachment I have sent to you Today morning we have more problems like that: Maculinea nausitous in Szalejow dry reservoir for example (there is no entomology in the EIA report of Krosnowice and Roztoki).
I have sent a letter about Maculinea nausitous (protected species of butterfly from the IV Annex to the Habitat Directive) which is in danger in Szalejow reservoir) to Berina Uwimbawazi and to Nicola Ille one month ago without any answear from them.

I will contact you later with more details.
All the best,

[redacted]

śr., 4 wrz 2019 o 16:55 Birgit Kuba <bkuba@worldbank.org> napisał(a):

> Good afternoon,
>
> I am writing to acknowledge receipt of your Request. We will review it carefully and get back to you shortly with any questions we may have.
>
> Best wishes,
>
> Birgit
>
> **Birgit Kuba**
> Operations Officer
> The Inspection Panel
> The World Bank, MSN: MC 10-1007
> 1818 H Street, N.W. Washington DC 20433, USA
> Phone: +1 202 473-2621, Fax: +1 202 522-0916
> Email: bkuba@worldbank.org
> Website: www.inspectionpanel.org
>
> [redacted]

[redacted]

Oriana K. Bolvaran

From: [redacted]
Sent: Monday, September 09, 2019 4:45 AM
To: Birgit Kuba
Subject: Re: Panel inspekcyjny

[External]
Dear Birgit,

thank you for your e-mail.
I may talk to you but it would be necessary to find a Polish translator. My oral English is not good.
By the way do you know about this story?

https://www.facebook.com/anna.nikt.3386/videos/2986007531465953/
https://www.facebook.com/groups/1218562548305760/

https://oko.press/ale-tu-u-was-pieknie-szkoda-ze-to-juz-nie-potrwa-dlugo-mieszkancy-kotliny-klodzkiej-walcza-z-regulacja-rzek/?fbclid=IwAR1MJTxLzFpa9dClgDjXBGLmwg_-lWMNmNYBGwZ9F7j9JKFW41w-iHMWICU

There was a visit of 10 persons, 3 persons of the WB included (Berina Uwimbawazi among them). They promised to help this lady but nothing happened so far..
You may talk with her also. Her phone number is [redacted]. You will have to find a Polish translator also.

I think you will receive e-mail from my colleague also.
All the best
[redacted]

czw., 5 wrz 2019 o 22:50 Birgit Kuba <bkuba@worldbank.org> napisał(a):

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

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[redacted]

[redacted]

Preliminary comments on the flood protection project for the Bystrzyca Dusznicka River Valley and Kamienna Potok River Valley (passive protection)

Due to the short time I have had to familiarize myself with the project, I can only make general comments, but I think that there are some fundamental comments on the studies provided to me. I list them at the end of the remarks.
1. a preliminary review of the proposed tables and maps of activities shows that instead of protecting against flooding, these activities significantly increase the risk for Duszniki and, above all, Kłodzko. This fundamental reservation is motivated below in point 4.
2. It is hard to resist the impression that the designers of Task 28.2/2 do not notice that there exists and still is in force Directive 2000/60/EU, which requires maintaining, or if ecosystems of rivers and water-related environments need to be restored to **good ecological condition**, which is the overriding principle.
Flood risks and droughts can occur and normal conditions persist.
This must be known to any rational water resource manager.
3. despite explicit reservations contained in the study: the results of the nature inventory and the authors of the project consistently ignore these reservations. The multitude of technical measures that they propose proves that they simply do not care about the condition of water ecosystems and water-related ecosystems.

So as not to be mundane: only at the section from km 0 + 200 to km 18 + 790 we have:
- Protection of escarpment with stone: 2481m.
- Coast protection with a stone wall: 2285m.
- Protection of the road with a wall: 252m.
- Shore protection with coconut mat: 436m.
- Stone protection and a shelf with a stone bedspread: 884m.
- Renovation of existing walls: 859m.
- Extension of the trough with stone protection for escarpments: 1311m.
- Extension of the trough with coconut mat protection: 92m.
- Terrain and tree felling: 250m.
- Construction of a dam against rubble in km 17 +420.
- Postponement of the route with stone protection: 75m.
- Relief channel in Polanica with bottom and escarpment protection with stone: 400m.
- Trough with stone protection: 127m.
- Building of embankments: 370m.

While the road protection (perhaps it cannot be moved) or the protection of the water treatment plant with a shaft and the relief channel in Polanica do not raise any objections, the other activities raise fundamental objections.
The authors of this section constantly "improve" the river by profiling the escarpments. I don't know what "clearing of the riverbed" means. Doesn't the water want to flow and it needs to be helped?
Does it mean simply desludging that will destroy practically 100% of everything that lives in the river.
4. All these activities are not only devastating for the water environment, but by reducing the resistance of water movement they cause an increase in the speed of water flows (especially floods), which increases the rapidity of floods.
This results in an increased risk for areas located below the regulated section.
According to J. Żelaziński's calculations, shortening the trough by 10% as a result of the regulation, reducing the roughness of the trough by 10% (through profiling, strengthening of slopes, elimination of vegetation, etc.) results in increasing the flood wave by 38%, i.e. by almost half. This is, of course, a theory. I do not have any data that would allow me to determine the actual increase in the risk. However, these are certainly figures that encourage reflection. The inhabitants of Duszniki, Polanica and Kłodzko can experiance such effects of the planned activities. I am not sure if this is what the authors of the project wanted, not to mention those directly interested. That is not all.

Another effect of the proposed measures to accelerate water run-off is the drainage of adjacent valley areas, lowering of groundwater levels, deepening of the effects of drought.
5. The number of retaining walls and stone fortifications of the banks is interesting. This is all the more strange because a significant number of such fortifications take place in areas where agricultural land is located, e.g. in km 7+000 to km 7+400. There are many such examples. The retaining wall makes sense if, for example, it protects a road that cannot be moved away from the river. Numerous walls testify to the anachronistic approach to flood control. Comprehensive thinking and observance of the principles of modern water management would not limit the authors to actions in the river bed, but would include in their considerations the issues of spatial development: removing roads from the river bed or transferring endangered buildings and structures.

6. Another manifestation of anachronistic thinking are the barriers against rubble located in km 17+420, 29+ 308, 31+379, 32+747. The low effectiveness of the barriers against rubble has long been proven.
Since mountain rivers carry relatively large amounts of debris, their basins fill up quickly and the channels below erode. The flow of the river is interrupted and the migration of fish is prevented.
The only real issue is the money spent on the construction of the dam.

7. The measures proposed by the authors of the project are indeed devastating the water and water-related environments. According to the nature inventory, it is very rich. Of course, from the point of view of the proverbial Kowalski, it is not worth dealing with individual fish or birds. However, we already have sufficient knowledge of the importance of the state of the environment, which we are to pass on to our successors. They simply need to be protected.
8. The documents under discussion show that the authors of the project have not taken advantage of the opportunities offered by modern views to reduce the effects of emergencies such as flooding and drought.
These are as follows:

- Comprehensive activities in the distinguished catchment areas, covering the entire catchment area, not only the riverbed, maintaining the ecological condition of the river and the valley to the maximum extent, taking into account the impact on the areas located below.
- Changes in spatial development that remove people and infrastructure from endangered areas. Here, an assessment has to be made: isn't it cheaper to move buildings and structures outside the threatened area.
- Resistance of buildings and structures (including infrastructure) to the water element.
- Protection against the spread of pollution dangerous to the water environment.
- Making the inhabitants of the area at risk aware of the risks they are exposed to. German studies carried out after floods on the Rhine in the last century have shown that training the people at risk can reduce losses by up to 50%.
- Compulsory insurance against the effects of emergencies.
- Effective risk warning systems.
- Improving rescue operations.

9. The measures proposed by the authors of the project are very costly and prove not only the intention to protect the inhabitants of valleys from flooding, but also the intention to spend serious (not their own) money on socially and ecologically harmful projects.
10. I have not found anything in the materials provided to me that would indicate that the cost-benefit ratio of the planned activities has been calculated. I suspect, however, that considering the effects of these activities on Duszniki, Polanica and Kłodzko, the outcome of the calculation would not be beneficial for the authors of the project.

General conclusion
I consider the actions planned in the task: flood protection of the Bystrzyca Dusznicka River valley and the Kamienny Potok River (passive protection) to be completely wrong, providing practically no benefits for areas threatened by

flooding, increasing the risk of flooding to areas located lower down, and harmful to water and related ecosystems.

Materials used
Tables

Scope of planned activities: the Bystrzyca Dusznicka river. Kłodzko Municipality and Polanica Zdrój Municipality.
List of activities from km 1+200 to km 18+790.
The scope of planned activities from km 25+817 to km 32+816.
The scope of planned activities from km 0 + 050 to km 2 + 055. No name of the river.
Scope of planned activities from km 20 + 280 to km 21 + 390. No name of the river.
Scope of planned activities from km 0 + 414 to km 2 + 412. No name of the river.
Maps
1. Bystrzyca D KIP CZ 1,2,3,4,5,6,7,8 V.
2. Kamienny P KIP V2 420...
3. P Cicha KIP CZ 1.2 V2 4...

Nature overview
1. Annex 1 to the environmental impact report. Results of the nature inventory. Task 2B.2/2 Flood protection of the Bystrzyca Dusznicka River valley.
Contractor: Sweco consulting Sp. z o.o. Franklina Street 60 - 164 Poznań.
2. Maps: vegetation, animals: Bystrzyca Dusznicka and Kamienny Potok. (21 maps).

THE LOAN FROM THE WORLD BANK AS A THREAT TO THE WATER RESOURCES OF THE KŁODZKO LAND

Due to climate change, the Kłodzko region has been experiencing long periods of low water in recent years, and deep excavations and declining groundwater levels associated with the building of reservoirs have caused the formation of depression funnels.

The people living in the immediate vicinity are forced to deliver water for farming purposes by barrel trucks and farm animals have to drink directly from the streams.

According to the map developed by the National Hydrogeological Service [http://epsh.pgi.gov.pl/epsh/], the greater part of the planned Szalejów Górny reservoir is located within the Main Groundwater Reservoir No. 341.

It is a fissure and pore water reservoir associated with the occurrence of cracks and crevices in the Upper Cretaceous formations, i.e. marls and sandstones. In this region, the investor conducts excavations whose depth is not specified in the EIA report and in the environmental decision.

Acquisition of earth material needed for the construction of a monstrous dam (7 ha area and 19 m height) is carried out on most of the planned reservoir bowl (123 ha) in which there were eutrophic caves of the Calthion order dependent on surface waters and changeable meadows of the Molinion order with a blood stream (and protected by the Ramsay Convention), which is the habitat of the Blue Tit Maculinea Nausitous: a butterfly species from Annex IV to the Habitats Directive. Despite the presence of "blue meadows" within the canopy, the EIA report does not contain an entomological part and information on the impact of the investment on these butterflies' populations. The scope of earthworks is documented by a photo. The excavation area will cover 46 ha of the canopy of the reservoir and the slopes of the valley with slope forests (priority habitat 9180 *)

https://www.facebook.com/Niedlazbiornikow/photos/a.843601175980777/853297265011168/?type=3&theater

Here's what the construction site looked like in the spring of 2019:

https://polska-org.pl/7892084,foto.html?idEntity=7892472&fbclid=IwAR0eV1-jgNtgQvl1pUnjbxX8u3zZ3muT8at0hdMhBvd5DrJlD7ZHHs7wwn4

Covering the area of 43 ha with earthworks means annihilation of the biodiversity of this area, including wetlands. It is the wetlands that contribute to the retention of water in a given place and to its slow evaporation, which allows the temperature of the earth to be lowered due to the phenomenon of high water enthalpy. The wetlands have already been disturbed by earth trenches and the water will evaporate or drain from the area through the regulated riverbed. Regulations are planned inside the reservoir, meaning "straightening" of the breakthrough section of the Bystrzyca Dusznicka . Bystrzyca

Dusznicka in this place did not pose a flood hazard, because it had many meanders slowing down the flow of water and surface and underground waters constituted a system in equilibrium, which has now been disturbed.

In Roztoki and Boboszów, excavations reaching up to a depth of 25 m will violate the complicated structure of the surface water-groundwater system and here also wetlands were destroyed (in Roztoki there were patches of swamp meadows), constituting natural retention reservoirs and being a local enclave of biodiversity among more anthropogenically transformed areas Ditch of Nysa Kłodzka.

What's more, several heaths of riparian forests were destroyed in Roztoki, naturally associated with surface waters and their protection. These were the best-preserved riparian forests of the Kłodzko Land.

Water occurs in Roztoki in five zones, including the two deepest located connected to the crevice area of the groundwater tank: 339 Śnieżnik and the Bialskie Mountains.

Here is an excerpt from the EIA report:

Zone I (0-2 m) - limited to narrow floodplains along the watercourses flowing through the part of the Kłodzko Valley covered by the commune. Water level

this zone depends on the amount of water in the river and the distance from the river.

 II zone (2-5 m) - is the periphery of zone I, i.e. it covers the areas above

and further away from the watercourses. These are usually gravel terraces and lower parts plateaus.

 III zone (5-20 m) - waters of this level occur within the uplands and are dependent

from the depth of the rock impermeable ground.

 IV zone (10-20 m) - foothill zone of red rock waters. The waters of this zone occur

in the marginal zone of the Kłodzko Valley at the foot of the Śnieżnik Group Mountains, the Bystrzyckie Mountains and in the south near the border.

 V zone (below 20 m) - the crevice circulation zone includes the massifs of Śnieżnik and Góry Bystrzyckie

Here are photos from Rostock from May 2019, taken with a drone in April 2019:

https://www.youtube.com/watch?v=2vyVsbzfVXY&fbclid=IwAR0uNABp6g6PqEDI0hiVivCVb47S4uQuYhB9IqANdFCxJP74K2w6-Y3uMys

In Szalejów, the first, nearest aquifer, located at a depth of 0.7 to 3 m, does not have the characteristics of drinking water due to its mineral composition, but alimonies dependent on groundwater ecosystems (will this water now support navigation: replacement of retention ecosystem in peats on a wet reservoir?). During excavations carried out for the

construction of the reservoir, a water table appeared very quickly, which can be seen in the pictures.

Excavations in any randomly selected part of the groundwater reservoir may affect the water relations of this area, which was completely omitted in the EIA report. It should be taken into account that the first aquifer is very shallow. In this photo you can see how excavators are digging wetlands:

https://polska-org.pl/7892084,foto.html?idEntity=7892472&fbclid=IwAR0eV1-jgNtgQvl1pUnjbxX8u3zZ3muT8at0hdMhBvd5DrJlD7ZHHs7wwn4

In the area of the canopy of the reservoir included in the excavation plan there are also artesian waters with numerous self-outflows. The EIA report only considers the impact of damming in the reservoir during its exploitation phase on groundwater and ignores the importance of deep earthworks during the construction period: impact on the quality of surface and groundwater by liming the land during the construction of the dam (Szalejów), breaking contact between groundwater and surface water due to extensive and deep-reaching isolation (Roztoki, Boboszów). Also the canopy and even the dam of the Boboszów reservoir on the surface covered by the deep excavation plans is a spring area. Works related to the construction of the Roztoki reservoir canopy were carried out in spring areas.

LIME AND ITS INFLUENCE ON SURFACE AND UNDERGROUND WATER QUALITY.

In the EIA report we find that the construction of the dam will be followed by liming, but there are no signs of consideration as to how this will affect the chemical composition of surface and groundwater. Liming is not mentioned in the report on the Boboszów and Roztok oasis. Is this procedure associated with the turbid suspension visible in this photo?

https://www.facebook.com/Niedlazbiornikow/photos/a.843601175980777/868756436798584/?type=3&theater

Excavations for front dams in Boboszów and Roztoki reach 25 m deep, which results from the significant (up to 19 m, i.e. up to the height of a multi-story building) height of dams. Due to the possible slipping of such a large mass of earth, piling is necessary.

Most of the bowl of the Szalejów Górny reservoir (123 ha) is intended in the design for the mine of materials for the construction of the dam (gravel) and for rubble catcher.

https://www.facebook.com/Niedlazbiornikow/photos/a.843601175980777/853297265011168/?type=3&theater

In the canopy of the reservoir, in addition to wet meadows, fertile peat deposits of considerable thickness were found on fertile soils. The EIA report does not take into account the impact of earthworks related to the acquisition of land on the destruction or drying of peat layers and the state of wetlands located on the investment site. This is completely contrary to the current state of knowledge on how to counteract the negative effects of climate change and the waste of valuable natural resources.

The hypothesis that groundwater (nearby Wielisław and Staropolanka mineral water sources) could support a wet reservoir seems surreal and vision is a horror, but it cannot be ruled out. The EIA report contains the wet variant: two EIA reports were submitted to the RDOS and one of the presented tank variants presents the wet variant. But filling any tank based on surface water alone at current flows on these rivers seems unlikely. Filling the reservoir in Boboszów with water would take 5 years.

