

SPU.6220.1.2019.JG

**D E C I S I O N****on amendment to the decision on environmental conditions**

Pursuant to:

- Article 155 of the Act of 14 June 1960 on the Administrative Procedure Code (Journal of Laws of 2018, item 2096, as amended);
- Article 71(1) and (2)(1), Article 73(1), Article 75(1)(4), Article 82, Article 85 and Article 87 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 2018, item 2081, as amended);
- §2 (5) of the Regulation of the Council of Ministers of 9 November 2010 on determining the type of projects that may have a significant environmental impact (Journal of Laws of 2016, item 71)

having examined the request made by Fieldon Investments sp. z o.o., Wiatromill s.k., Al. Niepodległości 69, 02-626 Warsaw concerning amendment to the decision on environmental conditions for the project named "Banie Wind Power Plant Complex" by changing the number and parameters of wind power plants specified in environmental decision no. GK-7627/2/2008 of 18 August 2009,

I decide

to amend the decision of the Commune of Banie of 18 August 2009, ref. no.: GK-7627/2/2008 for the project involving the construction of the "Banie Wind Power Plant Complex," consisting of 46 wind power plants, including the necessary technical infrastructure, planned on 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, Sosnowo precinct in the commune of Banie, the district of Gryfino

**I. by changing the provisions specified on page 1, from line 29 to line 42**

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

**in the following way:**

The planned project involves the construction of a Wind Farm with a total capacity of up to 115 MW, consisting of 34 wind turbines with a total height of up to 180 m, including the necessary technical infrastructure, including access roads, manoeuvring and assembly yards, as well as energy infrastructure and wind farm substation. VESTAS V110 turbines with a capacity of 2.2 MW (2.0 MW with noise reduction) or NORDEX N117 turbines with a capacity of 2.4 MW each or other turbines in accordance with the characteristics of the planned project, constituting an annex to this decision, are planned to be installed in the Wind Farm and mounted on towers up to a height of 120 m.

- Banie 3 precinct, plots no.: 835/1, 848/1, 848/2, 853/1;

- Piaseczno precinct, plot no. 591/1;

- Swobnica precinct, plots no.: 174/2, 791/1, 810/1, 817/1, 822/1, 822/2;

- Baniewice precinct, plot no.: 409/3, 409/4, 417/2, 417/3, 435/1:
- Lubanowo precinct, plot no.: 88/7, 92/2, 95/1, 97/5, 216/2, 314/8, 314/6, 314/12, 330/2, 330/4, 330/6:
- Sosnowo precinct, plots no: 23/2, 33/1, 42/1, 127/5, 127/7, 129/1, 132/3.

**II. on page 2, the following provision is added after line 22:**

g. domestic sewage, both during the construction stage and subsequent operation of the project, should be collected in holding tanks. The collection of sewage will be carried out by specialist companies;

h. the investment in the construction and operation phase should be carried out in such a way as to prevent the deterioration of the condition of waters, with the application of measures (procedures and technologies) to prevent the spread of and eliminate any pollution generated during its implementation. Substances should be available at the plant for possible neutralisation of leakages from machinery and equipment;

i. during construction works, it is necessary to prevent the penetration of oil derivatives from machinery and equipment and other harmful substances to surface waters and soil. Any contamination should be immediately removed by means of spill absorbing materials;

j. in the event of damage to the drainage network, corrective action must be taken immediately in order to restore the damaged section of the drainage network to the condition before damage.

**III. By changing the provisions indicated on page 2, from line 42 to line 49 and on page 3, from line 1 to line 44, reading as follows:**

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, which will include:
  - 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 species protected in this area, the tests 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 lairs or migration (routes, direction and height of movements of animals) and identifications 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. Based on the monitoring results provided, the Regional Nature Conservation Officer may decide to apply other mitigation measures.
11. If the monitoring results show an 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.

**in the following way:**

I. As far as the natural environment is concerned at the stage of implementation or operation of the project, the following actions should be taken:

1. The project should be implemented under environmental supervision, i.e.: it is necessary to ensure the supervision of a fauna protection specialist, with particular emphasis on herpetofauna, with a view to controlling earthworks related to the construction of foundations, access roads, manoeuvring and assembly yard, and laying of the cable line, and to indicate the date and manner of conducting these works in relation to the natural values of the investment area.

