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P. Rydzewski

Banie, 18 August 2009

HEAD OF THE
COMMUNE OF BANIE

GK-7627/2/2008

DECISION

Pursuant to Article 153(1) of the Act of 3 October 2008 on the provision of information on the environment and environmental protection, on public participation in environmental protection and on environmental impact assessments (Journal of Laws of 2008 No. 199, item 1227) and pursuant to Article 46(1) (1), Article 46a(1) and (7) (4) and Article 56 of the Act of 27 April 2001 – Environmental Protection Law (Journal of Laws of 2008 No. 25, item 150, as amended) in connection with Article 104 of the Administrative Procedure Code (Journal of Laws of 2000 No. 98, item 1071, as amended) and § 3(1) (6) of the Regulation of the Council of Ministers of 9 November 2004 on determining the type of projects that may have a significant environmental impact (Journal of Laws of 2004 No. 257, item 2573, as amended) after considering the request of Biuro Usług Inwestycyjnych "DOMREL" Sp. z o.o. ul. Odzieżowa 12c/1, 71-502 Szczecin of 16 June 2008 (date received: 18 June 2008) on issuing a decision on the environmental conditions of approval for the implementation of a project involving the construction of the "Banie Wind Power Plant Complex," consisting of 46 wind power plants with the necessary technical infrastructure" in the following geodetic precincts: Banie, Piaseczno, Swobnica, Baniewice, Lubanowo and Sosnowiec, the commune of Banie, the district of Gryfino, and following the proceedings concerning the environmental impact assessment of the aforementioned project.

I specify

the environmental conditions of approval for the implementation of the project involving the construction of the "Banie Wind Power Plant Complex," consisting of 46 wind power plants, together with the necessary technical infrastructure, planned in the area of the following plots of land: plots no. 801, 818, 848, 853, 835, Banie precinct, plot no. 149, Piaseczno precinct, plots no. 174/1, 180/2, 791, 810, 817, 822, Swobnica precinct, plots no. 409/2, 417/1, 435, Baniewice precinct, plots no. 216, 330, 88/4, 92, 95, 97/2, 314/4, 314/5, Lubanowo precinct, plots no. 18, 23/1, 33, 42, 127, 129, 132/2, 134, 139, Sosnowiec precinct, in the commune of Banie, the district of Gryfino

I. Type and place of implementation of the project:

The planned project involves the construction of the "Banie Wind Power Plant Complex," consisting of 46 wind power plants with a total power of up to 115 MW together with the necessary technical infrastructure, i.e. access roads, assembly yards, medium voltage power lines and fibre optic cable lines, in accordance with the characteristics of the project constituting an appendix to this decision.

The project is planned to be located in agricultural areas, partially irrigated in six geodetic precincts of the commune of Banie, i.e. on the following plots of land:

- Banie precinct, plots no. 801, 818, 848, 853, 835,
- Piaseczno precinct, plot no. 149,
- Swobnica precinct, plots no. 174/1, 180/2, 791, 810, 817, 822
- Baniewice precinct, plots no. 409/2, 417/1, 435
- Lubanowo precinct, plots no. 216, 330, 88/4, 92, 95, 97/2, 314/4, 314/5
- Sosnowo precinct, plots no. 18, 23/1, 33, 42, 127, 129, 132/2, 134, 139

II. Conditions for the use of land at the stage of implementation and operation, with particular emphasis on the need to protect natural values, natural resources and monuments, and reduce nuisance for neighbouring areas.

A. The following actions should be taken at the stage of project implementation.

1. Until the wind turbines are set, monitoring should be carried out by an ornithologist and a chiropterologist in order to:
 - identify the main bird migration routes and the presence of bats in the indicated area,
 - determine the population size of individual animal species, especially birds,
 - - collect comparative material to analyse the impact of the park on the avifauna.
2. Construction sites with facilities should be organised outside environmentally valuable areas in such a way as to

secure the soil and water environment against penetration of solid and liquid pollutants from the construction sites with facilities.

3. During the preparation and implementation of the investment, it is necessary to:
 - a. ensure economical use of land;
 - b. maintain order at the construction site and its facilities;
 - c. minimise the size of excavations and embankments that generate changes in natural topography;
 - d. adequately store the removed soil layer for reuse in order to restore the initial state after the construction is completed;
 - e. not to allow the contamination of excavations, especially with petroleum substances, after the works have been completed;
 - f. use methods reducing the possibility of animals entering the site during earthworks and excavations.
4. The producer of waste generated at the stage of implementation is required to:
 - a. carry out selective storage of waste in an appropriate manner and in places specifically designated for this purpose;
 - b. transfer waste only to authorised companies;
 - c. keep quantitative and qualitative records of waste, in accordance with the applicable regulations.
5. In order to limit dust and gas emissions into the air:
 - a. exercise caution in works related to excavations for foundations of the power plant tower, laying of power and telecommunication cables, construction of roads and facilities;
 - b. limit the idle work time of combustion engines, construction machines and vehicles to limit gas emissions into the air;
 - c. carefully load bulk materials and cover the load platforms of cars transporting these materials (this applies also to earth from excavations);
 - d. in order to minimise dust from hardened surfaces, limit the driving speed of motor vehicles.
6. In order to protect the acoustic climate during the stage of construction:
 - a. use machines and vehicles in good working order;
 - b. use an appropriate system of work organisation and shut off the engines of equipment that does not work at a given moment;
 - c. minimise the time engines are working at full speed.