Here is an excerpt from the report on peat:

In the south-west of the study area there are areas of a swampy nature , containing organic soils and peats. Organic layers were also drilled in the east of the proposed reservoir, in the immediate vicinity of Bystrzyca Dusznicka.

Peats are moist and black, brown and gray-brown. Their thickness ranges from 0.3 m to 0.9 m. They lie directly at the surface of the ground or under a layer of clays and silts - maximum at a depth of 2 m below ground level. The silt is gray, gray-black, dark brown, gray-brown, brown and black. Most often they are wet and occur in a soft plastic state, relatively often they are plastic, very rarely - in hard plastic.

In the southern part of the reservoir, a rubble catcher is planned, whose impact on ichthyofauna will not be indifferent.

We, the inhabitants of the Klodzko Land, express our deep concern about – again - the omissions of our local community during a meeting with a delegation from the World Bank and representatives from the Office of Project Coordination Odra River Vistula on 5 June 2019 in Stary Gieraltow, in "The Three Sisters" guesthouse at 8:00 p.m. It was a closed meeting with the Chairman of the County Council, Mr. Zbigniew Lopusiewicz and the Deputy Mayor of Stronie Slaskie, Mr. Lech Kawecki, who apparently vividly discussed matters concerning our community, but we learned about the meeting not from the County Office, but from Facebook group “NOT for basins in Klodzko” and only after the meeting has already taken place! It seems meeting was planned strictly in secret. There was no announcement in any of the places available to us. We are hugely surprised that the representatives of the Klodzko Land Forum were invited to represent our community in front of the World Bank: a group of people mostly connected with Wroclaw, who do not live permanently in Klodzko Land. We appreciate the work and input of the Klodzko Land Forum in the fight against dry basins and organization of the debate at the Wroclaw University of Technology, but we would like to point out that organizing the debate does not automatically mean a trust mandate for the Klodzko Land Forum to represent our whole community. We perceive the omission of Klodzko Land residents in discussions on such an important issue as the violation of the rights of Klodzko Land residents by representatives of the Local Government and also as the violation of the Bank's policy regarding the participation of the Project stakeholders in "consultations": ESS10 document Stakeholder Engagement and Information Disclosure from June 2018. As part of the right of access to public information, please publish the recording of the meeting and the name and function of the person(s) from the World Bank with whom the closed group met.

Your sincerely,

[redacted] Alliance for Klodzko Valley)

1) PRESIDENT OF THE WORLD BANK MISTER DAVID MALPASS

2) DYREKTOR BIURA PROJEKTU ODRA PCU
WITOLD KROCHMAL

11 czerwca 2019 r.

3) PRZEWODNICZĄCY RADY POWIATU ZBIGNIEW
ŁOPUSIEWICZ

d. o.
Starosta Powiatu Kłodzkiego
Maciej Awiżeń

List otwarty. 4) BURMISTRZ GMINY STRONIE ŚLĄSKIE PAN DARIUSZ CHROMIEC

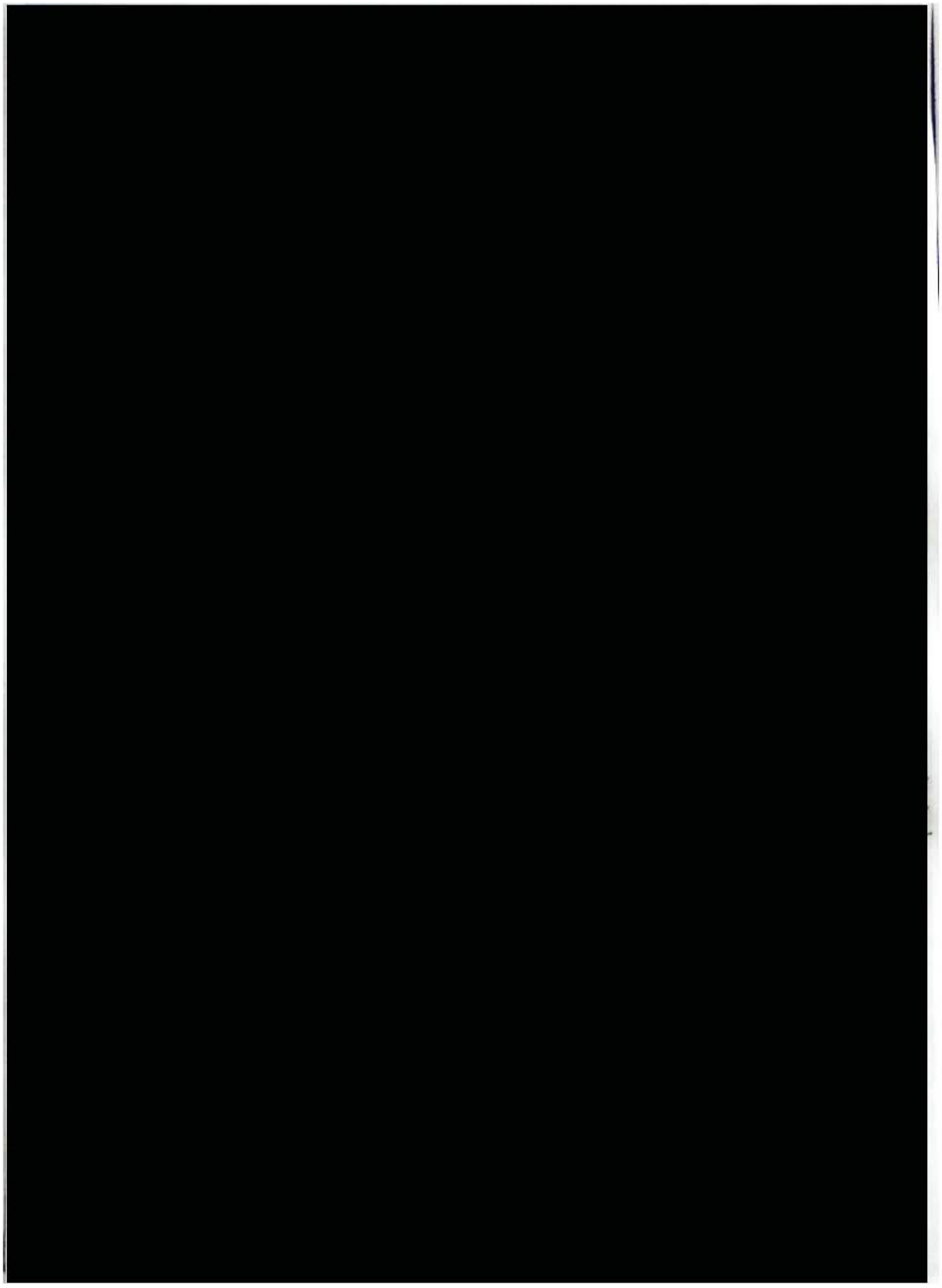
My, mieszkańcy Ziemi Kłodzkiej, wyrażamy głębokie zaniepokojenie z powodu pominięcia naszej lokalnej społeczności podczas spotkania z delegacją z Banku Światowego i przedstawicielami Biura Koordynacji Projektu Odra Vistula w dniu 5 czerwca w Starym Gierałtowie w świetlicy „Trzy siostry" o godzinie 20.00/

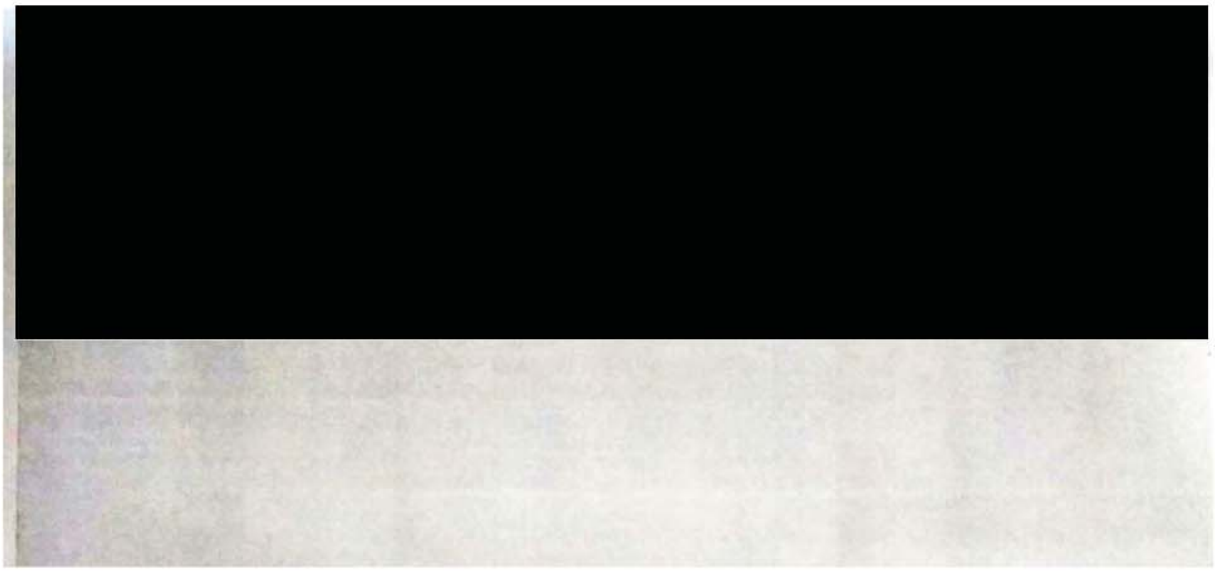
O spotkaniu z udziałem Przewodniczącego Rady Powiatu, pana Zbigniewa Łopusiewicza i vice-Burmistrza Stronia Śląskiego, pana Lecha Kaweckiego w sprawach tak żywo nas dotyczących dowiedzieliśmy się nie od Starostwa, lecz ze strony facebookowej: NIE dla zbiorników na Ziemi Kłodzkiej: już po fakcie. W kwestii planowanego spotkania panowała ścisła tajemnica. W żadnym dostępnym dla nas miejscu nie pojawiło się na jego temat żadne ogłoszenie.

Z tym większym zdziwieniem przyjmujemy fakt, że do reprezentowania naszej społeczności przed Bankiem Światowym zaproszono na prawach wyłączności przedstawicieli Forum Ziemi Kłodzkiej: grupę osób związanych w większości zawodowo z "Wrocławiem, nie zamieszkujących na stałe w Powiecie Kłodzkim. Dostrzegamy i doceniamy wysiłek członków Forum Ziemi Kłodzkiej w walkę przeciwko zbiornikom suchym i organizację debaty na Politechnice Wrocławskiej, ale pragniemy zauważyć, że organizacja debaty nie oznacza automatycznie mandatu zaufania dla Forum Ziemi Kłodzkiej do reprezentowania naszej społeczności. Pominięcie mieszkańców w tak ważnej dla nich sprawie postrzegamy jako nadużycie ze strony przedstawicieli Samorządu lokalnego, a także naruszenie przez przedstawicieli Banku Światowego zasad polityki Bankowej dotyczącej udziału interesariuszy Projektu w „konsultacjach".

W ramach dostępu do informacji publicznej wnosimy o upublicznienie nagrania ze spotkania oraz podanie nazwiska i funkcji osoby/osób z Banku Światowego, z którymi spotkało się zamknięte grono.

[redacted]





1) PRESIDENT OF THE WORLD BANK MISTER DAVID MALPASS

2) DYREKTOR BIURA PROJEKTU ODRACU
WITOLD UROCHMAL

3) PRZEWODNICZĄCY RADY POWIATU
ZBIGNIEW ŁOPUSIEWICZ

4) BURMISTRZ GMINY STRONIE ŚLĄSKIE
DARIUSZ CHROMIEC

11 czerwca 2019 r.

d.o.
Starosta Powiatu Kłodzkiego
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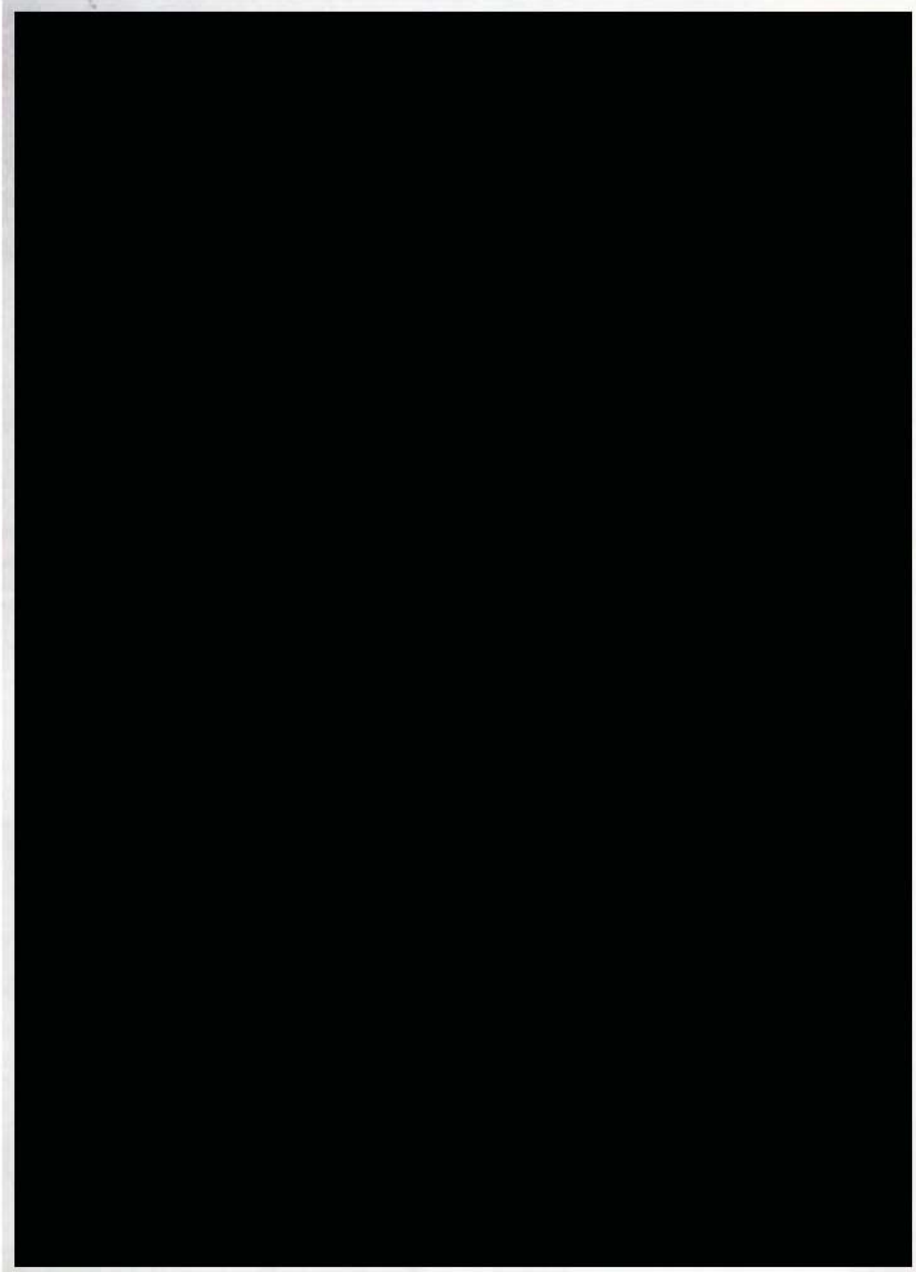

1) WORLD BANK WASHINGTON (PRESIDENT MISTER DAVID MALPASS)
2) DYREKTOR BIURA PROJEKTU ODRA VISTULA
WITOLD KROCHMAL
3) PRZEWODNICZĄCY RADY POWIATU
ZBIGNIEW ŁOPUSIEWICZ
4) BURMISTRZ GMINY STRONIE ŚLĄSKIE
DARIUSZ CHROMIEC

11 czerwca 2019 r.