2. The finishing the outer parts of the newly established access routes should allow animals to move freely during dispersion or seasonal migration. To ensure this, it is necessary to avoid the construction of curbs along the access roads to the wind power plants.

3. If there are any animals on the premises of the project, the principle of humane treatment should apply, including:  
- in the course of earthworks, it is necessary to secure excavations in such a way as to prevent small mammals, amphibians and reptiles from entering their site;

- it is necessary to verify where there are any animals at the excavation site and, if so, to allow them to leave it and transport them into a convenient habitat outside the investment site;

- it is forbidden to kill animals that have entered the excavation site.

4. It is necessary to bring about the repair of any possible damage in the natural environment resulting from the implementation of the investment, e.g. in the case of the necessity to fell trees in roadside alleys by supplementing losses in vegetation.

5. As far as possible, agreements should be concluded with the owners of land on which the wind power plants will be constructed, as well as the owners of land located in the vicinity of the investment plot (within the range of impact) in such a way that in the area of the planned project there are no crops of maize, which is particularly attractive as food for geese, swans and cranes and, if it is necessary to grow maize, in such a way that any post-harvest residues are cleaned up and stubble is ploughed immediately after harvesting.

6. After the commissioning of the wind turbine, the investor is obliged to carry out, for at least 5 years, post-development monitoring of the impact of the wind farm on avifauna and chiropterofauna, according to the following guidelines:

a. The post-development monitoring programme, including: detailed scope of monitoring, methodology and method of its implementation, should be designed by experts with a record of experience in this area and presented to the Regional Director for Environmental Protection in Szczecin for approval before commencing its implementation.

b. The scope of monitoring may be subject to verification by the Regional Director for Environmental Protection in Szczecin and, if necessary, taking into account the results of this monitoring, may be changed or supplemented.

c. The post-development ornithological monitoring should cover the full annual cycle, replicating as closely as possible the pre-development surveys. These survey should be carried out within 5 years after the farm has been commissioned, inter alia, according to the latest guidelines for the assessment of the impact of wind turbines on birds. The scope of monitoring should include birds present in the area covered by the potential impact in the breeding period, migratory birds during their spring and autumn migration, wintering birds, as well as birds at increased and high risk of collision with turbines, with particular attention to such bird species as the lesser spotted eagle, white-tailed eagle, red kite, marsh harrier, and their potential locations, taking into account the nearest protection zone and regular habitation of white-tailed eagle.

d. Post-development chiropterologic monitoring should be, if possible, an exact repetition of the pre-development surveys, taking into account, inter alia, the following guidelines:

- duration - minimum 5 years from the commissioning date of the wind farm;