B. The following actions must be taken at the operation stage of the project.

1. In order to preserve landscape features, it is prohibited to place advertisements on nacelles.
2. In the investment area and in its close proximity (500 m), it is necessary to ensure that agricultural economy is consulted with scientists and entities conducting environmental monitoring on the premises of the farm (e.g. with an ornithologist) and oriented on:
 - reducing the attractiveness of feeding and breeding sites of the farm for protected animal species on which the wind power plants may have a potential impact;
 - drawing birds away from the areas covered by the investment.
3. The permissible noise levels should be complied with in accordance with the applicable regulations.
4. Immediately after the start of operation of the project, measurements of noise in the environment should be taken; if any noise levels are found to be exceeded within the protected areas, actions should be taken to limit its emissions.
5. Monitoring should be carried out by an ornithologist and a chiropterologist for a period of 3 years from the date of commissioning the wind turbines of the "Banie" wind farm, with an annual report submitted to the Regional Nature Conservation Officer, including the following:
 - observations in all cycles of phenological periods, breeding period, autumn migration, overwintering areas and spring migration of birds,
 - analysis of phenomena including elements of fauna ecology, including bats,
 - occurrence of conflict situations.
6. The surveys shall include observations in accordance with the applicable guidelines for the assessment of the impact of wind power plants on birds and the temporary guidelines for the assessment of the impact of wind power plants on bats (for 2009).
7. In order to correctly determine the impact of the wind power plants in the vicinity of the Natura 2000 area, for the species protected in this area, the surveys and results should cover:
 - identification of the level of mortality, mutilation of animal species, including especially birds, and identification of threats to the functioning of particular populations, identification of changes in the characteristics of the environment or migration (routes, direction and height of movements of animals) and identification of threats to the functioning of particular populations;

- specification of changes in species composition, number and dynamics of changes in the distribution of particular species in selected phenological periods;
 - determination of variability in the use of the investment area by animals.
8. The methodology of the monitoring and its results in the form of a report should be submitted to the Regional Nature Conservation Officer for approval in terms of compliance with the provisions by the end of each calendar year.
 9. The investor is required to inform the Regional Conservation Officer about the planned visit of a person conducting local monitoring.
 10. The Regional Nature Conservation Officer may decide, on the basis of the monitoring results provided, to apply other mitigation measures.
 11. If the monitoring results show any impact on birds and bats, the Regional Nature Conservation Officer may extend monitoring to 5 years.
 12. The investor is required to carry out the monitoring of the investment for cases of wounded birds at a frequency determined by the environmental supervision authorities; in the event of finding any mutilated birds, the investor is required to transport them at their own expense to competent centres and veterinary services and notify the Provincial Nature Conservation Officer about this fact.
 13. The investor is required to finance the treatment and convalescence of birds injured by the operation of the wind power plants.
 14. The investor is also required to record mortality among birds.

III. Environmental protection requirements to be included in the construction design.

1. In order to minimise the impact of the wind power plant in question on fauna, with particular regard to birds, it is necessary to provide for:
 - a. the location of wind turbines no. 33 and 38 at a distance of at least 160 m from the valuable lime tree alley,
 - b. the location of wind turbines no. 8, 22, 37, 39, 44 and 45 at a distance of at least 200 m from the areas of environmentally valuable nature indicated in the natural valuation of the commune of Banie.
2. The protection of the soil and water environment should be designed where transformers are located.
3. The restoration of vegetation losses at the stage of construction and installation works should be designed and implemented.
4. Power stations of identical colours and with the same rotor blade rotation direction should be installed within the boundaries of the wind farm.
5. With regard to noise protected areas, noise levels should be maintained in accordance with the standards specified in the regulations, through the appropriate location of individual turbines and the use of technologies and technological solutions ensuring noise emissions at source at a level guaranteeing compliance with these requirements, including in relation to nine wind power plants located within the Sosnowiec precinct, wind turbines with a reduced noise level up to 103.0 dB(A).

IV. Requirements for counteracting the effects of industrial failures in respect of projects classified as sites posing a threat of major accidents.

- not applicable

V. Requirements for limiting cross-border environmental impact in relation to projects for which a cross-border environmental impact procedure has been carried out.

- not applicable

VI. Determining the necessity to create a limited use area.

For the planned project, no need to establish a limited use area in accordance with Article 135(1) of the Environmental Protection Law has been identified.