d/w
Starosta Powiatu Kłodzkiego
Maciej Awiżeń

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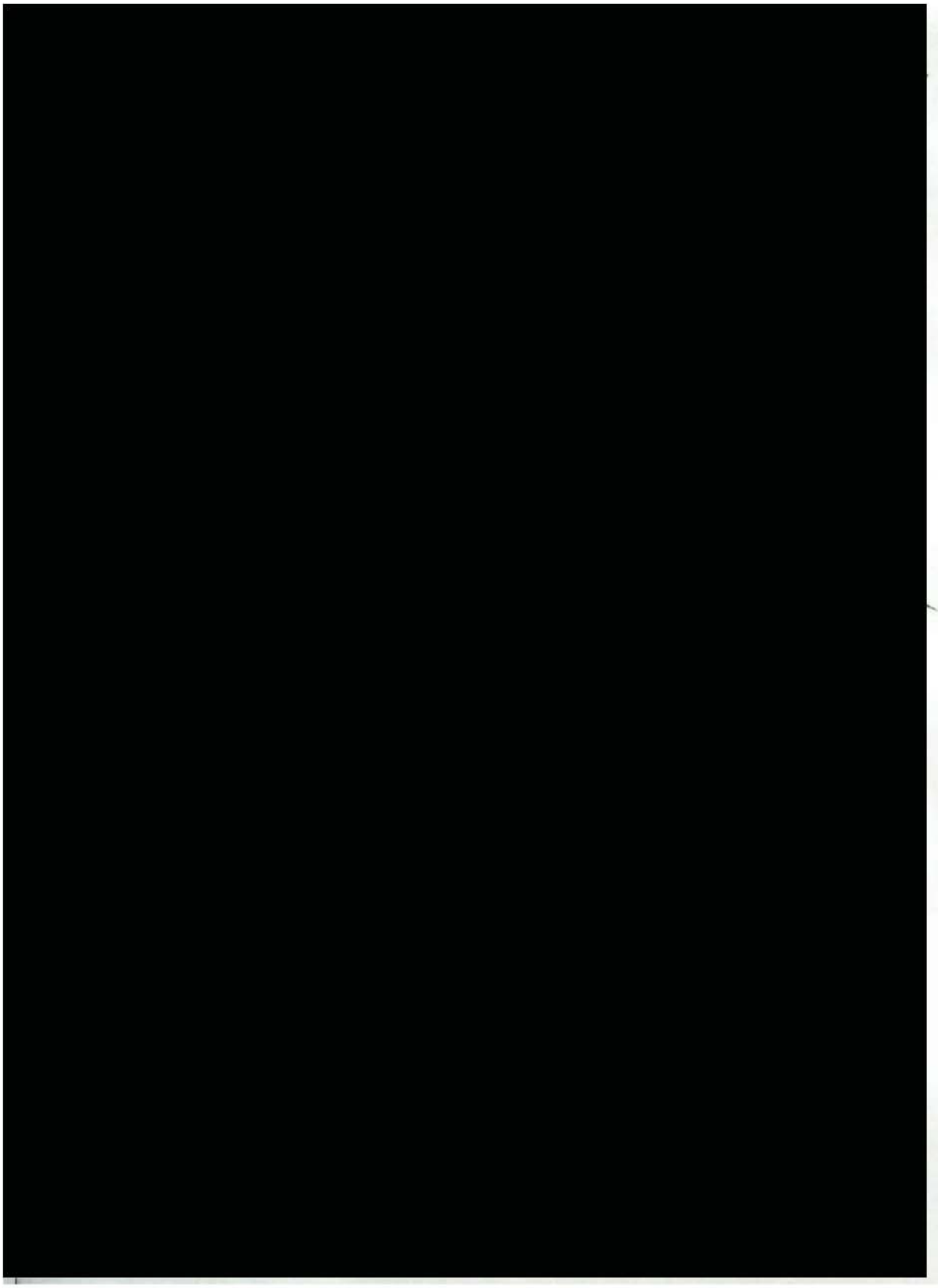
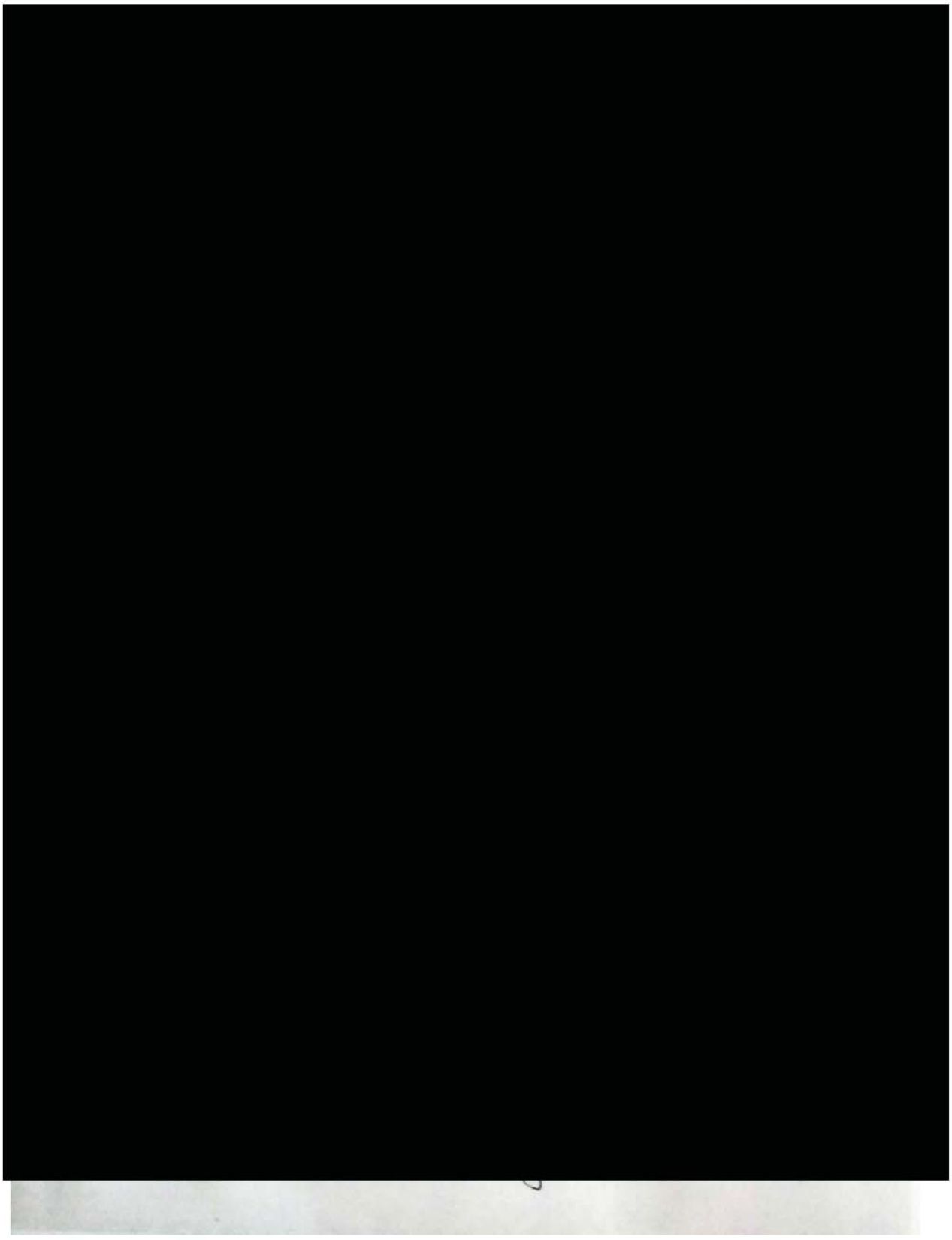
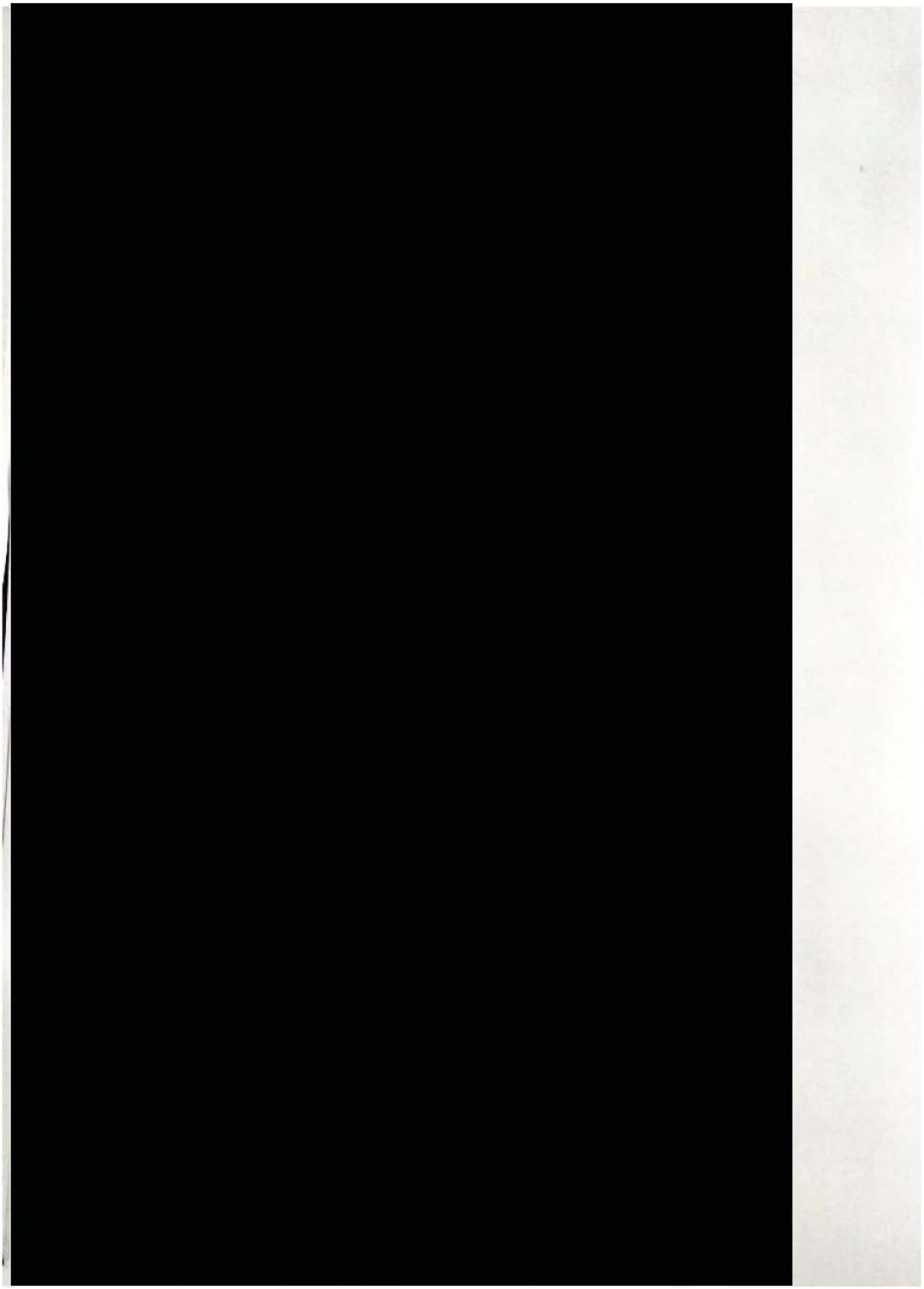
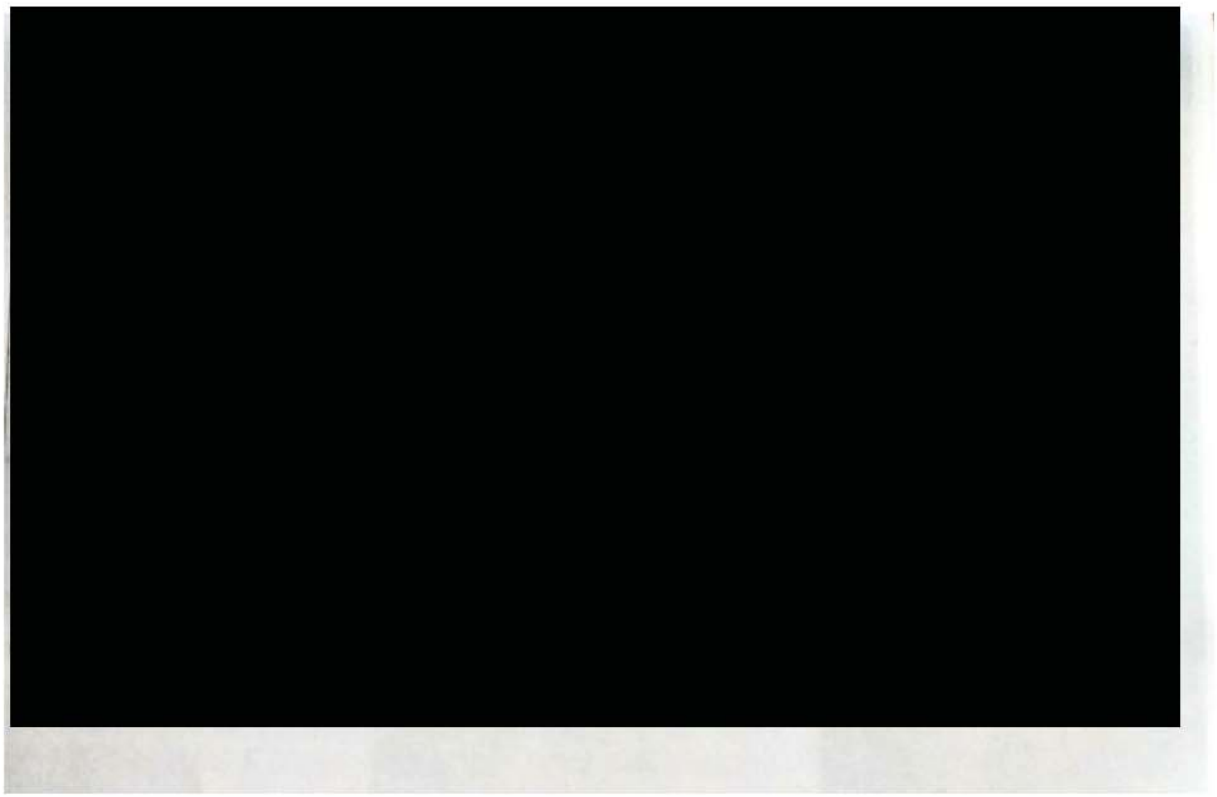








The Alliance for Klodzko Land, represented by the undersigned, is the author of the Avaaz Petition against dry basins:

https://secure.avaaz.org/pl/community_petitions/Bank__STOP_finansowania_planow_zwiekszania_suchej_retencji_na_Ziemi_Klodzkiej_3/?fMHBuob&fbogname=Barbara+K.&utm_source=sharetools&utm_medium=facebook&utm_campaign=petition-721148-STOP_finansowania_planow_zwiekszania_suchej_retencji_na_Ziemi_Klodzkiej&utm_term=MHBuob%2Bpl&fbclid=IwAR00pc0fEaAeYikB8_PWDrVy50XL5846lJXeCu5uAalqWmiUltLc6nvGOcI

We strongly oppose plans to regulate the Klodzko County rivers, including Bystrzyca Dusznicka and Kamienna Potok, for which Polish Waters submitted a letter to the Regional Directorate for Environmental Protection (RDOŚ) in Wroclaw with a request to issue a decision on environmental conditions. We would like to draw your attention to the fact that motivating the request to make the decision immediately enforceable with an increase in the cost of lending in the World Bank is contrary to the principles of social coexistence and the World Bank's policy regarding the involvement of the project stakeholders in its creation: from the initial (pre-project) phase. This is set out in particular in the World Bank's document: ESS10 Stakeholder Engagement and Information Disclosure from June 2018.

Meanwhile, the Polish Waters subordinate to the Ministry of Maritime Economy and Inland Waterways Navigation submitted to the Regional Directorate for Environmental Protection (RDOŚ) in Wroclaw a ready project information sheet (KIP), for which the preparation of the nature inventory had to take about 2 years. We consider the request to ignore the opposition of the local population as an "obstacle in the administrative cycle" to be a gross violation of the principles of social coexistence and stakeholders engagment. We informed the World Bank about the indignation of the local population, i.e. the stakeholders of the Project, about the request for a decision on the order of immediate enforceability and the way in which it was motivated. The application the Regional Water Management Board Polish Waters in Wrocław submitted to the Regional Directorate for Environmental Protection (RDOŚ) in Wroclaw was published by our website "NIE dla zbiornikow" (NOT for basins):

https://www.facebook.com/Niedlazbiornikow/photos/a.843601175980777/866363260371235/?type=3&theater

https://www.facebook.com/Niedlazbiornikow/photos/a.843601175980777/866363303704564/?type=3&theater

Wroclaw University of Technology:

https://www.youtube.com/watch?v=NlaIOeQ_Iss

The Alliance for Klodzko Land will monitor the activities of Polish Waters related to the submission of applications for the issuance of decisions on environmental conditions for our rivers and streams to the Regional Directorate for Environmental Protection (RDOŚ) on an ongoing basis. Friendly organizations will join the proceedings, which will undoubtedly extend the "administrative cycle".

We oppose the regulation of watercourses as an anachronistic activities, worsening the quality of the surface water bodies, contradicting the assumptions of the Water Framework Directive, destroying

water-dependent ecosystems protected under the Habitats Directive I, in particular riparian forests and slope forests, constituting habitats of species protected under the Polish law and the EU law.

In the case of rivers and streams of Klodzko Land, in connection with hydrotechnical investments in Polish Waters, the breeding and resting places of species from Annexes II and IV to the EU Habitats Directive and from the Annex I to the Birds Directive have been or will be destroyed. The complaint of the Alliance for Klodzko Land to the European Commission in this matter is being prepared.

The regulation of watercourses increases the risk of flooding, which was shown in simulations by Dr Janusz Zelazinski. According to the preliminary expert opinion of Jerzy Iwanicki, the regulatory works carried out at Bystrzyca Dusznicka and Kamienna Potok will increase the flood risk for Duszniki and Polanica. We believe that the investor not only failed to prove the fact of acting in the "overriding public interest", but also gave evidence of acting AGAINST public safety. We strongly oppose the plans to regulate the Biala Lądecka, Morawka, Scinawka, Nysa Klodzka rivers in accordance with the World Bank's funding schedule for the coming years.