- visual observation - conducted throughout the season (March - mid-November), as far as possible on the same transects as those accepted for pre-development studies, in order to assess changes in relative numbers, species composition and use of the environment in the area covered by the investment;
  - detector audio surveillance - conducted throughout the season (March - mid-November), as far as possible on the same transects as those accepted for pre-development studies, in order to assess changes in relative numbers, species composition and use of the environment in the area covered by the investment;
  - recordings of bat roosts on transects and audio surveillance posts along with their subsequent analysis and determination of bat activity indices.
- e. The post-development monitoring of bat and bird mortality should cover the full annual cycle and continue throughout the duration of monitoring.
- f. Any search for victims of collisions should be conducted in such a way as to ensure the highest possible level of identification of collision victims.
- g. 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 Regional Director for Environmental Protection about this fact.
- h. The investor is obliged to finance the treatment and convalescence of birds injured by the operation of the wind power plants.
- i. Post-development monitoring regarding particular fields (ornithological and chiropterologic) must be carried out by experts with a proven record of long-term experience in the proper analysis of the impact of wind farms on fauna (e.g. recommendations or references). Where necessary, such experts will propose effective mitigation actions.
- j. The collected monitoring results should be analysed, assessing the scale of changes that occurred in the environment and calculating the actual mortality rate of birds and bats (based on auxiliary tests for the effectiveness of search for preys and the rate of disappearance of prey). If necessary, appropriate measures should be proposed to minimise the risk of collisions of birds and bats with the investment facilities, along with recommended rescue or compensation actions that should be introduced.
- k. The results of the annual ornithological and chiropterologic monitoring stage, including interpretation and impact assessment, will be presented in writing together with an electronic copy to the Regional Director for Environmental Protection in Szczecin, within two months of the end of each annual monitoring cycle. This time limit may be changed in justified cases.
- l. Based on the results of ornithological and chiropterologic monitoring, it may be verified by the Regional Director for Environmental Protection and may be supplemented, if necessary, by issues indicated by that authority.
- m. If the monitoring results show that the investment has a significant negative impact on the natural environment (bird species and bats), the Regional Director for Environmental Protection in Szczecin may decide on the basis of the provided monitoring results, for instance, to apply other mitigation measures than those indicated in the decision on environmental conditions. In such a situation, the investor will, without undue delay and at their own expense, take mitigation and remedial actions, and then carry out the post-development monitoring again. If the actions carried out do not bring the expected effects and the working turbines continue to have a significant negative impact on animal species and increase mortality among these groups of animals, the investor will be required to temporarily suspend the operation of individual turbines during the period of intensive spring or autumn migrations, or, in the extreme case, to completely shut down the turbine at its own expense, without the possibility of receiving damages from the nature conservation authority.
- II. The investor is required carry out a post-development analysis in relation to noise emissions to the areas covered by noise protection in order to compare the findings included in the report with the actual impact of the project on the environment. The analysis should be carried out after the first year after the commissioning of the wind farm, in wind conditions, with the most adverse impact of the project on the noise condition of the environment. The results of the measurements should be submitted to the Provincial Inspector for Environmental Protection and to the authority issuing the environmental decision within one month from taking the measurements. If the acceptable noise level is exceeded in noise protected areas, measures to reduce noise emissions should be implemented, e.g. reducing the acoustic power of equipment or temporarily switching off equipment at night.

**IV. By changing the provision indicated on page 3, from line 45 to line 50 and on page 4, from line 1 to line 14**

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 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).

**in the following way:**

*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 at a distance of at least 160 m from areas of outstanding natural value, including the valuable lime tree alley,

b. the location of wind turbines no. 8, 22, 37 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 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 2 wind power plants (EW 26 and EW 31) at night, reducing their noise power from 106.1 dB(A) to 103.8 dB(A).

**V. Annex No. 1 to the decision on environmental conditions of 18 August 2009, file reference no. GK-7627/2/2008, which constitutes the characteristics of the project, is repealed in its entirety and replaced by Annex No. 1 to this decision.**

**VI. Other provisions of the decision remain unchanged.**

**VII. This decision is an integral part of decision no. GK-7627/2/2008 of 18 August 2009.**

## Statement of reasons

Under a letter dated 14 March 2019, Mr Rafał Janiga, attorney-in-fact of Field Investments Sp. z o.o., Wiatromill s.k., Al. Niepodległości 69, 02-626 Warsaw, applied for amendment to the environmental decision for the project named "Banie Wind Power Plant Complex," for which environmental decision no. GK-7627/2/2008 of 18 August 2009 concerning a change in the number and parameters of the wind power plants with the accompanying infrastructure in the area of the commune of Banie in Piaseczno, Banie, Sosnowiec, Lubanowo, Baniewice and Swobnica was issued.

The Applicant annexed the application with a report on the environmental impact of the project in question, extract from the local spatial development plan, environmental decision no GK.7627/2/2008 of 18 August 2009, decision on transfer, and decision.

Pursuant to Article 155 of the Administrative Procedure Code, "the final decision under which a party acquired the right may at any time, by the consent of the party, be revoked or amended by the public administration authority which issued if specific provisions do not preclude the revocation or amendment of such a decision and this is justified by the public interest or the legitimate interest of the party." In order to change the final decision under which the party acquired the right, it is thus necessary to satisfy the following conditions:

- the consent of the party (the applicant, by applying for amendment to the decision, has given such consent);
- there are no contraindications in specific provisions - in this case, the specific provision is the Act of 3 October 2008 on the provision of information on the environment and environmental protection (...), whose Article 87 states that, in the case of amendment to the decision on environmental conditions, "Article 155 of the Administrative Procedure Code applies accordingly, provided that the consent is expressed only by the party submitting the application for the decision on environmental conditions or the entity on which the decision on environmental conditions was transferred." The quoted provision allows for amendment to the decision on the environmental conditions of approval for the implementation of the project in accordance with Article 155 of the Administrative Procedure Code, and it excludes the necessity to obtain the consent of all parties involved in the procedure, limiting the requirement to the consent of the entity which submitted the application for the decision;
- the amendment is justified by the social interest or legitimate interest of the party - the amendment to the decision is necessary for the applicant in connection with the update of the investment project and obtaining of a building permit.

