

Annex I or Annex II?

Ljubljana, 21 June 2017

Interpretation of definitions of project categories of annex I and II of the EIA Directive

http://ec.europa.eu/environment/eia/pdf/cover_2015_en.pdf



F.3.2 *Is the project listed in EIA Directive annexes (*):*

- Annex I to the EIA Directive (go to question F.3.3)
- Annex II to the EIA Directive (go to question F.3.4)
- Neither of the two Annexes (go to question F.4) — please explain below

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Key points to be always considered

Thresholds and criteria

Should not lead to an automatic exclusion of projects from the scope of the EIAD: whether an EIA would be required should be decided on a case-by-case basis by considering their nature, size or location and the criteria under Annex III

Salami slicing/project splitting leading to exclusion from the obligations under the EIAD

Regional projects: their cumulative impacts should addressed

What constitutes a project modification

...special attention should be paid to rehabilitation works and whether such rehabilitation schemes would fall under article 13.a of Annex II of the EIA Directive

Transport

Annex I (7)

- (a) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2 100 m or more;
- (b) Construction of motorways and express roads;
- (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road or realigned and/or widened section of road would be 10 km or more in continuous length.

Annex II (10)

- (c) Construction of railways and intermodal transshipment facilities, and of intermodal terminals (projects not included in Annex I);
- (e) Construction of roads, harbours, and port installations, including fishing harbours (projects not included in Annex I)

...Annex I(7a) must be understood to include the doubling of an existing track, which is not to be considered as a mere modification of an existing project

...Works for the refurbishment of an existing road may be equivalent, due to their size and in the manner in which they are carried out, to the construction of a new road

... A project cannot be split up into successive shorter sections in order to exclude both the project as a whole and the sections resulting from that division from the requirements of the Directive

... The requirements of the EIA Directive must be applied to private roads too

Annex I or Annex II

Waste projects

Annex I (9)

Waste disposal installations for the incineration, chemical treatment (as defined in Annex I to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste under heading D9), or landfill of hazardous waste, as defined in point 2 of Article 3 of that Directive

Annex I (10)

Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to Directive 2008/98/EC under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day

Annex II (10)

(b) Installations for the disposal of waste (projects not included in Annex I)

(d) Sludge-deposition sites

... for the purposes of the EIA Directive, the term 'disposal' is interpreted to include 'recovery'

Co-incineration is a type of incineration

Landfill is defined in Article 2(g) of Directive 1999/31/EC as 'a waste disposal site for the deposit of waste onto or into land (i.e. underground),

The closure or rehabilitation of landfills is likely to have significant effects on the environment (for example, through the construction of physical installations, and the treatment of leachates and/or landfill gases e.g. methane). These impacts should normally be included in the environmental impact assessment report prepared as part of the original authorisation of the landfill. If that was not the case, then either a screening or a full assessment procedure should be carried out before the closure or rehabilitation takes place.

Water projects

Annex I (11)

Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.

Annex II (10)

(l) Groundwater abstraction and artificial groundwater recharge schemes not included in Annex I.

For abstraction schemes it might be necessary to consider projects jointly, in particular where:

- they are connected,
- follow on from one another, or
- their environmental effects overlap

Annex I (12)

(a) Works for the transfer of water resources between river basins where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;

(b) In all other cases, works for the transfer of water resources between river basins where the multiannual average flow of the basin of abstraction exceeds 2 000 million cubic metres/year and where the amount of water transferred exceeds 5 % of this flow.

Annex II (10)

(m) Works for the transfer of water resources between river basins not included in Annex I.

For the purposes of interpreting the term 'river basin', a strict reference to the definition provided in the Water Framework Directive would limit the scope and purpose of the EIA Directive. For instance, transfer of water resources other than river basins, e.g. sub-basins, could have significant effects on environment and thus be made subject to an assessment with regard to its effects.

Annex I or Annex II

Water projects

Annex II (10)

(f) Inland waterway construction not included in Annex I, canalisation and flood relief works

‘canalisation and flood relief works’ must be interpreted as including works for retaining water and preventing floods, and consequently dyke work along navigable waterways. The expression *‘canalisation and flood relief works’* is also to be interpreted as including not only the construction of a new dyke, but also the modification of an existing dyke, involving its relocation, reinforcement or widening, and replacement of a dyke by constructing a new dyke in situ, whether or not the new dyke is stronger or wider than the old one, or a combination of such works.

Energy projects

Annex I (16)

Pipelines with a diameter of more than 800 mm and a length of more than 40 km:

(a) for the transport of gas, oil, chemicals;

(b) for the transport of carbon dioxide (CO₂) streams for the purposes of geological storage, including associated booster stations.