We would like also to point out that the analysis of economic efficiency of the investment was not performed for the currently implemented retention basins. The EIA report for Szalejow says (page 35) that the total impact of all 4 retention reservoirs on the reduction of flood wave probability of p=0.01 on the reading of the Klodzko water level indicator will be expressed by the reduction of the level of the water level indicator by 14 cm. The "Lagoon area" covered by the investment in Szalejow corresponds to a wave of p=0.002 (five hundred year flood), while the "life span of the retention basins" was defined as 100 years. We perceive it as contradictory to the declared objectives of flood protection.

The same report presents a wet variant of the Szalejow Gorny basin and we know from the councillors of the Klodzko County that the representatives of the Polish Waters are announcing the transformation of the currently built dry reservoirs into wet ones, which has nothing to do with "flood protection". In addition, in the face of the presently recurring low-water states and depression funnel produced in Roztoki (a dry basin construction site), such plans do not seem realistic. In Szalejow, below the dam, a barrage is designed, which is mentioned by one of the two EIA reports (shorter), but neither of the two reports develops its consequences (breaking the continuity of the ecological fish corridor). They say only about "coastal erosion", the impact of which is to be reduced by water retention above the dam.

In his work from 2010, the current deputy director of the Regional Water Management Board Polish Waters, Dr. Krzysztof Wos, pointed to the key role of "retention basins" for shipping and "low-water". We oppose plans to retain mountain water in concrete tanks designed to support inland navigation rather than in ecosystems that are being destroyed on a significant scale as a result of current hydrotechnical investments in Klodzko County. In the justification for EU funding, it is said that these investments are economically beneficial by increasing the tourist potential of our region, when in reality they are destroying the landscape and nature of this still wild corner of the Sudetenland on a massive scale.

We are opposed to the regulation of rivers and streams which increases the risk of flooding and aims to improve the navigational parameters of the central and lower Oder. We are calling for the re-naturalisation of the concreted mountain stream beds and not to destroy the natural ecosystem retention.

We believe that the use of the word 'drought' or 'flood' in the Act and other documents presented for 'consultations' is intended or was intended only to justify the existence of an overriding public interest for the purpose of using a special law and for credit decisions relating to the qualification of

government applications for specific EU or World Bank aid or credit programmes, when in fact it is a matter of achieving the objectives of a narrow shipping lobby. This is evidenced by, for example:

http://terazodra.pl/?p=561&fbclid=IwAR0weDZuNcwyb4STFLbV-oyLvvNpKrLYfzeZJ4enhwFKDkBW9d3o0RsnIRg

In one of his articles on the prospects for the development of inland navigation, Dr. Krzysztof Wos, the current vice-director of the National Water Management Authority (PGW) Polish Waters, considers the possibility of qualifying the development of navigation as a "higher social objective".

REQUEST 8

Complaint (Request for Inspection) Form

To:

The Executive Secretary, The Inspection Panel, The World Bank, MSN: MC 10-1007
1818 H St., NW, Washington, DC 20433, USA. Fax: +1(202)-522-0916. Email: ipanel@worldbank.org

Section 1: Complaint

1. What harm do you believe the World Bank-financed project caused or is likely to cause to you or your community? Please describe in as much detail as possible.

The Odra-Vistula Flood Management Project (OVFMP) in Poland affects the River Odra with many **protected areas** (EU Natura 2000, National Parks, etc.) and incredible almost 'amazonian' biodiversity in the river and its valley:
~ Wstępna ocena ryzyka oddziaływania Projektu Banku Światowego P147460 „Ochronaprzeciwpowodziowa w dorzeczu Odry i Wisły"na przyrodnicze obszary chronione
~ Example of an abundant population of protected species *Trapa natans* rediscovered in the branches of the River Odra:
http://www.kp.org.pl/images/pp/artyku%C5%82y_od_2019/XXX_1/PP_nr_1_2019_NOTATKA_%C5%81awicki.pdf
https://wszczecinie.pl/aktualnosci,przyrodnicza_sensacja_pod_szczecinem_tej_rosliny_nie_widziano_od_blisko_100_lat,id-32447.html

We observe planned implementation of the project in the River Oder area with deep concerns, because the project components infringe on **EU environmental law** (specifically Natura 2000 directives and the Water Framework Directive), actually rises flood risks (!) and affect transboundary region.
Evidence**:** Scientifical reports by German and Polish umbrella organisations (DNR & KRR)
http://www.ratujmyrzeki.pl/185-przyjazna-ludziom-i-przyrodzie-ochrona-przeciwpowodziowa-obszaru-zlewni-rzeki-odry-ze-szczegolnym-uwzglednieniem-regionu-doliny-dolnej-odry and its update
https://www.dnr.de/fileadmin/Positionen/2018_06_20_Odra_Report_Gerstgraser_PL_errata.pdf
The planned river regulation investments are excessive – in our opinion under the pretext of flood protection and maintenance of the icebreaking route, investments are planned for the waterway.
Examples:
~ the investment in the construction of a new and demolition of the old railway bridge in Podjuchy, slightly related to the needs of icebreaking, and obviously to a shipping destination
~ another example are dredging works, more important for the shipping route than for flood protection, e.g. Klucz-Ustowo

Part of the OVMP project – component 1.A.3 was successfully agreed to withdrawal due to analytical work which the result was consistent with mentioned reports conclusions. Also 'Recommendations on how to improve flood protection for Szczecin and surrounding cities, villages and counties' were provided [attachmment 1]. Yet we are deeply concerned with attempts to restore this task to the OVFMP - the comments of representatives of the Polish authorities about the possibility of returning to the investment concept at Międzyodrze financed under the WB loan as the pretext of "flood protection" [attachmment 2].

In the Kłodzko Valley and some locations in the Upper Vistula people must be **involuntary resettled and social protests appeared:**
https://secure.avaaz.org/pl/community_petitions/Bank__STOP_finansowania_planow_zwiekszania_suchej_retencji_na_Ziemi_Klodzkiej_3 (petition by Sojusz Ziemi Kłodzkiej - one of social movements there).
There is a basic doubt about the practical implementation that undermines the whole concept of project activity here:

~ the OVFMP project exacerbated social conflict on a large scale, because especially the construction of dry reservoirs would significantly interfere with the local landscape and cultural values and integrity of some towns in the Kłodzko region
~ while designing the four reservoirs currently under construction and issuing the necessary environmental permits for their implementation, it seems that significant abuses of Polish and European environmental law arised, consisting in the fact that the reservoirs and their elements have been "rescaled" - impacting the environment more than would be necessary to achieve the assumed goals (e.g. mineral extraction, over-regulation of rivers)
~ there are suspicions that under the pretext of constructing dry reservoirs, the implementation of wet reservoirs is planned - much less effective for flood purposes, but implementing other political wishes, e.g. on a local level (water recreation).
~ again - planned interference in the river beds are significantly scaled up/re-scaled and dangerous to the environment. In particular, they do not take into account the need to achieve a dynamic balance of river sediment
~ on the other hand, the rational alternative, consisting in expanding the potential floodplain in order to stop the energy of rivers, has never been seriously examined
~ 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

Significant element, the **public participation** of Polish citizens lives not up to European standards (e.g. by providing enough information from the start in non-technical language in reasonable time, wide and transparent information). Also lack of wide variety **stakeholders participation** and experts in flood management in developing this project has unfortunately pictured our real and main concern as waterway project rather than an actual flood management scheme.

Project qualification: The quality of the Environmental Assessment is low and disregards the impact on protected areas in the Odra valley. As such, the safeguards outlined by the Bank have not been fulfilled. The OVFMP involves relocation therefore must be categorized as **EA category "A"** and not "B" (compare close related Odra River Basin Flood Protection, Project ID: P086768, which also has EA category "A").

2. What is the name of the World Bank project? (If known)

Odra-Vistula Flood Management Project (OVFMP): ID P147460

3. Where is the World Bank project located? (Please include country name)

Poland

4. Do you live in the project area?

Yes, we live in the area of project.

5. Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

Polish nature conservation and environmental NGOs sent several letters to The World Bank, e.g. to the president Mr. Kim (10.08.2016) and to the Country Manager for Poland and the Baltic States Mr. Carlos Piñerúa (24.05.2018), as particular organisations and as Save The Rivers Coalition (KRR) which gathers nearly 80 diverse members at the moment, as Polish umbrella organisation (www.ratujmyrzeki.pl/english). The NGO representatives also had a meeting with the Warsaw Office of The World Bank (2016) and got in personal contact with The World Bank mission teams in 2018 and 2019. The NGOs participated in the Environmental Impact Assessments and sent a complaint to the European Commission.

6. If known, please list the World Bank's operational procedures you believe have not been followed.

Environmental Assessment OP/BP 4.01, Natural Habitats OP/BP 4.04, Projects on International Waterways OP/BP 7.50, Involuntary Resettlement OP/BP 4.12, Safety of Dams OP/BP 4.37.

7. Do you expect any form of retaliation or threats for filing this complaint to the Inspection Panel?

No, we do not expect any form of retaliation or threats.

V page 4

Section 2: Contact Information

8. Are you complainants or a representative of complainants?
   Complainants: X Representing a complainant or community:

9. Would you like your name and contact details to be kept confidential? *(The Inspection Panel will not disclose your identities to anyone without your prior consent.)* Yes No X

10. Complainants' Names (Minimum two names and signatures are required):

Complainant 1	Complainant 2
[redacted]	[redacted]

11. We, the undersigned, request the Inspection Panel to investigate the issues described above.

Signatures *(More signatures can be sent as an attachment document):*

[redacted]

[redacted]

NOTES:

- Please attach supporting documents, if available:
  1. Recommendations on how to improve flood protection for Szczecin and surrounding cities, villages and counties - Zalecenia dot. możliwości poprawy ochrony przeciwpowodziowej dla Szczecina oraz okolicznych miast, wsi i powiatów.
  2. article from local newspaper related to Międzydorze (component 1.A.3.)

TOWARZYSTWO PRZYJACIÓŁ RZEK INY I GOWIENICY
Adres siedziby: woj. Zachodniopomorskie , 72-112 Stepnica, ul. Chrobrego 17
Krajowy Rejestr Sądowy 0000300296 , REGON 320521731 , NIP 8561806242
Nr konta : Bank PEKAO SA O. w Goleniowie 33 1240 3839 1111 0010 2023 6392
Kontakt: Przewodniczący Artur Furdyna, tel. 531402868

TPRIiG/AF/56/2019

Zalecenia dot. możliwości poprawy ochrony przeciwpowodziowej dla Szczecina oraz okolicznych miast, wsi i powiatów

30.06.2019

Autorzy: Jonathan Rauhut, Artur Furdyna
Konsultacja: Iwona Krępic, Ewa Leś
Redakcja i tłumaczenie: Ewa Leś

Towarzystwo Przyjaciół Rzek Iny i Gowienicy
www.tpriig.pl

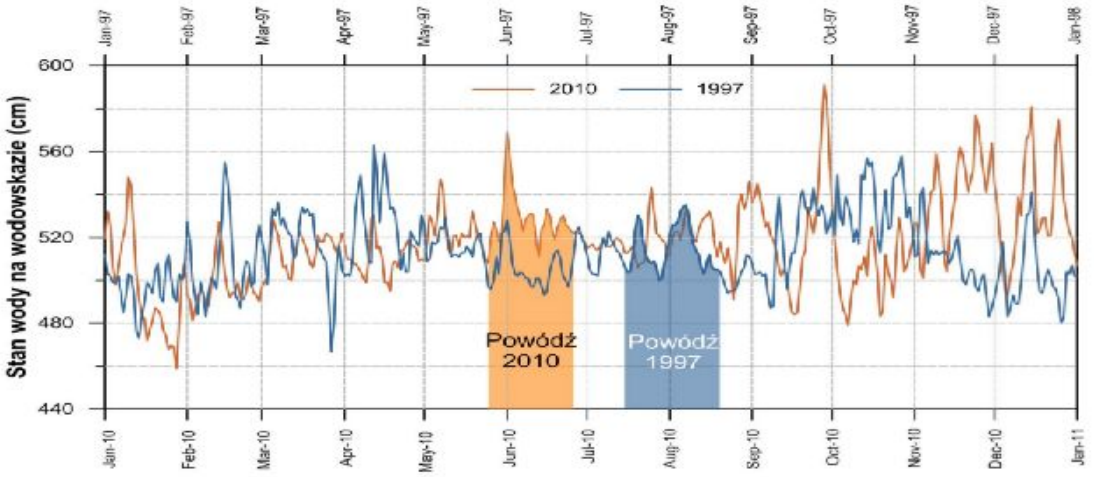
Kontakt:
Artur Furdyna, arturfurdyna@op.pl
Ewa Leś, evvales@gmail.com

Spis Treści

1. Odsunięcie wałów na wschód od Świętej: możliwa poprawa ochrony przed powodziami spowodowanymi falą powodziową z Morza Bałtyckiego

> *"Po drugie, w ramach strategii ochrony okolic Szczecina, narażonych na kumulację wezbrania sztormowego Bałtyku i fali powodziowej Odry, rozległe obszary podmokłe Międzyodrza, w górę rzeki od miasta i portu, zostaną odbudowane, aby ułatwić drenaż Odry (który pomoże złagodzić zimowe powodzie) i pomieścic duże ilości wody (co pomoże w letnich i zimowych warunkach powodziowych, gdy północne wiatry wytwarzają bardzo wysokie pływy, które mogą trwać 24 godziny)."*
>
> The World Bank's PAD1203: 38[1]

W świetle raportów[2], wiadomym jest zarówno SWECO/Wodom Polskim, jak i polskim oraz niemieckim organizacjom parasolowym (DNR i KRR - raporty[3] i aktualizacja[4]), że Międzyodrze nie jest w stanie rozwiązać zadania polegającego na obniżeniu poziomu wody w czasie gdy fala powodziowa z górnego biegu rzeki zbiega się z wezbraniami sztormowymi od Morza Bałtyckiego. Obszar ten nie ma potencjału dla zwiększenia funkcji ochrony przeciwpowodziowej, który by można wykorzystać.
Zagrożenie kumulacji fali powodziowej z efektem cofki sztormowej jest realne - porównanie fali powodziowej z lat 1997 i 2010 na Zalewie Szczecińskim:



Ilustracja 10: Hydrogramy roczne lat 1997 i 2010 w przekroju wodowskazowym Ueckermünde (Stettiner Haff). Kolorem zaznaczono okres wezbrania powodziowego dla poszczególnego roku (źródło danych: /10/)

Schnauder & Domagalski 2018: 16, Fig. 10.
URL: http://www.ratujmyrzeki.pl/dokumenty/Bericht_gIR_180606_PLx.pdf

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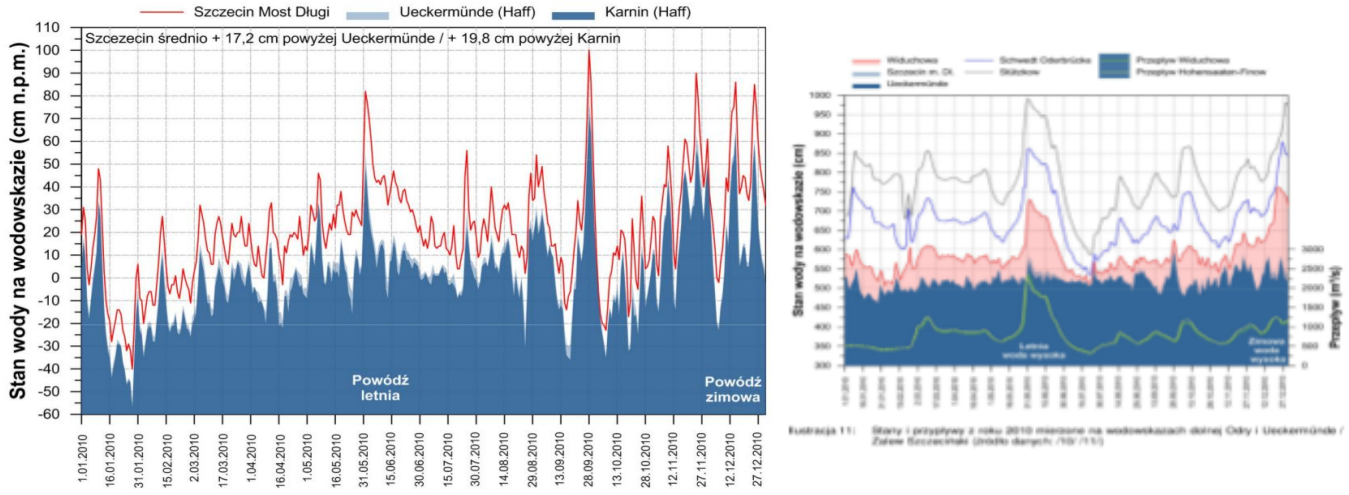
1 http://documents.worldbank.org/curated/en/320251467986305800/pdf/PAD1203-PAD-P147460-R2015-0142-1-Box391498B-OUO-9.pdf