At the same time, Article 87 of the Act of 3 October 2008 on the provision of access to information on the environment and environmental protection (...), introduces the requirement to apply the procedure required for issuing the decision on the environmental conditions of approval for the implementation of the project also to amendment of the decision pursuant to Article 155 of the Administrative Procedure Code.

Pursuant to Article 77(1) of the Act of 3 October 2008 on the provision of access to information on the environment and environmental protection, public participation in environmental protection and environmental impact assessments, the head of the commune of Banie, pursuant to Article 77(1) of the Act of 8 April 2019, attached a report on the environmental impact of the investment in question and applied to the opinion-giving bodies for the agreement of the environmental conditions for the planned investment.

The Head of the Commune of Banie, on 9 April 2019, made public the information about the start of environmental impact assessment and the procedure for public participation in the procedure concerning amendment to the decision on environmental conditions for the planned investment project named "Banie Wind Power Plant Complex" with a total capacity of up to 115 MW, composed of 34 wind turbines with a total height of up to 180 m, together with the necessary technical infrastructure, including access roads, manoeuvring and assembly yards, as well as energy infrastructure and wind farm substation.

At the same time, the head of the commune notified all the parties concerned about the possibility of:

- becoming familiar with the necessary documentation of the case (including: the application for the decision, report on the environmental impact of the project)
- submitting comments and requests in writing, orally or via electronic means of communication within 30 days, from 10 April 2019 to 9 May 2019 inclusive. No comments or conclusions were received in the proceedings involving the public.

Państwowe Gospodarstwo Wodne Wody Polskie, Regional Water Management Board in Szczecin requested the written submission of explanations and supplements to the submitted report (the letter of 10 April 2019, file reference number: SZ.RZŚ.436.1.117.2018.RK)

After analysing the submitted documents, including the environmental impact report, the Regional Director for Environmental Protection in Szczecin, under a letter dated 29 April 2019, ref. no.: WONS-OS.4221.57.2019.KK, requested the investor to clearly indicate the changes in each element of the environment as a result of the implementation of the investment as compared to the impacts identified in the procedure completed by the decision on environmental conditions issued by the Head of the Commune of Banie of 18 August 2009, ref. no.: GK-7627/2/2008. It was also noted that it was necessary to demonstrate, by referencing the relevant impacts indicated at the stage of issuing the aforementioned environmental decision, that the planned change of the project would not lead to the deterioration of the environment or

increase the impact of the wind power plants as compared to the impacts estimated in the procedure completed with the decision issued. The relevant supplement was submitted on 28 May 2019.

Under a letter of 17 June 2019, the Head of the Commune of Banie again requested the opinion-giving authorities to agree the terms and conditions of the project in accordance with Article 77 of the Environmental Protection Act, submitting additional explanations in the case at the same time.

State District Sanitary Inspector in Gryfino, with the sanitary opinion of 26 April 2019, ref. no.: PN-N-NZ/401-3/62/19, agreed the terms and conditions of project in question and upheld its position under letter no. PS-N-NZ/401-3/62/19 of 5 June 2019, Państwowe Gospodarstwo Wodne Wody Polskie, Regional Water Management Board in Szczecin, with decision ref. no. SZ.RZŚ.436.1.117.2019.RK of 31 May 2019, agreed the implementation of the project, specifying the terms and conditions of implementation

The Regional Director for Environmental Protection in Szczecin, having read the entire documentation submitted, agreed the implementation of the above-mentioned project and determined the terms and conditions for the implementation of the project under a decision of 3 July 2019, ref. no.: WONS-OŚ.4221.57.2019.KK