VII. The characteristics of the project are attached as Appendix No. 1 hereto.

VIII. Impact on integrity, cohesion and the subject of protection of Natura 2000 areas

- no significant impact

STATEMENT OF REASONS

On 18 June 2008, Biuro Usług Inwestycyjnych DOMREL Sp. z o.o. with its registered office in Szczecin at ul. Odzieżowa 12 c/1 requested the Head of the Commune of Banie to issue a decision on the environmental conditions of approval for the implementation of the project. The following documents were attached to the application:

- extracts from local spatial development plans for wind power plants in the following precincts: Banie, Piaseczno, Baniewice, Lubanowo, Swobnica and Sosnowiec
- "The environmental impact assessment of design solutions for the construction of the Banie wind power plant complex" developed by the team lead by Przemysław Zyski, MSc Eng.

Considering the foregoing, a notice of proceedings in the case in question was made public via an announcement on the website and posting on the board of the Commune Office of Banie and in Piaseczno, Baniewice, Sosnowiec, Lubanowo, Swobnica and Baniewice (in accordance with Article 46a(4) (5) of the Act of 27 April 2001 - Environmental Protection Law (Journal of Laws of 2008 No. 25, item 150, as amended).

The project is, under the Environmental Protection Law, a project that may have a significant environmental impact, for which a report may be required (optionally) - Article 51(1) (2) of the aforementioned act.

This procedure takes into account the provisions of the Regulation of the Council of Ministers of 9 November 2004 on defining the types of projects which may have a significant environmental impact and detailed conditions for qualifying projects for preparation of environmental assessment reports (Journal of Laws No. 257, item 2573, as amended), including:

- § 2(1) (5) "installations planned on land, using wind power for energy production, with a nominal power of not less than 100 MW",
- § 4, which states that parameters of the same type, characterising the scale of the project and referring to projects of the same type located within one facility, existing and planned, are summed up; this is why the environmental impact of all the power stations along with the necessary infrastructure was analysed jointly;
- § 5 indicating the specific conditions related to qualifying the project mentioned in § 3, including but not limited to areas requiring special protection due to Natura 2000 network areas, determined in accordance with the Act of 16 April 2004 on nature conservation (Journal of Laws No. 92, item 880, as amended).

Considering the foregoing, the authority handling the case in accordance with Article 48(2) of the Act submitted a request of 2 July 2008 to the Voivode of West Pomerania and to the State Provincial Sanitary Inspector in Szczecin to agree the environmental conditions for the planned investment.

The State Provincial Sanitary Inspector in Szczecin, by way of a decision of 10 July 2008, ref. no. WS-N.NZ-401-977/08, agreed the environmental conditions for the implementation of the project.

From 15 November 2008, pursuant to Article 153(1)(2) of the Act of 3 October 2008 on the provisions of information on the environment and environmental protection, on public participation in environmental protection and on environmental impact assessments (Journal of Laws of 2008 No. 199, item 1227, as amended), the competent authority in the case in question is the Regional Director for Environmental Protection in Szczecin.

On 29 May 2009, the applicant submitted information on the change of the Investor from the previous one to WIATROMILL Sp. z o.o. in Gdańsk.

The Regional Director for Environmental Protection in Szczecin, after receiving additional materials necessary to agree the environmental conditions (the annex to the "Environmental impact assessment of the design solutions for the construction of the "Banie Wind Power Plant Complex") from the applicant, agreed, under a decision of 29 June 2009, the implementation of the project in terms of environmental protection.

Based on the evidence provided by the applicant, the Regional Director for Environmental Protection assessed the impact of the project on cohesion, integrity and the subject of protection of Natura 2000 areas and concluded that no significant impact was observed. The provisions of the aforementioned bodies are final.

In the course of the procedure, public participation in the case in question was ensured. Information on the conducted proceedings was published at www.bip.bau.pl and on the notice board of the Commune Office of Banie and in the villages where the project will be implemented.

No comments or conclusions were received in the proceedings involving the public.

After considering the evidence collected regarding the agreements of the environmental authority, i.e. the Regional Director for Environmental Protection in Szczecin, the State Sanitary Inspector in Szczecin, and based on the provisions referred to in the beginning, it was decided as stated hereinabove.

A stamp duty of PLN 205 was charged for the issue of the decision in accordance with Article 7 of the Act on stamp duty (Journal of Laws of 2006, No. 255, item 1635, as amended)

Instruction:

Pursuant to Article 46(4b) the Act of 27 April 2001 - Environmental Protection Law (i.e. Journal of Laws of 2008, No. 25, item 150, as amended), a decision on environmental conditions is attached to the application for a decision on a building permit. This application should be submitted no later than four years after the date on which the decision on environmental conditions became final.

This time limit may be extended by two years if the implementation of the planned project with a possibly significant environmental impact is conducted in stages and if the conditions specified in the decision on environmental conditions have not changed.

The provisions on the issuing of a decision on environmental conditions apply accordingly to amendments to a decision on environmental conditions.

The Parties have the right to appeal against this decision to the Local Government Appeal Court in Szczecin through the commune of Banie, within 14 days from the date of delivery of this decision.

Appendices:

1. Characteristics of the planned project in accordance with Article 56(3).

Copies to:

1. Applicant
2. a/a

COMMUNE HEAD
Teresa Sadowska

For the attention of:

1. Regional Director for Environmental Protection
2. State Provincial Sanitary Inspector in Szczecin

This decision is final
Banie, 8 July 2009

INSPECTOR
Józef Gurdała