2 http://odrapcu.pl/doc/raporty_koncowe/en/recapitulation_fr_contract5.3_task1A.3.pdf

3 www.ratujmyrzeki.pl/185-przyjazna-ludziom-i-przyrodzie-ochrona-przeciwpowodziowa-obszaru-zlewni-rzeki-odry-ze-szczegolnym-uwzglednieniem-regionu-doliny-dolnej-odry

4 https://www.dnr.de/fileadmin/Positionen/2018_06_20_Odra_Report_Gerstgraser_PL_errata.pdf

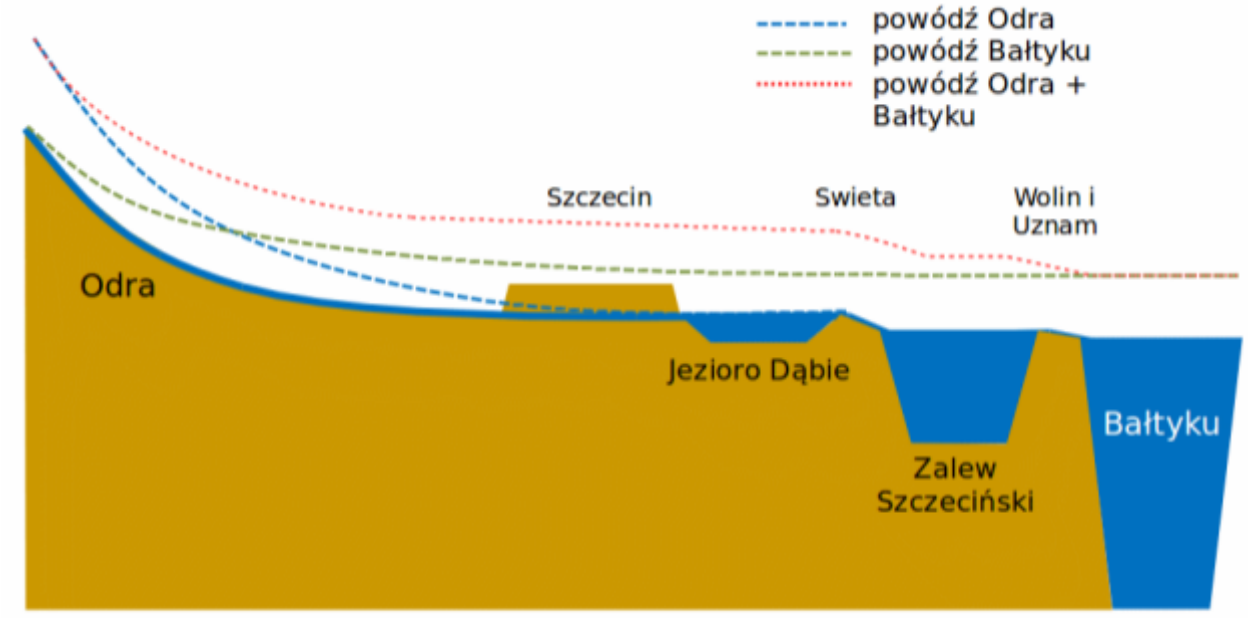
„Stan wody w Szczecinie (Odra Zachodnia) leży średnio o ok. ***17 cm*** *wyżej niż stan Zalewu Szczecińskiego (Ueckermünde). Maksymalne różnice stanów mogą jednak dochodzić nawet do* ***39 cm****, jak to miało miejsce podczas powodzi w czerwcu 2010 roku (Ilustracja 58).“*
[Schnauder & Domagalski 2018: 75.,
URL: http://www.ratujmyrzeki.pl/dokumenty/Bericht_gIR_180606_PLx.pdf]



Ilustracja 58: Stany wody w 2010 roku na Zalewie Szczecińskim i na Odrze Zachodniej w Szczecinie

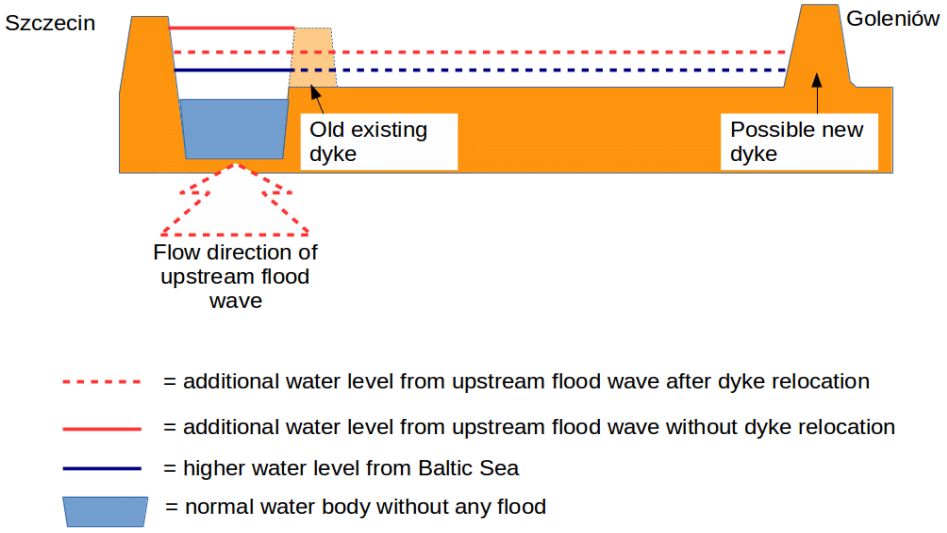
Schnauder & Domagalski 2018: 17, Fig. 11; 75, Fig. 58.
URL: http://www.ratujmyrzeki.pl/dokumenty/Bericht_gIR_180606_PLx.pdf

Większa różnica między poziomem wody w Szczecinie a poziomem wody w Zalewie Szczecińskim podczas fali powodziowej 2010 została przedstawiona poniżej (modyfikacja własna obrazu z raportów DNR i KRR):



Own modification of Fig. 1 of the summary of the alternative flood protection reports, KRR & DNR 2018: 4.

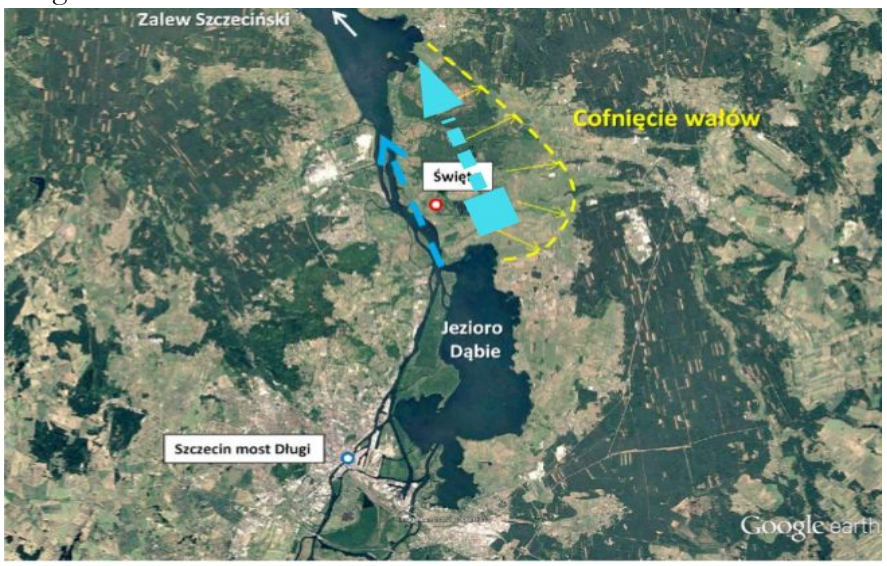
Powstaje pytanie - czy odsunięcie wałów w wystarczającym stopniu poszerza przekrój Odry podczas wysokiego poziomu wody, aby obniżyć poziom wody w górnej fali powodziowej? (Rys. własny)



Potencjalny obszar odsunięcia wałów na wschód od wsi Święta:

Proponujemy wały na granicy wschodniej, obwałowanie miejscowości w części zachodniej - jak to już jest prowadzone w ramach subkomponentu POPDOW 1A.1[5] w Chlewicach.

Podobne działania odsuwania wałów spotyka się także w miejscowości Kamp po niemieckiej stronie Zalewu Szczecińskiego.



Schnauder & Domagalski 2018: 76, Fig. 59. Available under: http://www.ratujmyrzeki.pl/dokumenty/Bericht_gIR_180606_PLx.pdf

5 http://bs.rzgw.szczecin.pl/zadania/zadanie-1a1-chlewice-porzecze-wal-cofkowy-rzeki-odry-przy-mysli-i-modernizacja-polderu-marwickiego

Kolejne postawione pytanie - czy obszar na wschód od wsi Święta (mapa lokalizacyjna. poniżej) może zastąpić Międzyodrze w zakładanej funkcji przeciwpowodziowej jako podkomponent projektu OPDOW?

Nie mamy tu jednoznacznej odpowiedzi. Pewne aspekty tej lokalizacji wyglądają obiecująco dla zadania poprawy ochrony przeciwpowodziowej, które miało spełnić Międzyodrze w ramach POPDOW. W związku z czym **rekomendujemy wykonanie stosownej analizy.**

2. Odsunięcie wałów na wschód od Świętej: możliwa poprawa ochrony przed powodziami lodowymi w okresie zimowym; zwłaszcza gdy wlewy z Morza Bałtyckiego zmniejszają odpływ wody i pokrywy lodowej z górnego biegu rzeki Odry do Zalewu Szczecińskiego

Dodatkowe korzyści dla ochrony w razie powodzi lodowej:

Kolerski 2018: 468, Fig. 1. In: Proceedings of the 24 th IAHR International Symposium on Ice, 466-473. Available under: https://www.dvfu.ru/upload/medialibrary/a92/PROCEEDINGS_of_the_24th_IAHR_INTERNATIONAL_SYMPOSIUM_on_ICE.pdf

Obszar na wschód od Świętej to północny skraj jeziora Dąbie. Podczas cofki sztormowej z Bałtyku obszar na wschód od Świętej mógłby więc:

~ zwiększyć przekrój poprzeczny dla większego zrzutu wody z Odry (z góry),

~ zwiększyć obszar depozycji kry z Odry i Jeziora Dąbie

Łącznie daje to możliwą redukcję zagrożenia zatorów lodowych i powodzi z nimi związanych dla Szczecina.

Realne zagrożenie wystąpienia powodzi lodowych w Szczecinie pojawia się, gdy północne wiatry wciskają większe ilości wód z Morza Bałtyckiego do Zalewu Szczecińskiego i dolnej Odry w Szczecinie. Wtedy potencjalny zator lodowy w Szczecinie może stać się niebezpieczny - zrzuty wody z rzeki są wówczas zmniejszone we wszystkich ramionach delty Odry wokół potencjalnego zatoru lodowego i niebezpieczeństwo zatoru lodowego również w kanałach obejścia głównego nurtu Odry może wzrosnąć.

Pojawia się pytanie, czy pogłębienie odpływu Jeziora Dąbie będzie miało jakikolwiek pozytywny wpływ na rozładowanie zatorów kry i zrzut wód lodowych dla ochrony przeciwpowodziowej?

Zrzuty wody z Jeziora Dąbie do Odry na północ od Szczecina - pomimo pogłębiania - zostaną zredukowane przez wyższy poziom wody z Morza Bałtyckiego. Mogłoby to mieć niekorzystny wpływ na piętrzenie gromadzonej kry na Odrze na północ od Szczecina, od Jeziora Dąbie, pomiędzy Świętą i Policami, Odra/Domiąża jest wąskim gardłem bez żadnego alternatywnego obejścia zatoru. Wzrost ilości kry pochodzącej z Jeziora Dąbie w kierunku Odry na północ od Szczecina ograniczyłby spływ kry Odrą Zachodnią ze Szczecina, zwiększając niebezpieczeństwo zatorów i związanych z tym powodzi lodowych w samym środku Szczecina **(!)**.

Dlatego dla celu poprawy ochrony przeciwpowodziowej Szczecina pojawia się pytanie:

a) w jaki sposób można poprawić odprowadzanie wody z Jeziora Dąbie do Zalewu Szczecińskiego, zwłaszcza podczas wyższych poziomów wody z Morza Bałtyckiego?

b) jednocześnie poprawiając zatrzymanie kry poza rzeką?

Wydaje się, że w tym celu wielkoskalowe przeniesienie obwałowań na wschód od Świętej, na wielkich naturalnych mokradłach na północ od Jeziora Dąbie, między nim a Zalewem Szczecińskim, spełniłoby oba te zadania a) i b), podczas wyższych poziomów wody spowodowanych zatorami:

a) część zrzutu wezbranej wody będzie płynęła poza Odrą, przez tereny podmokłe na wschód od Świętej do Zalewu Szczecińskiego .
b) w tym samym czasie istniejący porost mokradeł zatrzyma część niesionej kry poza Odrą, ograniczając znacznie możliwość zatoru.

3. Odsunięcie obwałowań na wschód od Świętej: Ochrona przeciwpowodziowa dla Szczecina - podsumowanie i zalecenia

Wracając do pytania : Czy obszar na wschód od Świętej może rozwiązać problemy zaplanowane jako cele do spełnienia przez Międzyodrze w ramach komponentu POPDOW?
Jak stwierdzono powyżej, nie mamy jasnej odpowiedzi, ale niektóre szczegóły wyglądają obiecująco. **Dlatego zalecamy modelowanie poszerzenia przekroju poprzecznego w Świętej:**

~ pod kątem wpływu na letnie fale powodziowe z górnego biegu, zwłaszcza na ich poziomach wody pomiędzy Świętą a Szczecinem, przy jednoczesnym występowaniu cofek sztormowych z Bałtyku,

~ pod kątem wpływu na odprowadzanie wody, a zwłaszcza na retencję kry lodowej w okresie zimowym na krę spływającą z Odry i Jeziora Dąbskiego do Zalewu Szczecińskiego, przy jednoczesnym występowaniu cofek sztormowych z Bałtyku.

4. Odsunięcie wałów na wschód od Świętej: Infrastruktura i wykorzystanie gruntów

Jak uniknąć negatywnych skutków przeniesienia obwałowań w zakresie rozliczeń, infrastruktury i użytkowania gruntów?

→ Nowe, wyższe wały:

~ jeden nowy wysoki, znacznie odsunięty wał na wschód od istniejącego: od zachodniej części Lubczyny, dalej na zachód od Modrzewia, na zachód od Kątów przez południe i zachód od Budzienia i na południowy zachód od Stepnicy. (podwyższenie z relokacją)

~ jeden nowy, wyższy wał pierścieniowy wokół Świętej i Kamienisk

~ jeden nowy, wyższy wał pierścieniowy wokół Bolesławic i Przerośli

Pozytywne przykłady wałów pierścieniowych: Pierścień wokół Chlewic - część projektu POPDOW 1A.1; pierścień wokół Kamp po niemieckiej stronie Zalewu Szczecińskiego - duże przemieszczenie wałów na byłych terenach rolniczych utworzyło > 6 000 ha dzikich terenów podmokłych bezpośrednio związanych z Zalewem Szczecińskim. - tworzenie przestrzeni zalewowych o wielu funkcjach ekologicznych

→ Usunięcie starych, niskich obwałowań na terenach rolniczych:

Ponad 2000 ha na tym obszarze stało się już obszarami dzikiej przyrody. W pozostałej części obszaru znajdują się łąki - największa część dochodów pochodzi z unijnych dotacji rolniczych - tutaj proponujemy dwie różne alternatywy:

~ płatności kompensacyjne, z wykorzystaniem dotacji unijnych, dla rolników, którzy dobrowolnie tworzą nowe dzikie obszary[6]

~ formy rolnictwa na terenach podmokłych (hodowla wypasowa: konie, bydło/ bawoły wodne lub konie huculskie lub koszenie mokradeł jak w Bagnie Rozwarowskie) dla rolników, którzy chcą kontynuować rolnictwo.