According to the submitted documentation, the project planned as part of this procedure involves the construction of a Wind Farm with a total capacity of up to 115 MW, consisting of 34 wind turbines with a total height of up to 180 m, including the necessary technical infrastructure, including access roads, manoeuvring and assembly yards, as well as energy infrastructure and wind farm substation. VESTAS VI10 turbines with a capacity of 2.2 MW (2.0 MW with noise reduction) or NORDEX N117 turbines with a capacity of 2.4 MW each or other turbines in accordance with the characteristics of the planned project, constituting an annex to this decision (substituting the original appendix to the amended decision), are planned to be installed in the Wind Farm and mounted on towers up to a height of 120 m.

The project is located on the premises of the following plots:

- Banie 3 precinct, plots no.: 835/1, 848/1, 848/2, 853/1;
- Piaseczno precinct, plot no. 591/1;
- Swobnica precinct, plots no.: 174/2, 791/1, 810/1, 817/1, 822/1, 822/2;
- Baniewice precinct, plot no.: 409/3, 409/4, 417/2, 417/3, 435/1;
- Lubanowo precinct, plot no.: 88/7, 92/2, 95/1, 97/5, 216/2, 314/8, 314/6, 314/12, 330/2, 330/4, 330/6;
- Sosnowo precinct, plots no: 23/2, 33/1, 42/1, 127/5, 127/7, 129/1, 132/3.

It should be added that the indicated new numbers of plots in relation to the numbers of plots indicated in the decision on environmental conditions of 18 August 2009 result from the division of real estate. According to the submitted documentation, as compared to the provisions of the environmental decision of 18 August 2009, ref. no.: GK-7627/2/2008, the following 12 wind turbines are planned to be winded up: EW4, EW5, EW7, EW10, EW11, EW12, EW13, EW14, EW15, EW38, EW39, EW44. In addition, there are plans to change the location of the following three turbines: EW1 - shifted by approx. 15 m to the north-east (away from the buildings and the nearby mid-field pond), EW31 (no. 32 according to the decision) - shifted by approx. 70 m to the west, and EW33 - shifted by approx. 160 m to the south-east (away from the tree alley by the roadside).

Based on the analysis carried out in the submitted report, the implementation of the investment covered by this procedure will not lead to the deterioration of the environment or an increased impact of the wind power plants as compared to the impacts estimated in the procedure completed by the Head of the Commune of Banie under the decision on environmental conditions of 18 August 2009, ref. no.: GK- 7627/2/2008.28.06.2018

According to the submitted documentation in relation to the environmental impacts referred to in the aforementioned decision on environmental conditions, the liquidation of 12 wind turbines, with each turbine having an assembly and service yard with an area of approx. 1200 m<sup>2</sup>, will reduce the transformed land area by approx. 27%, including the reduction of excavated earth from the excavations for the foundations, reduction of emission of pollutants into the atmosphere and noise, as well as the amount of waste generated during the implementation of the investment. It will also increase the area of the natural landscape planned to be occupied by windmills and increase the area of undeveloped land in the vicinity of environmentally valuable areas. In addition, by shifting 3 wind turbines, it will be possible to keep their minimum distance, i.e. 160 m, from environmentally valuable areas, including the valuable lime tree alley (EW33), indicated in the decision on environmental conditions.

When analysing the environmental impact of the project, with particular emphasis on the natural environment, the results of annual pre-investment environmental monitoring required under the provisions of the decision on environmental decision of 18 August 2009, ref. no.: GK-7627/2/2008, were taken into account, paying particular attention to the results of ornithological and chiropterologic monitoring carried out by Doradztwo Inwestycyjne in the following periods: from 15 October 2009 to 14 October 2010 (October 2010) and 15 November 2011 - 15 October 2012 (March 2013). In addition, the results of the annual pre-investment monitoring carried out in 2013, 2014, 2015, 2016, 2017 by Biosfera - dr Dariusz Janicki were analysed. The team of experts conducting monitoring in 2009-2010 and 2011-2012, represented by Mr Paweł Pluciński and Mr Tadeusz Pluciński, clearly indicated that, taking into account all the wind turbines, the location of 2 wind turbines marked with no. 44 and 39 (Swobnica sector) poses a real threat to the protection zone located in the vicinity and the place of breeding and regular habitation of white-tailed eagle established by the decision of the Voivode of West Pomerania of 27 September 2007, inhabited by this species every year. It was therefore requested that the above mentioned nest be observed on a continuous basis, as well as that the area around the nest be used as an arrival, feeding and flying learning zone for the young during the pre-investment monitoring. Moreover, the introduction of appropriate measures minimising the risk of collision, resulting from the observations carried out, which in 2012 indicated the necessity of taking