Annex II (10)

(i) Oil and gas pipeline installations and pipelines for the transport of CO₂ streams for the purposes of geological storage (projects not included in Annex I);

... There are two thresholds set in this project category, i.e. diameter and length. The application of Annex I and consequently compulsory environmental impact assessment would be required when both are cumulatively met. Otherwise, Annex II (10) (i) would apply.

... A project cannot be split up into successive shorter sections in order to exclude both the project as a whole and the sections resulting from that division from the requirements of the Directive.

Annex I or Annex II

Example Cases

Waste Management Center

A new non-hazardous landfill is going to be developed next to an existing one that will cease operations once the new one is ready. Once operations have ceased closure of the old landfill will take place.

An MBT facility for 98 tonnes/day is planned to be built right next to the landfilling areas.

In order to facilitate movements to and from the waste management center a new road and a modification of a junction is foreseen on the nearby motorway.

Five regional collection+temporary storage facilities are also foreseen.

Annex I or Annex II?

Incinerator

A municipal waste incinerator will be expanded and upgraded from 80 tonnes per day to 170 tonnes per day

Water abstraction Schemes

The following are part of the scheme:

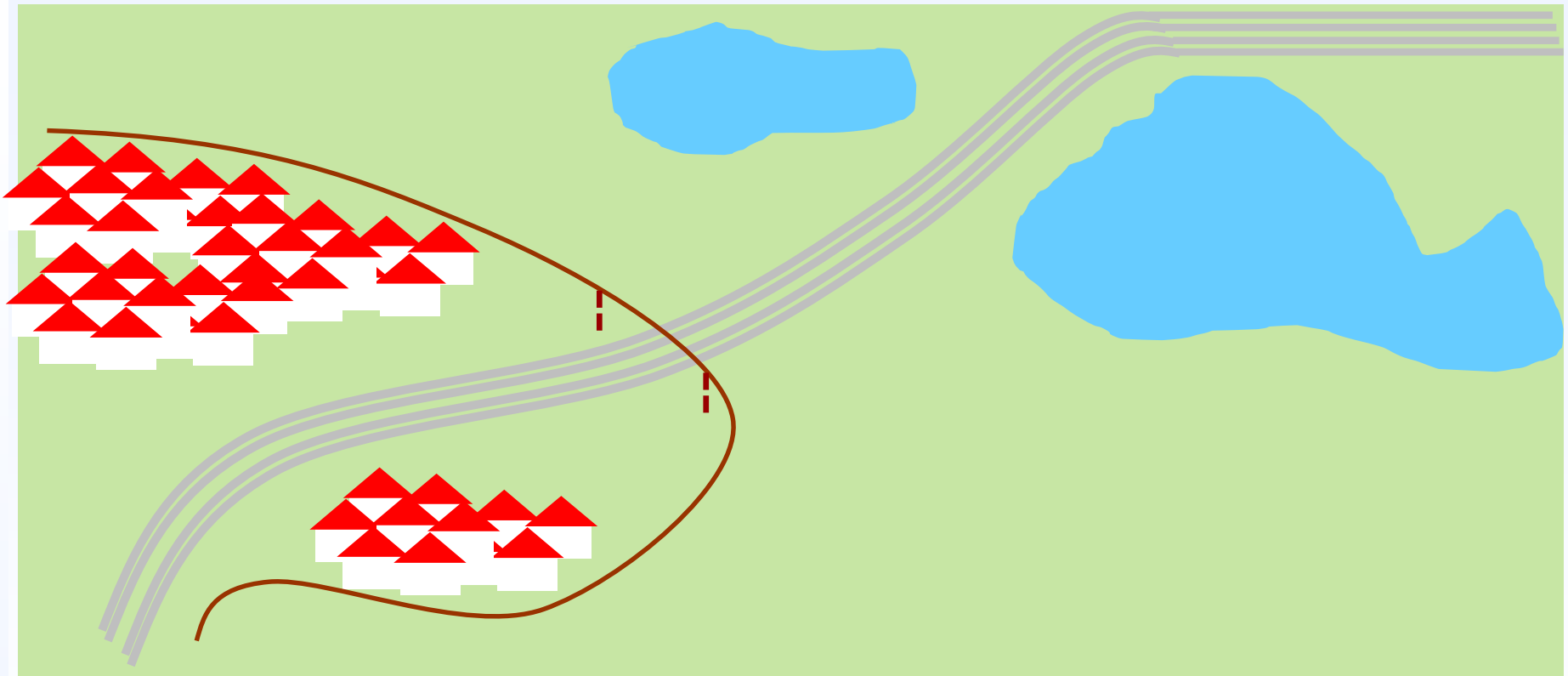
Location A: Group of abstraction boreholes for 5 million m³/year

Location B: Group of abstraction boreholes for 6 million m³/year

The distance from A to B is 2 km and the abstraction is planned from the same aquifer.