→ Droga łącząca Świętą z Modrzewiem:

Możliwość pierwsza: Pozostawienie obecnej drogi, ponieważ jest wyniesiona wystarczająco nad otaczający teren w stosunku do typowych wezbrań powodziowych.
Podczas znacznej powodzi w Odrze i wysokich wlewów z Morza Bałtyckiego (sytuacja opisana wcześniej, w rozdziale 1-3) droga zostanie zalana, zwiększając przekrój Odry w celu zrzutu fali

[6] **Odszkodowania dla właścicieli / użytkowników gruntów za tworzenie dobrowolnie nowych obszarów dzikiej przyrody:**
Szacuje się, że 80–100% dochodów rolników właścicieli gruntów / użytkowników gruntów pochodzi z unijnych subsydiów rolnych. Jeśli właściciele ziemscy / użytkownicy gruntów są zainteresowani dobrowolnym wyznaczeniem swojego terenu na obszar dziki, proces ten można zaprojektować w ten sposób: Zainteresowani właściciele ziemscy / użytkownicy gruntów mogliby dobrowolnie zgodzić się na zobowiązanie się przez wpis w księdze wieczystej, aby nie używać ich ziemi, tak aby stała się dzikim obszarem. w zamian mogliby nadal otrzymywać unijne dotacje rolne (lub podobną wysokość rekompensaty) za swoje grunty każdego roku, nawet jeśli nie są już gruntami rolnymi. Wysokość unijnej dotacji rolnej (lub podobnej rekompensaty) powinna obejmować pełną wysokość dawnych dochodów rolniczych ale po 20 lub 30 latach płatność dotacji (lub podobna wypłata rekompensaty) zostaje wstrzymana. Dodatkowo otrzymywaliby rekompensatę w wysokości aktualnej rynkowej ceny zakupu ich ziemi zostając właścicielami ziemskimi. Jeśli chcą sprzedać swoją ziemię, następny właściciel gruntu jest również zobowiązany do pozostawienia ziemi jako dzicz, jak zapisano we wpisie w księdze wieczystej.

powodziowej Odry. Tak wysoka powódź jest jednak scenariuszem powodzi WWQ, o częstotliwości mniej niż 1 raz na 100 lat.
Możliwość druga: Budowa nowej, wyżej wyniesionej nad obszar drogi w formie estakady ponad terenem, która całkowicie uniezależni łączność oraz wpływ na przejście fali przez obszar.

Uwaga! Droga jest zbudowana na ponad 10 km torfowisk, więc nie powinna być budowana dla większego ruchu/obciążenia niż obecnie występujący! Zwiększanie obciążeń wymaga estakady na całej długości ponad 10 km, inaczej droga zatopi się w torfie, jak to miało miejsce w przypadku autostrady A 20 w Niemczech na Tribsees (przykład poniżej), przekraczającej tylko 1 km torfowiska!

> Miejsce autostrady A20 w Tribsees: https://goo.gl/maps/2PGXUeqN4x52
> Plan naprawy autostrady A 20 przez wzniesienie dużego mostu na całym torfowisku można zobaczyć tu: https://vimeo.com/265510342
> Więcej informacji dostępnych jest tu: https://www.ndr.de/nachrichten/mecklenburg-vorpommern/Das-wird-die-neue-Fahrbahn-der-A20-bei-Tribsees,tribsees118.html
> Minister środowiska Till Backhaus (SPD) niedawno odrzucił spekulacje, że renaturalizacja rzeki Trebel mogła spowodować załamanie się nawierzchni.
> (https://www.ndr.de/nachrichten/mecklenburg-vorpommern/Umleitung-A-20-Jetzt-rollen-die-Bagger,autobahn2154.html)
> Zerwanie autostrady może się również łatwo zdarzyć na osuszonych torfowiskach: Nawet jeśli torf jest pozbawiony wody, dno może opadać: gleba pęka i ustępuje. Dzieje się tak na przykład, gdy spada poziom wód gruntowych. Drogi i domy zbudowane na torfie są zatem zwykle wspierane przez pale. ”
> (www.welt.de/vermischtes/article173364769/A20-auf-Torf-gebaut-Loch-auf-Autobahn-20-schon-auf-95-Meter-angewachsen.html)

W Tribsees autostrada A 20 musi ‘pokonać’ tylko 800 m torfowisk, na Świętej planowana autostrada musiałaby przekroczyć ponad 10.000 m torfowisk.

5. Przesunięcie wałów na wschód od Świętej: Korzyści odsunięcia obwałowań znacznej skali dla łagodzenia zmian klimatu, jakości wody oraz ochrony środowiska:

→ Torfowiska jako wzrost magazynowania węgla - łagodzenie zmian klimatu:
Duże części obszaru są obecnie przesuszane skutkując degradacją torfowisk i zagrażając także finalnie rolnictwu. Efektem jest znaczna emisja CO2 przy równoczesnym spadku retencji naturalnej.
Przywrócenie zbliżonych do naturalnych procesów hydrologicznych na tym obszarze zamieniłoby źródło emisji CO2 w istotny pochłaniacz tego gazu cieplarnianego, co skutkuje wtedy pozytywnie magazynowaniem coraz większej ilości węgla w rosnącym torfie.

→ Odtworzenie naturalnego filtra składników odżywczych jest równoznaczne również z poprawą jakości wody wzdłuż plaż Morza Bałtyckiego:
Przywracanie naturalnej hydrologii ponownie aktywuje funkcję filtrowania przez duże obszary podmokłe i wpływa na naturalne przechowywanie składników odżywczych (N, P, ...) w roślinach i torfie
Skutkiem jest:.

~ poprawa jakości wód Odry i Południowego Bałtyku

~ pozytywny wpływ także na turystykę plażową, czy rybołówstwo – redukcja ryzyka zakwitów sinic

→ Ochrona przyrody - poprawa bioróżnorodności obszarów podmokłych na dużą skalę:
Naturalne procesy hydrologiczne mogą być przywrócone kontynuując swój pozytywny wpływ na wiele rodzajów mokradeł i siedlisk na dużym obszarze.
Duże i piękne tereny podmokłe zamieszkałe nawet przez łosie *(Alces alces)* - unikalne w Europie Zachodniej - zostaną wskutek proponowanych działań przywrócone. Wniesie to pozytywny wpływ na atrakcyjność regionalną zarówno dla turystów, jak i mieszkańców naszego regionu.

6. Rekomendacje dla obszaru Międzyodrza

W celu:

~ ogólnej poprawy zrzutu wody przez obszar Międzyodrza

~ w szczególności dla poprawy retencji kry lodowej w rejonie Międzyodrza, aby uniknąć zatorów w Szczecinie (w przypadku, gdy Odra Wschodnia i Jezioro Dąbie są zatkane zatorami lodowymi, woda ze Wschodniej Odry może wydostać się przez Międzyodrze do Odry Zachodniej, podczas gdy roślinność naturalna funkcjonuje jako filtr, filtrując kry z wody).

sugerujemy:

usunąć wszystkie stare resztki wałów w obrębie i wokół okolic Międzyodrza z listy konserwacji, dopuszczając ich stopniowy zanik dzięki erozji, poprawiając w ten sposób nie tylko zrzut wody, ale zwłaszcza zatrzymanie pokrywy lodowej w Międzyodrzu.

7. Rozwój regionalny Szczecina i jego dużych terenów podmokłych: Z Międzyodrza przez Świętą do Wolińskiego Parku Narodowego - Camargue Północy!

Potrzebna jest zmiana podejścia do przyrody: czy rzeczywiście dzikie obszary są przeszkodą dla ekonomii? Czyż dzikie obszary nie są naturalnym bogactwem i bezcenną bazą dla rozwoju regionalnego?
Przykłady krajów jak Norwegia, Szwecja, Kanada, Australia, Nowa Zelandia, Stany Zjednoczone, Szwajcaria dowodzą, że zarówno nowi mieszkańcy, jak i turyści wybierają połączenie:

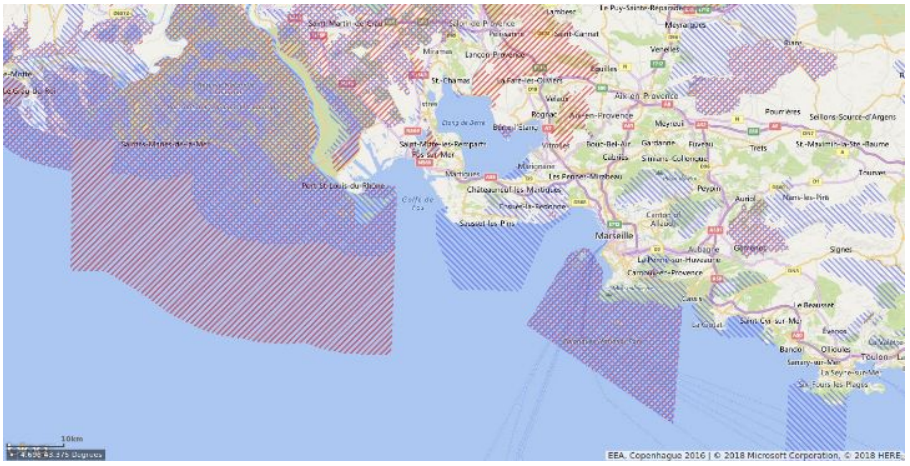
~ Ekonomia - tego potrzebują

~ Ekologia: obszary dzikiej przyrody - to kochają!

Przykład inteligentnego planu zagospodarowania – Marseille (France):

Camargue położone między dużym terenem podmokłym na zachodzie, nowym Parkiem Narodowym Calanques na Wschodzie i dalszymi dużymi obszarami Natura 2000 na północy znacząco podnosi międzynarodową atrakcyjność regionu Marsylii!

http://natura2000.eea.europa.eu



Można realizować rozwój regionu Międzyodrza tą samą drogą:

~ Ekonomia/gospodarka: mamy silną, dobrze rozwiniętą gospodarkę, wyczerpano zasoby rąk do pracy w obszarach zurbanizowanych. - nie ma uzasadnienia argumentacja o tworzeniu nowych miejsc pracy, wręcz odwrotnie, techniczna infrastruktura redukuje potencjał dla rozwoju turystyki

~ Ekologia: w regionie występują unikalne obszary i zasoby przyrodnicze w skali Europy. Ich zachowanie i rozwój wraz z przemyślaną turystyką to właściwy i korzystny dla społeczeństwa kierunek. Wprowadzanie w nich dużych inwestycji przyniesie efekt negatywny nie tylko na naszą ekologię regionalną, ale także na naszą gospodarkę regionalną.
Idealne planowanie przestrzenne oznacza wyraźne oddzielenie obszarów gospodarczych od obszarów dzikiej przyrody - podnosi to atrakcyjność całego naszego regionu.

Zrównoważony rozwój terenów podmokłych wokół Szczecina - z Międzyodrza przez tereny podmokłe Świętej do Wolińskiego Parku Narodowego:

- Małe inwestycje turystyczne: wzorowane na Biebrzy - niewielkie ścieżki do wież widokowych, turystyka kajakowa, canoe z przewodnikiem, wsparcie dla niewielkich przedsięwzięć agroturystycznych w okolicy, jako kontrolowany rozwój zaplecza noclegowego
- Ograniczenie dla dużych inwestycji zagrażających zachowaniu dobrego stanu środowiska i krajobrazu w obecnym stanie – głównej atrakcji regionu.

Sąsiedztwo dużych obszarów dzikiej przyrody obok rozwiniętych obszarów tak dużych miast jak Szczecin czy jest doskonałą przesłanką dla takiego kierunku rozwoju regionu.

Światełko na Międzyodrzu. Minister wpłynie na decyzję?

Burmistrz Gryfina spotkał się z ministrem gospodarki morskiej i żeglugi śródlądowej w sprawie inwestycji na Międzyodrzu. Co na to Marek Gróbarczyk? Czy Wody Polskie przywrócą rewitalizację naszej perełki do wielkiego projektu finansowanego przez Bank Światowy?

Na rewitalizację Międzyodrza przeznaczone miały być wielkie pieniądze, początkowo mówiono o 100 mln zł, a później pomniejszoną tę kwotę do 50 mln zł. Prace rozpocząć miały się w tym roku, a zakończyć najpóźniej w 2021 r. Inwestycja przy Gryfinie byłaby tylko niewielką częścią wielkiego projektu związanego z zabezpieczeniem przeciwpowodziowym na całej Odrze i Wiśle (łączna wartość 1,2 miliarda euro). Niestety, kilka miesięcy temu gruchnęła wiadomość o tym, że Wody Polskie, czyli inwestor odpowiedzialny za wspomniany projekt, całkowicie wycofał z niego Międzyodrze! Okazało się, że w wyniku szczegółowych badań i analiz, oszacowano, że przyjąć ono może 140 mln m3 wody.

- W Warszawie uznano, że to niewiele, bo ograniczy średniej wielkości falę powodziową jedynie o 10%. Międzyodrze wyrzucono w ostatniej chwili, na ostatniej prostej – mówi anonimowo osoba zaangażowana w projekt z Wód Polskich, dodając, że bonusem miała być również inwestycja w turystykę, czyli szlaki piesze.

W Gryfinie zapanowała konsternacja. Wędkarze i miłośnicy Międzyodrza powołali grupę, która rozpoczęła walkę o przywrócenie tego obszaru do projektu. Pod koniec maja zorganizowano w tej sprawie spotkanie w UMiG, na którym burmistrz Sawaryn zadeklarował lobbing u posłów w tej sprawie. W minionym tygodniu poinformował nas, że spotkał się z Markiem Góbarczykiem, ministrem gospodarki morskiej i żeglugi śródlądowej.

Jak przekazał nam Mieczysław Sawaryn, minister wyraził zainteresowanie problemem oraz poprosił pracowników o przedstawienie pełnej dokumentacji sprawy w celu dokładnego przeanalizowania zagadnienia i wypracowania stanowiska. Burmistrz twierdzi, iż minister Marek Gróbarczyk docenia wagę Międzyodrza dla systemu wodnego, ale także ekosystemu przyrodniczego, który powinien służyć także turystyce. Minister przyjął zaproszenie na dożynki archidiecezjalne w Gryfinie (31.08), możliwe, że pojawi się u nas również we wrześniu, aby uczestniczyć w spotkaniach ze stroną społeczną walczącą o przyszłość Międzyodrza. Należy się śpieszyć, bo zgodnie z zapisami w projekcie – prace powinny zakończyć się do 2021 r.

Kamil Miler

MÓWI **MIECZYSŁAW SAWARYN**, BURMISTRZ GRYFINA

Miesiąc temu umówiłem się z panem Tadeuszem Szpunarem i innymi ludźmi wody, że będziemy sprawę rewitalizacji Międzyodrza przenosić na szczebel wyższy niż Wody Polskie w Szczecinie. Poprosiłem więc pana posła Szałabawkę o zorganizowanie spotkania z ministrem Markiem Gróbarczykiem. Odbyło się ono 23 lipca w ministerstwie. Minister wydał dyspozycję dyrektorowi w podległym mu departamencie, aby dostarczyć mu wszystkie związane z tym tematem dokumenty. Liczę na pozytywny odzew. Na razie pan minister wyraził przekonanie, że projekt powinien odnieść się do problemu Międzyodrza. Skoro będzie wykonane pogłębienie szlaku żeglownego na Odrze, to również trasy wodne, które znajdują się na Międzyodrzu, powinny być pogłębione. Minister zastrzegł konieczność dokładnego zbadania sprawy.
Bez wątpienia obszar Międzyodrza powinien podlegać cyklicznym pracom melioracyjnym. Jeśli rząd doprowadzi do oczyszczenia szlaków wodnych na Międzyodrzu, to później powinny być one stale doinwestowywane, tak jak było np. w latach 70. Trzeba też sobie odpowiedzieć na pytanie: czemu ma służyć Międzyodrze? Na pewno ochronie środowiska, ale również gospodarce turystycznej, rekreacji czy ochronie przeciwpowodziowej. Elementów jest wiele. Potrzebna jest poważna dyskusja. Cieszy mnie, że Marek Gróbarczyk przyjął zaproszenie na dożynki archidiecezjalne, a Ministerstwo Gospodarki Morskiej i Żeglugi Śródlądowej będzie jednym z wystawców, który w ramach programu operacyjnego „Po Ryby 2014-2020" przygotuje wyjątkowo atrakcyjny program. Będzie to czas, w którym na pewno będziemy mogli przedstawić panu ministrowi Markowi Gróbarczykowi nasze pytania. • Not: **km**

Fot. Dost. / UMiG

Mieczysław Sawaryn z ministrem **Markiem Gróbarczykiem**

THE WORLD BANK
IBRD • IDA | WORLD BANK GROUP

Complaint (Request for Inspection) Form

To:

The Executive Secretary, The Inspection Panel, The World Bank, MSN: MC 10-1007
1818 H St., NW, Washington, DC 20433, USA. Fax: +1(202)-522-0916. Email:
ipanel@worldbank.org

Section 1: Complaint

- What harm do you believe the World Bank-financed project caused or is likely to cause to you or your community? Please describe in as much detail as possible.

Projekt poprzez zniszczenie całej przyrody wokół zbiornika (wycinka drzew, przekładanie koryta rzeki, ciężki sprzęt itd.) zmienił diametralnie komfort mojego życia i zniszczył całkowicie miejsce bytowania roślin, owadów, płazów, zwierząt i ptaków. Wycinka drzew spowodowała zmianę mikroklimatu (min. częściej i mocniej wijce wiatry, więcej zanieczyszczeń). Ze względu na bliskość całej inwestycji, żyję w ciągłym stresie i niepewności o jutro. Bez żadnej pomocy zniszczone zostały mój spokój i poczucie bezpieczeństwa.

Domniemuję, że projekt był sporządzony tak jakby na przedmiotowej posesji nikt nie mieszkał. Świadczyć o tym może fakt, że nie zaprojektowano odwodnienia działki - stało się to dopiero po mojej interwencji.