such actions as shutting the aforementioned wind turbines down during the breeding and post-breeding period, i.e. between March and October, from dawn to dusk. Moreover, it was requested that the structure of crops be adapted to the new activities to be carried out by the wind fields, i.e. maize crops should be replaced with less attractive forage crops: cereals, rapeseed and root crops, in the area of the wind farm and in its close vicinity (500 m) or, alternatively, the obligation to clean up crop residues and to plough stubble fields immediately after harvesting should be strictly adhered to. Maize is a species with which stubble fields effectively attract flocks of migrating and wintering birds. The above mentioned threat posed by the wind farm to the white-tailed eagle nesting in the area was also indicated by the West Pomeranian Nature Society (ZTP).

The results of the monitoring indicated the necessity to implement mitigation actions before starting the construction of the farm, e.g. by moving wind turbines no. 44 and 39 to another location e.g. to the east, in the direction of Swobnica or to the road from Baniewice to Swobnica. In the absence of such a possibility, it was also proposed that the aforementioned wind turbines should be temporarily shut down during the breeding period and that power dispersion be applied in the period from March to August from dawn to dusk.

Considering that the investor renounced the location of the above-mentioned wind turbines as part of this procedure including amendment to the decision on environmental conditions, as well as turbine no. EW38, located in the immediate vicinity of the white-tailed eagle protection zone, the authority concludes that the planned change of the project will significantly reduce the negative impact of the investment on the aforementioned protection area of the white-tailed eagle. Therefore, the implementation of the investment will not lead to the deterioration of the natural environment or increase the impact of the wind power plants as compared to the impacts estimated in the procedure concluded by the decision on environmental conditions. Moreover, in order to further limit the negative impact of the investment on migratory and wintering birds, the authority indicated the need to avoid, as far as possible, the cultivation of maize and replace it with less attractive forage crops: cereals, rapeseed and root crops, in the area of the farm and within its range of impact (as determined at the stage of the procedure) and, if it is necessary to cultivate them, to clean up crop residues and to plough stubble fields immediately after harvesting.

In connection with the implementation of the investment, the total height of the wind turbines will be increased by 30 m, i.e. from 150 m to approx. 180 m. Therefore, the submitted report analyses the movement of birds at 3 ceilings, i.e. 0-60 m above ground level, 60-180 m above ground level and more than 180 m above ground level

This analysis shows that the increase of ceilings will not affect the movements of animals as compared to the assessed impact at the ceilings determined at the stage of the proceedings concluded with the decision on environmental conditions of 18 August 2009.

Taking into account the identified environmental impacts arising from the implementation of the project covered by this procedure, as well as the results of the monitoring submitted in Szczecin, with particular emphasis on the results from 2009-2010 and 2011-2012, there is no need to continue pre-investment monitoring. Nevertheless, due to the scale of the project and naturally valuable areas located in the vicinity of the wind turbines, including Natura 2000 sites (areas of Community importance, such as Dolina Tywy PLH320050, Dziczy Las PLH320060 and Lasy Baniewickie PLH320064) and local and linear woodlots along the roads, which are potential habitats for protected animal species, which were analysed at the stage of proceedings concluded with the decision on environmental conditions of 18 August 2009, as well as the protection zone of the white-tailed eagle, the investor should carry out post-investment monitoring, which is also obligatory under the provisions of the above mentioned decision. At the same time, the authority indicates the necessity of conducting 5-year monitoring by specialists in ornithology and chiropterology with a record of long-term experience in performing appropriate analysis of the impact of wind farms on fauna.