Czuję się dyskryminowana, [redacted] na pytania o podobnej treści dotyczące wykupu resztówek, dostaje odpowiedź zupełnie inną niż ja.

Warto dodać także o nierzetelnych i mylących informacjach otrzymywanych przeze mnie od Państwowego Gospodarstwa wodnego Wody Polskie, RZGW we Wrocławiu. W załączniku nr 1 skarga do wyżej wymienionego.

Zdjęcia i filmy poglądowe: facebook.com grupa: Życie w cieniu zapory.

- What is the name of the World Bank project? (If known)

  Projekt Ochrony przeciwpowodziowej w Dorzeczu Odry i Wisły (POPDOW)

- Where is the World Bank project located? (Please include country name)

  Suchy Zbiornik na rzece Bystrzyca Dusznicka, Szalejów Górny, Polska

- Do you live in the project area?

  [redacted] jest usytuowana na terenie zalewowym i według mnie jest w granicy inwestycji. Szacowana odległość od zbiornika to około 70m. Na ten moment posesja jest ogrozon z rozmieszczonymi tablicami " Teren budowy, wstęp wzbroniony" a prace toczą się nawet w odległości około 5m od budynku mieszkalnego. Finalnie mam zostć na wyspie zlokalizowanej poniżej zapory,

otoczonej rzeką z nasypem wysokości około 0,8-1,0 m, bez odwodnienia.

- Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

Pisma do Banku Światowego z dnia 03.08.2018, 30.05.2019 oraz wizyty przedstawicieli Banku Światowego i Biura Koordynacji projektu 15.08.2018, 18.05.2019, 29.05.2019 i przy tej okazji liczne zapewnienia, że nikt w związku z projektem nie ucierpi i że wszyscy bęą zaowoleni i że mój problem powinien zostać rozwiązany do dnia dzisiejszego nie zmieniło nic. Jedynie postępujące prace na budowie są coraz bardziej uciążliwe i z pewnością nie ma to korzystnego wpływu na nasze zdrowie

- If known, please list the World Bank's operational procedures you believe have not been followed.

  Według mnie, nie zostały zachowane procedury Banku Światowego nr. 3.2, 4.2,4,7,13, 5.1.1., 5.3.10,13,19, 7.2.4,3

- Do you expect any form of retaliation or threats for filing this complaint to the Inspection Panel?

Spodziewam się rozwiązania problemu, żebym mogła żyć spokojnie, z dala od budowy i obawy, że zostaniemy zalani przed ukończeniem inwestycji zwłaszcza, że wycięte drzewa oraz zrobiony dla ciężkiego sprzętu przejazd przez rzekę w znacznym stopniu podwyższa to ryzyko.

Section 2: Contact Information

- Are you complainants or a representative of complainants?

  Complainants: Representing a complainant or community:

  Jestem osobą pokrzywdzoną projektem

- Would you like your name and contact details to be kept confidential? *(The Inspection Panel will not disclose your identities to anyone without your prior consent.)* Yes No

  Tak

- Complainants' Names (Minimum two names and signatures are required):

Complainant 1	Complainant 2
Name [redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]

- We, the undersigned, request the Inspection Panel to investigate the issues described above.

Signatures *(More signatures can be sent as an attachment document):* [redacted]

NOTES:

- Please attach supporting documents, if available.
- If you have any difficulty in completing the form, please contact the Inspection Panel at ipanel@worldbank.org
  or by phone: +1-202-458-5200.

[redacted]

[redacted]

Bank Światowy. Biuro regionalne Europa Środkowa
ul. Emilii Plater 53
00-113 WARSZAWA

SKARGA

Na postępowanie Państwowego Gospodarstwa Wodnego Wody Polskie - Regionalny Zarząd Gospodarki Wodnej we Wrocławiu

w odniesieniu do realizacji inwestycji w zakresie budowli przeciwpowodziowych

W związku z inwestycją pod nazwą „Budowa suchego zbiornika przeciwpowodziowego Szalejów Górny na rzece Bystrzyca Dusznicka", której nie z własnej woli jestem częścią, powzięłam szereg wątpliwości, które Państwowe Gospodarstwo Wodne Wody Polskie - Regionalny Zarząd Gospodarki Wodnej we Wrocławiu (dalej zwane PGW WP RZGW), w odpowiedzi na moje pisma (kopie w załączeniu) nie wyjaśniło w formie dostatecznej i faktycznej. W konsekwencji, po upływie 4 lat mam prawo przypuszczać, że tak olbrzymiej inwestycji, której znaczenie jest ogromne, nie towarzyszy należyta staranność odpowiedzialnych instytucji, względem obywateli. Przeciwnie w mojej ocenie dominuje bezduszność, a niekiedy nawet arogancja, którą podpiera się paragrafami wbrew wcześniejszym ustaleniom i obietnicom, a przypomnieć należy, że było ich wiele, a składane były chociażby przy okazji spotkań od 2013 r.

Obietnice te z czasem się rozmyły, co można stwierdzić po lekturze np. wyciągu z operatu szacunkowego z dnia [redacted], czy też Odwołania PGW WP RZGW od decyzji Wojewody Dolnośląskiego z dnia [redacted] a także po spotkaniu z przedstawicielami PGW WP RZGW u mnie w domu. Śmiem twierdzić że osoby, które w różny sposób decydują o mojej własności, a w pewnym sensie także o moim życiu, nigdy nie były na posesji w [redacted]

Poniżej przytaczam kilka faktów, które ilustrują powyższe:

1. Od 2014 r. z chwilą kiedy już było wiadomo, że zbiornik przeciwpowodziowy powstanie, zadano mi pytanie, czy pozostaję na mojej posesji, czy też jestem zainteresowana innym rozwiązaniem, mianowicie wywłaszczeniem ze stosowną rekompensatą. To na spotkaniach z przedstawicielami RZGW, projektantem i Panią prawnik uświadomiono mi że odległość zbiornika od mojego domostwa jest tak bliska, że praktycznie będę mieszkać na wyspie. Ja po przeanalizowaniu wszystkich tych faktów (nadmieniam że w 2010 r. nabyłam lokal, który do 2012 r. generalnie wyremontowałam, łącznie z wybudowaniem nowej kotłowni i ekologicznej

oczyszczalni ścieków) w powyższych okolicznościach, podjęłam decyzję, mimo że wydawało mi się, że znalazłam wreszcie swoje miejsce na ziemi, że najlepszym rozwiązaniem będzie zamiennie lokum. I w takim przeświadczeniu od ww. roku toczyły się wszystkie rozmowy, łącznie z tą która odbyła się u mnie w domu 2016 r, kiedy miałam już tylko czekać na rzeczoznawcę, co jednak nie nastąpiło. Przeciwnie na kolejnym spotkani w Urzędzie Gminy, bez jakiegokolwiek uprzedzenia, dowiedziałam się że w grę wchodzi jedynie wykup tak zwanych „resztówek". Moim zdaniem dobitnie to świadczy o nieuwzględnianiu jakiegokolwiek interesu właścicieli, a nawet bezduszności decydentów w tej sprawie. W zamian polecono mi napisać wniosek, który złożyłam [redacted] Na odpowiedź czekałam ponad półtora roku, w dniu [redacted] odebrałam ją wreszcie - oczywiście była ona negatywna. Nie byłam tym zdziwiona gdyż w dniu [redacted] na spotkaniu z przedstawicielami RZGW w Szalejowie Górnym zostałam poinformowana że do wykupu nie dojdzie.

2. Operat szacunkowy dotyczący wywłaszczenia z części gruntów nie został mi przekazany osobiście, chociażby podczas indywidualnych rozmów odbywających się na posesji [redacted] (nadmieniam, że nie dostałam żadnego zawiadomienia o takim spotkaniu, ani w formie pisemnej ani też telefonicznej), a otrzymałam go od osób trzecich w formie kopi, to także jest powodem do mojej skargi (moje pismo z dnia [redacted] przekazane przedstawicielowi RZGW na spotkaniu [redacted]). Fakt, że operat został sporządzony w oparciu o nieaktualne mapy wzbudził moje duże obawy, czy aby zakres wywłaszczenia, a w późniejszym czasie zakres prac nie obejmuje mojej kotłowni i oczyszczalni (czy nie zostaną one uszkodzone). Już pewnie nikogo nie zdziwi, że operatem nie zostało wycenione w żaden sposób poczynione przeze mnie zagospodarowanie terenu np. nasadzenia, skalnik z piaskowca, czy zejście do rzeki. Co ciekawe w wyciągu z operatu szacunkowego w punkcie 3. Podstawy opracowania, podpunkt 3.3 Źródła danych czytamy: (2) Oględziny nieruchomości, dokonane w dniu [redacted] Nie miałam zawiadomienia o w/w oględzinach, ani też nie uczestniczyłam na własnej posesji w takowym przedsięwzięciu. Oczywiste jest zatem, że już zachwiane zaufanie do RZGW nie pozwoliło mi bezspornie podpisać ugody. Wyznaczony przez Wojewodę Dolnośląskiego rzeczoznawca po dokonaniu oględzin w mojej obecności sporządził operat co do którego nie mam zastrzeżeń. Ale niestety jak się okazało Państwowe Gospodarstwo Wodne Wody Polskie RZGW takowe ma. Nie byłoby w tym nic dziwnego, gdyby te zastrzeżenia zawarte w odwołaniu do Ministra Inwestycji i Rozwoju pokrywały się z rzeczywistością. Nie rozumiem jak można pisać, że Szalejów Dolny znajduje się przy ruchliwej drodze skoro już w samym operacie opisane jest że dojazd do nieruchomości odbywa się drogami gminnymi o charakterze lokalnym, a moja posesja jest oazą ciszy i spokoju. Dalej czytamy, że położenie w/w wsi, a tym samym posesji jest „niekorzystne". Odległość 5 km do Polanicy Zdrój i 9 km do Kłodzka jest bezwzględnie lokalizacją bardzo „korzystną". Strona wnosząca odwołanie wspomina też o schodach – moim zejściu do rzeki o charakterze estetycznym / obsadzone bylinami/, jak i emocjonalnym /wykonane we własnym zakresie, odbite łapki ukochanego kota/. Według mnie oraz zgodnie z tym co przekazywano na spotkaniach z RZGW i przedstawicielami banku

światowego to ma być przedmiotem wyceny przy wywłaszczeniu, a nie koszty ponoszone przez inwestora podczas dalszych prac. Zresztą w samym odwołaniu czytamy że ..."Tylko operat szacunkowy oparty na prawidłowych danych ....., może stanowić podstawę rozstrzygnięcia sprawy.

3. Kolejne spotkanie odbyło się w dniu [redacted]r. i dotyczyło podpisania ugody na wypłatę odszkodowania z tytułu użyczenia gruntu na rok w celu wymiany słupa i linii energetycznej. Niestety ponownie nie mogłam podpisać w/w dokumentu. Zaręczam, że nie jest to brak dobrej woli, ale wynik działania Regionalnych Wód w złej wierze na moją niekorzyść. Operat dotyczący tego użyczenia kolejny raz sporządzono na nieaktualnych danych (pisałam o tym w piśmie z dnia [redacted]), mapa właściwa nieaktualna [redacted] robiła dopiero zdjęcia w/w instalacji, nie ukrywała zdziwienia, że stan faktyczny jest zupełnie inny. Chociażby z tego powodu zapewnienie że nieruchomość, po przeprowadzeniu prac, zostanie przywrócona do stanu poprzedniego jest mało wiarygodne, skoro instytucje nie wiedzą jaki jest stan aktualny i jak niby przywrócić 6 letni agrest do stanu poprzedniego, czy też 5 letnią śliwę? Dodatkowo ciężki sprzęt pod oknami, kurz, spaliny, obcy ludzie - brak prywatności i niepewność. I wszystko to zostało wycenione na około 150 zł. Piszę około, bo nie został mi przedstawiony operat szacunkowy, (a jedynie wyciąg), ani projekt ugody (podejrzewam, że sporządzenie operatu znacznie przewyższało kwotę 150 zł.). W załączeniu notatka służbowa sporządzona w dniu [redacted]

W 2013 r. od kiedy poważnie mówiono o budowie zbiornika, byłam przekonana, że nikomu nic złego się nie przydarzy, tym bardziej, że inwestycja służy dobru społecznemu. Byłam świadoma, że wiąże się to z pewnymi przejściowymi niedogodnościami, gdyż zakładałam, że nie pozostanie to bez wpływu na otoczenie. Byłam jednak upewniana, że publiczny charakter inwestycji pozwoli te niedogodności wyeliminować. Z ciężkim sercem podjęłam decyzję o zgodzie na wywłaszczenie, tym bardziej, że po ciężkich przejściach myślałam, iż wreszcie ułożyłam sobie życie na nowo, a dalsze inwestycje które miałam zaplanowane (elewacja, panele słoneczne, fotowoltanika, zmiana nasadzeń, zagospodarowanie ogrodu) miały dodatkowo ten stan polepszyć. W bardzo szybkim jednak czasie mój wewnętrzny spokój został zakłócony, z planowanego wywłaszczenia wycofano się, a rekompensaty które mi zaproponowane zostały sporządzone bez związku ze stanem faktycznym.W zamian urząd zafundował mi zamieszkiwanie bezpośrednio poniżej zbiornika wodnego.

Wyżej wymienione problemy nie napawają mnie optymizmem i niestety ze słów które słyszałam z ust przedstawicieli RZGW, a przede wszystkim z ust przedstawicieli Banku Światowego „wszyscy będą zadowoleni" nie spełniło się nic, przeciwnie powstały nowe okoliczności, które pod znakiem zapytania stawiają zaufanie obywatela do państwa i wiarygodność instytucji powołanych do służenia dobru wspólnemu.

[redacted]

ANNEX 2

Management Response

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

Common Bank abbreviations are not included

BAW	German Federal Institute for Hydraulic Engineering
DG	Directorate General *(of the European Commission)*
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	*Koncepcja Regulacji Cieku* (watercourse regulation concept)
masl	meters above sea level *(equivalent to elevation)*
MS	Member State *(of the European Union)*
NGO	Non-Governmental Organization
ORFPP	Odra River Flood Protection Project
OVFMP	Odra-Vistula Floods Management Project
PCU	Project Coordination Unit *(coordinating overall Project implementation)*
PIUs	Project Implementation Units *(implementing specific activities regionally)*
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. Criewen, 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 Criewen 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';

(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 Słubice, 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 groynes[3] 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 Klodzko 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 projects[4] therefore followed a traditional approach of pre-identifying a limited set of critical investments, such as the EUR300 million Raciborz dry polder[5] 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 B[7] 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 jams[12] 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 III[13] 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 zones[14] 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 already[16].*** 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 EIA*s. 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		
General		
1. The project infringes on EU environmental legislation and Natura 2000 and WFD directives [1, 2, 3, 4, 5, 8]	***The obligation to ensure compliance with national and EU legislation is the responsibility of the Borrower (Poland).*** 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.	
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]	***See response to Item 1 above.***	

Claims	Response	Reference documents
Component 2 / Nysa Kłodzko Valley		
3. The interventions in Klodzko might not be compliant with WFD article 4.7. [7]	***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).*** 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]	***The obligation to ensure compliance with EU legislation and accepted practices, including in granting derogations, is the responsibility of the Borrower (Poland).*** 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 *Buba bubo* 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]	***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).*** 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
	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] 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. 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 Koncepcja Regulacji Cieku (KRC-W) “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.	icebreaking on the border Odra River

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

Claims	Response	Reference documents

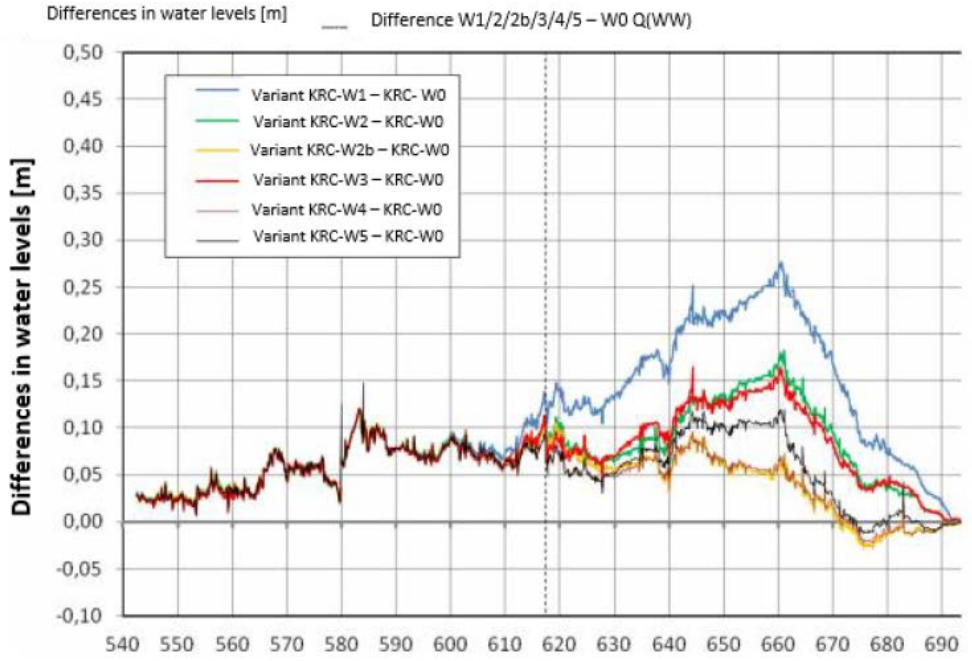


Illustration 6-80 Differences in water levels at flow Q(WW) in variants KRC-W1, KRC-W2, KRC-W2b, KRC-W3, KRC-W4 and KRC-W5 compared to KRC-W0 after 40 years (Qww = 1300m³/s relatively 2050 m³/s)