In addition, in order to limit the adverse impact of the project on herpetofauna, appropriate conditions for the execution of the project were defined in this decision, such as securing and monitoring the excavations, and in the case of animals entering the site, releasing them and moving them to a safe place. The above actions should be included in nature supervision tasks. It is also important to ensure that animals can move freely along the constructed roads. Considering that the system of access roads developed in connection with the investment may constitute a barrier for amphibians during dispersion or seasonal migration, the investor was required to avoid the construction of curbs along the access roads to the wind power plant.

Due to the change in the parameters of the wind turbines, including their height, the documents submitted included a thorough analysis of noise emissions into the protected areas presented in an appendix to the report entitled "Acoustic analysis of the Banie Wind Power Plant in the commune of Banie. Investor's version" prepared by Arkadiusz Rybka Akusoft. The areas within the range of impact of the planned investment protected against noise, in accordance with the Regulation of the Minister of Environment of 14 June 2007 on permissible noise levels in the environment (Journal of Laws of 2014, item 112) should be included in group "3" as farmstead areas and multi-family residential and collective dwelling areas. For this type of land, noise levels in the environment from industrial sources should not exceed 55 dB in daytime and 45 dB at night. The noise calculations were made using the IMMI software, with the sound dispersion modelling in accordance with ISO 9613-2. The calculations were performed, taking into account the effects on land and attenuation by the shielding. The acoustic analysis examines the cumulative impact of the investment when the maximum nominal acoustic power of each turbine is used. The submitted analyses demonstrated that in daytime all the turbines may operate with a nominal acoustic power of 106.1dB(A), while it was necessary to reduce the acoustic power of 2 wind power plants (EW 26 and EW 31) from 106.1dB(A) to 103.8 dB(A) at night.

It should be noted that, in the supplement submitted on 18 June 2019, the investor undertook to carry out a post-



development analysis with respect to noise emission in the protected areas in order to compare the findings included in the report with the actual impact of the project on the environment, as provided for in this decision. The measurements of noise levels in the immediate areas covered by noise protection should be compared against the applicable standards under the Regulation of the Ministry of Environment of 4 June 2007 (Journal of Laws of 2014, item 112) in wind conditions with the most adverse impact of the project on the noise condition of the environment. The results of the measurements should be submitted to the Provincial Inspector for Environmental Protection and to the authority issuing the environmental decision. If the acceptable noise level is exceeded in noise protected areas, measures to reduce noise emissions should be implemented, e.g. reducing the acoustic power of equipment or temporarily switching off equipment at night. The possibility of imposing a requirement to conduct post-development analysis results from Article 82(1) (5) of the Environmental Protection Law Act.

The submitted materials concerning the planned project and data on environmental elements included in the scope of the expected environmental impact of the project have made it possible to assess its environmental impact to a sufficient extent, including its impact on the natural environment, and to identify new conditions of implementation of the project resulting from the planned change of its scope in relation to the natural environment and noise protected areas.

Based on the submitted materials and the opinion of the opinion-giving authorities, it should be stated that the planned change of the project will not lead to the deterioration of the environment or increase the impact of the wind power plants as compared to the impacts estimated in the procedure completed by the Head of the Commune of Banie under the decision on environmental conditions of 18 August 2009, ref. no.: GK-7627/2/2008. Therefore, the provision of Article 13(3b) of the Act of 20 May 2016 on investments in wind power plants is met.

Considering the foregoing, it has been decided as stated hereinabove.

#### Instruction

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

#### Copies to:

1. Rafał Janiga, ul. Ogrodowa 15, 38-440 Iwonicz-Zdrój, attorney-in-fact of Field Investments sp. z o.o., Wiertomill s.k.  
Al. Niepodległości 69, 02-626 Warsaw
2. By way of an announcement:
  - notice board of the Commune Office of Banie
  - Public Information Bulletin of Banie
  - notice boards in the villages in which the investment will be implemented

**THIS DECISION HAS BECOME FINAL  
AND LEGALLY BINDING**

#### For the attention of:

1. Regional Director for Environmental Protection in Szczecin, ul. Teofila Firlika 20, 71-637 Szczecin
2. Regional Water Management Board in Szczecin, ul. Tama Pomorzańska 13A, 70-030 Szczecin
3. State District Sanitary Inspector, ul. Flisacza 6, 74-100 Gryfino

**INSPECTOR**  
**Józef Gurdała**  
03.09/2019