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

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	masl. As the graph above shows, the maximum increase of the water table in this variant is about 12 cm at km 661. 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. 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.	
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]	***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.*** 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. Further, the Project activities reflect the measures agreed to in the Polish–German Transboundary Agreement for the Odra River. These include: • 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. 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	The BAW Concept and the Polish-German Transboundary Agreement for the Odra River

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	regulatory widths, locations of regulating structures, restoration of current meandering within the existing riverbed by slightly shortening or lengthening the groynes. 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. 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. 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. 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. 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.	
7. The cancelation of the works on the Międzyodrze wetland following consultations, is only	***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.*** 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	

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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 Kłodzko Valley		
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].	***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.*** 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. 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: 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. 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. 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	Klodzko Valley Master plan and FRMP (2016) Study on Flood Control of the Klodzko Valley (Hydroprojekt Wroclaw, 2003-2004) JASPERS Action Completion Note (2017)

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	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).	
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]	***The selection and design process for the four dry polders currently under construction did consider cumulative impacts and analyze alternatives.*** 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 Kłodzko River, including within the communities upstream of the confluence with the Odra River, and ultimately reduce flood hazards within the greater Odra River basin. 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. 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). ***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.*** Outcomes	Klodzko Valley FRMP. FRMP Odra basin (KZGW) - 2016 Flood protection study for Klodzko Valley – 2004 Boboszów decision WPN.6401.221.2019.MH.1 of 26th of July 2019 Roztoki decision DOW-O.IV.7143.11.2018 of 19th June 2018 Szalejów decision WPN.6401.268.2016.IL of 26th of August 2016 Krosnowice decision WPN.6401.194.2016.MR of 13th of June 2016

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	of these field inventories were incorporated in Environmental Impact Reports and the overall EIA/EMP process (Boboszow 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 (Boboszow 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.	
10. The FRMPs and EIAs have not considered other alternatives in "room for the rivers" style [7, 8]	***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.*** 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).	Odra Basin FRMP
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].	***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.*** 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. 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	Design reports

Claims	Response	Reference documents
	were designed and are being built to store water for *short periods of time* 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]	***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).*** 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]	***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.*** 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,	

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	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. 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.	
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]	***The dry polders in Klodzko 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.*** The Bank will work with the implementing units to ensure strict supervision and compliance with approved EMPs.	Dry Polder EMPs – Annex 1
15. In the Kłodzko Valley and some locations in the Upper Vistula people must be involuntary resettled and social protests appeared [8]	***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.*** 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 Klodzko 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. 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 Klodzko 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 Lądecka 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.	

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	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		
Component 2 / Nysa Kłodzko Valley		
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]	***A comprehensive cost-benefit analysis for the Project was carried out and was reviewed by the Bank and subsequently verified by JASPERS.*** 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 Kłodzko 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. 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.	JASPERS Action Completion Note (2017) SWECO/DHI Modelling Report (2017) Revised feasibility study for Klodzko Valley flood protection (SWECO) - 2017
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].	***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***	Section 9 and Annex 8 of LA&RAP for task 2A.2/1

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	to as "the Requester" below) is requesting that their entire residential unit and associated ownership in land be expropriated. Consultations and information sharing began in 2013 with regards to planned construction of Szalejow Gorny – dry polder on Bystrzyca Dusznicka River (task 2A.2/1). In March 2015 the Regional Director for Environmental Protection in Wroclaw 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. 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. 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. 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. 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	

Claims	Response	Reference documents
	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. 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. 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.	
Project's environmental soundness and EIA		
Component 1 / Middle and Lower Odra		
18. The quality of the EIA is low [1, 2, 3, 4, 5, 8]	***All ten EIAs / EMPs for ongoing civil works contracts have met the requirements of Bank operational policies***. 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. The first ***draft*** 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	

Claims	Response	Reference documents
	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. 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. The Bank will continue working with the Government to ensure the quality of EIA reports and related consultations is improved.	
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]	***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.*** 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. 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.	Brief on Natura 2000 sites
20. The authors of EIA might have falsified the real threats [6]	***As mentioned above, the transboundary EIA for sub-component 1.B.2 is still ongoing.*** 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.	
Component 2 / Nysa Kłodzko Valley		
21. The quality of the EIA is low as it doesn't identify all impacts,	***All EIAs/EMPs completed to date have met the requirements of Bank operational policies. Assuming this particular complaint refers to the Klodzko Valley dry polders, these were subject***	

Claims	Response	Reference documents
and doesn't look at the cumulative impact [7]	***to EIAs in accordance with the approved ESMF and Polish legislation (see response in Item 8 above).*** 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. For the cumulative impacts, the EIAs were informed by the previous studies that were undertaken in this regard as outlined in Item 8 above. 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).	
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]	***Environmental permits are issued in accordance with national legislation.*** 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 Boboszów 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.	
Consultations		
General		
23. We request that the project is suspended to allow for meaningful debate [6]	***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.***	
24. The project team in Wroclaw has good connections in	***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.*** Such a long relationship is common for many Bank borrowers, and in no	

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]	***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.*** 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. 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. 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: • ***September – October 2018*** – 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 • ***October – November 2018*** – 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
	(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). 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 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.	
26. Documents for consultations were not provided in a timely manner and non-technical German version [1, 2, 3, 4, 5]	***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.*** 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_Modernisierungsarbeiten_Oder.html).	Include Annex describing remaining milestones in the ESIA process for sub-component 1.B.2

Claims	Response	Reference documents
27. The participation of NGOs in consultations for the transboundary impact assessment did not result in change of plan on the Polish side [5]	***Based on feedback and comments received from different stakeholders, including NGOs, a number of initially proposed Project activities have been refined or dropped altogether.*** 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 m^2, a total of approx. 5,300 m^2) 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. 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.	
28. The Bank has not taken action on our previous letters and interactions incl. to Pres. Kim three years ago [3, 5, 6, 8]	***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***. 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. 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.	Annex showing record of different stakeholder correspondences

Claims	Response	Reference documents
29. The reality of project implementation looks different from what has been promised [4].	***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.*** 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;	***The Bank's commitment made in its response of October 29, 2015 still stands today.*** 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.	***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.***	
Compliance with Bank policies		
30. Bank policies have not been followed, in particular [1, 2, 3, 4, 5, 8]	***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.*** 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	***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.*** 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.	
30.2. OP4.04 Natural Habitats	***All proposed investments were screened during Project preparation to identify any potential impacts on natural habitats.*** 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.	
30.3. OP7.50 Projects on International Waterways	***The Borrower issued a Notification to the Riparians in September 2014.*** 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	

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,	***The Borrower has prepared, consulted upon and disclosed RAPs for the limited resettlement (eight households) required by the Project so far.*** 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. 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.	
30.5. Safety of Dams OP/BP 4.37	***The Borrower has setup a dam safety panel and is implementing the measures resulting from the Project's dam safety assessment.*** 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.	
31. The project should have been classified as a category A like the earlier ORFPP project [8]	***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.*** 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	

Claims	Response	Reference documents
	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. 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. 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.	

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

Claims	Response	Reference documents
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'").	***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.*** 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. 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. 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.	
2. **There are better alternatives than to break ice with the existing icebreaker fleet**	***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***	Summary report concerning the

Claims	Response	Reference documents
(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").	***additional studies that demonstrates that an Ice Breaker fleet remained the most cost-effective way to limit winter floods due to ice jams.*** 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. *Photo: Amphibious excavators (AMPHIBEX type) in operation*  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). 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	determinants of ice-breaking operations on the boundary sections of Odra River

Claims	Response	Reference documents
	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. 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. 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. 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).	
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	***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.*** 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 - ***K****oncepcja* ***R****egulacji* ***C****ieku* = 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	BWA Concept

Claims	Response	Reference documents
World Bank's Odra-Vistula Flood Management Project (OVFMP) infringes on EU Water Framework Directive and EU Natura 2000 Directives").	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.	

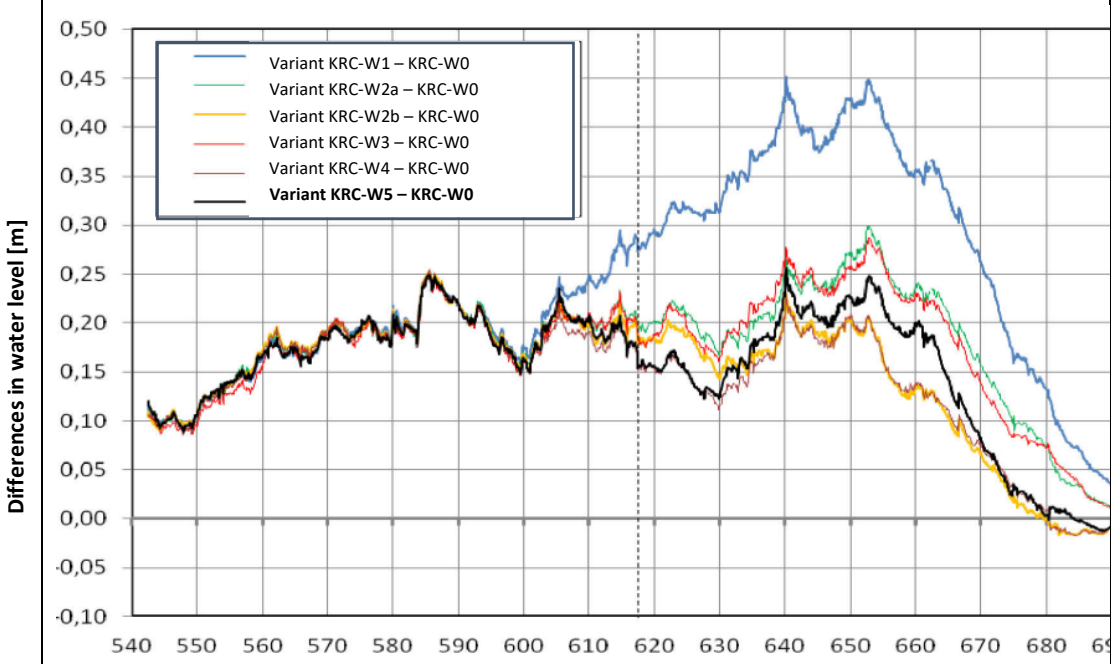


Illustration 2. The differences in water table levels at flow Q (SWP_{2010}) in variants KRC-W1, KRC-W2a, KRC-W2b, KRC-W3, KRC-W4, KRC-W5 compared to KRC-W0 (Source: BAW concept)*
**SWP2010 = water level at <u>average</u> flow determined on the basis of multiannual data 1981-2010*

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

Claims	Response	Reference documents
	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. 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. 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.	
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".	***Modernization of Marwicki polder shall not cause a change in the functionality of this area and will not impact land use.*** 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.	
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	***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.*** 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	

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.	
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'").	***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.*** 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. 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". 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 **transit depth for ice-breakers should be secured throughout the entire winter-spring season.** 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".	
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'").	***This activity is no longer part of the OVFMP.*** 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.	

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 *[Regional Directorate of Environmental Protection]* 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

			subsequent stages of the cross-border environmental impact assessment process. Handing over the KIP to the German side.
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**	**January 2018** **By indicating the deadline, within 30 days of the date of receipt of the notification**
5	Conformation of the receipt of notification and declaration by the German Party on its wish to participate in the proceedings	**YES**	**February 2018** 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.
6	Submission of the EIA Report to the Exposed Party	**YES**	**September 2018** 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.
7	Bringing comments by the participants in the proceedings of the Exposed Party - public consultations for the community of the Exposed Party	**YES**	**October / November 2018** Public consultations on the German side (so called 1st Round)
8	Submission of comments from the German Party	**YES**	**January 2019**
9	Analysis of comments by the Investor	**YES**	**January 2019 - April 2019**

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 2nd 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	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.	Response letter signed by the World Bank Country Manager for Poland; October 29, 2015. 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. *Appendix 1.*
2.	Letter to Dr. Jim Yong Kim, President of the World Bank Group. August 11, 2016	Ecological Association EKO-UNIA and Green Institute	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	Response letter signed by World Bank Regional Director for Operations in the EU Countries; September 19, 2016. 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. *Appendix 2.*

No	Document. Date	Author of claims	Key subjects of inquiry	Reaction
			environmental organisations, nor any such organisations were consulted. *5.* Request to suspend the implementations of the project.	
3.	Questions to Bank Mission after the meeting of May 17, 2018 in Warsaw. May 24, 2018	Save the Rivers Coalition	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?	Response letter signed by the World Bank Country Manager for Poland and the Baltic States; June 26, 2018. 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. *Appendix 3.*
4.	Odra-Vistula Flood Management Project (OVFMP) (Ln 8524-PL) Implementation Support Mission. Aide-Mémoire September 10-20, 2018	NGOs	1. NGOs showing strong interest in project activities, especially in relation to environmental safeguards.	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. *Appendix 4.*

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. *Appendix 6.*
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. *Appendix 7.*
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. *Appendix 8.*
8.	Letter to WBG Country Manager for Poland and the	Forum of the Klodzko Region	1. Protest against the construction of new flood protection reservoirs in the 16 locations. 2. Request of an inambiguous 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
	Baltic States. Reference: Concept Paper: "Flood Protection in the Odra and Vistula River basins, Section 2: Flood protection of the Kłodzko Basin" June 24, 2019		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.	World Bank's TTL said at the consultations meeting in May mentioned by the NGO in its request letter. *Appendix 9.*  Consultation meetings in Klodzko Valley, organized by Government and attended by members of the Bank team

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 albipinantus),* 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 *(Ichthyaetus 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. *Salicetum albo-fragilis*, Ass. *Albae Populetum*, SubAll. *Alnenion glutinoso-incanae*, 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.

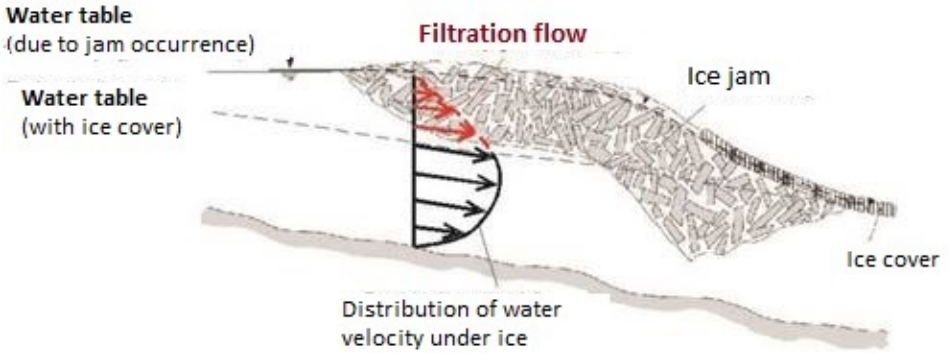
Groynes

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 SólI	14 August – 4 September 2017	01 October 2017
4	1B.6/2	Flood protection of Nowa Sol and Below Krosno Odrzanskie stage II Węzyska 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, Długołeka, 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 Klodzka 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

Component 1 area (Lower Odra River)

1A3. Miedzyodrze

1B. Reconstruction and modernization of river control infrastructure

Component 1 area (Lower Odra River)

1C. Extension and construction of flood embankments

1B.2 Modernization works on boundary sections of Odra River

1B. Reconstruction and modernization of river control infrastructure

Component 1 area (Lower Odra River)

Boboszów, Roztoki, Szalejów and Krosnowice polders

Component 2 area (Klodzko River Valley)

Baltic Sea
POMORSKIE
ZACHODNIOPOMORSKIE
LUBUSKIE
WIELKOPOLSKIE
KUJAWSKO - POMORSKIE
ŁÓDZSKIE
DOLNOŚLĄSKIE
OPOLSKIE
ŚLĄSKIE
MAŁOPOLSKIE
GERMANY
CZECHIA
SLOVAK REPUBLIC
Szczecin
Słubice
Gorzów Wielkopolski
Zielona Góra
Poznań
Bydgoszcz
Toruń
Łódź
Wrocław
Opole
Katowice
Odra R.
Notec R.
Warta R.
Vistula R.
Drweca R.
Neisse
14 °
16 °
18 °
54 °
52 °
50 °
6 °

IBRD 44664 | OCTOBER 2019

0 25 50
Kilometers