Would your answer change if the distance was 5 km?

Annex I or II? Motorway

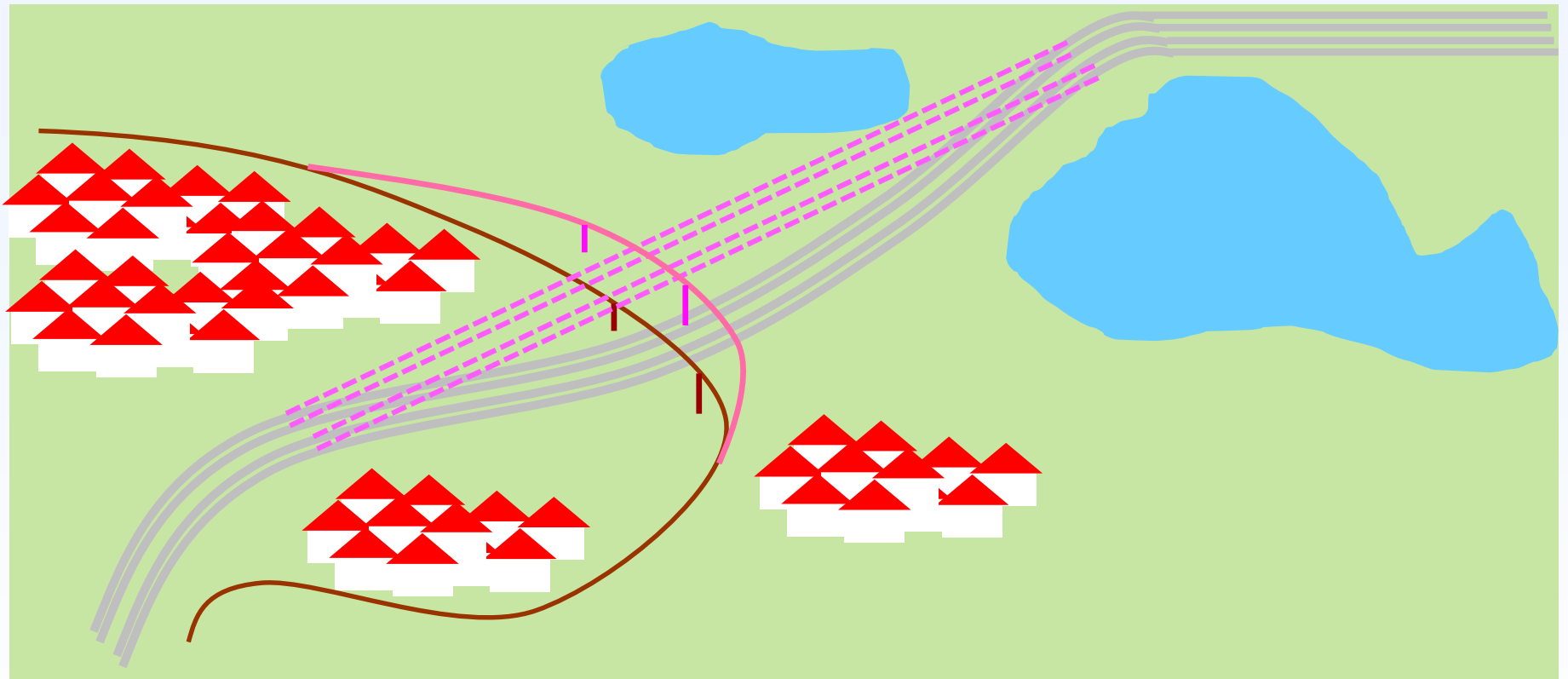


Project Characteristics:

A. Existing 4 x 4 road , near an urban area.

B. Existing motorway, near an urban area

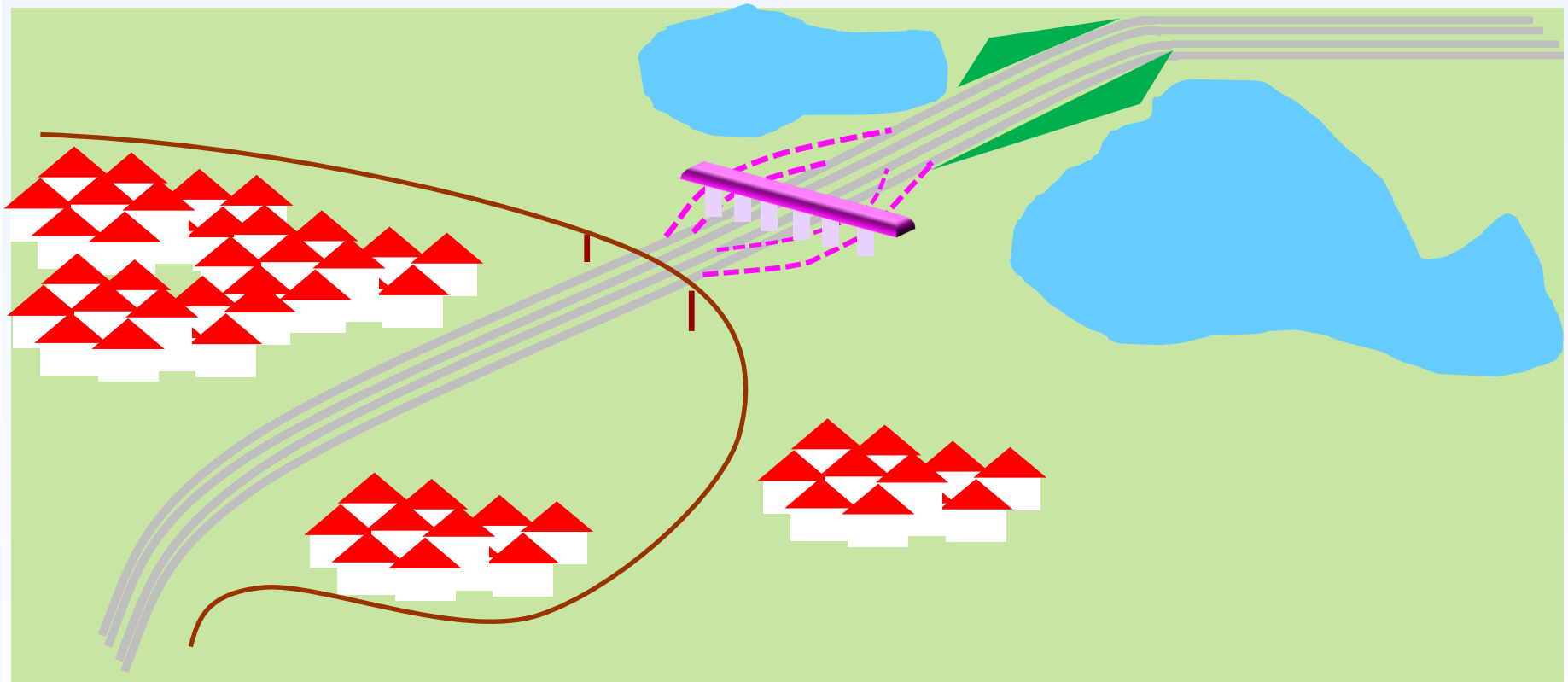
Annex I or II? Motorway (continued)



Project Characteristics 2016:

Realignment and reconstruction where necessary of overpasses and underpasses

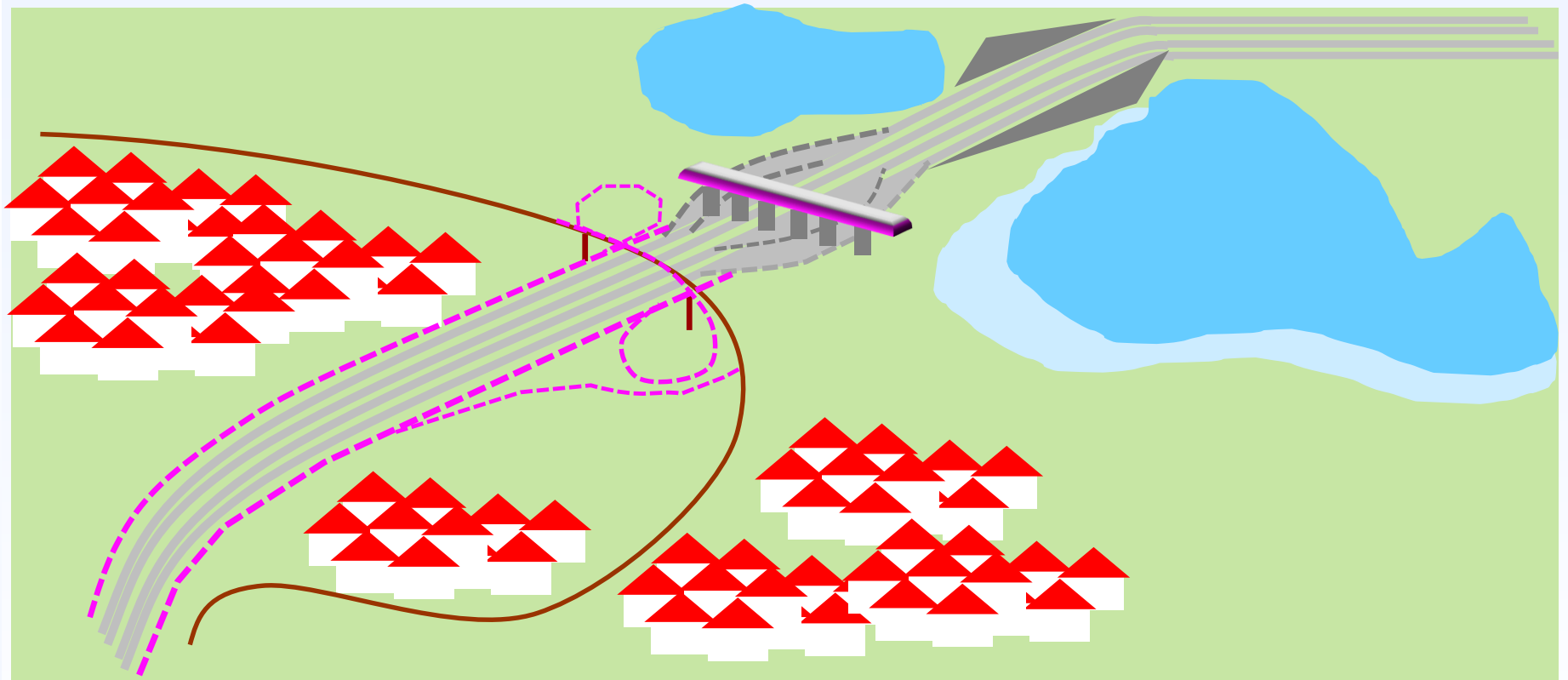
Annex I or II? Motorway (continued)



Project Characteristics in 2018 :

Introduction of tolls and rest area, 500m to 2 km from Natura 2000 sites

Annex I or II? Motorway (continued)



Project Characteristics in 2022:

Introduction of New Junction, Significant environmental baseline change (urbanization and expansion of Natura 2000)

An existing Wastewater Treatment Plant is for 120000 PE. The WWTP will be expanded/upgraded to 160000 PE , which will include:

- **One additional secondary treatment line**
- **Additional tertiary treatment unit (eg Phosphorus removal)**
- **New areas will be covered by the wastewater collection network**

Would the modifications be considered as falling in Annex I or Annex II of the EIA Directive?

Annex I or Annex II

An existing Wastewater Treatment Plant is for 120000 PE. The WWTP will be expanded/upgraded to 160000 PE , which will include:

- Staged Demolition/reconstruction of the pretreatment facility**
- Staged Demolition/reconstruction of the secondary treatment units**
- New sludge treatment unit in order to enable an alternate disposal of the sludge**

Would the modifications be considered as falling in Annex I or Annex II of the EIA Directive?

Annex I or Annex II

An existing Wastewater Treatment Plant is for 120000 PE. The WWTP will be expanded/upgraded to 280000 PE , which will include:

- Three additional secondary treatment lines**

Would the modifications be considered as falling in Annex I or Annex II of the EIA Directive?

Annex I or Annex II

A single track railway line was built in 1957 connecting A to B. The total length of the line from A to B is 82 km. In the 1980s some sections of the rail line were doubled. Today the following are planned:

- **Doubling of a section of 5 km**
- **Construction of two grade crossings**
- **Line electrification**
- **Modernization of a station between A and B**

Would the modifications be considered as falling in Annex I or Annex II?

Annex I or Annex II

A four lane road has been operating since the early 1980's. Due to inadequate maintenance the following interventions are foreseen:

- Total pavement re-construction**
- Substructure replacement and slope adjustments**
- Redesign of two level crossings**

Would the modifications be considered as falling in Annex I or Annex II?

Annex I or Annex II

A pipeline is planned to be developed in two separate construction stages. The construction stages are planned to be consecutive (the construction of the second section will start after the first section is finished).

- The first section is 1000 mm in diameter and 30 km.**
- The second section is 800 mm in diameter and 20 km.**

Would this be considered as falling in Annex I or Annex II?

Annex I or Annex II

A non compliant historical hazardous landfill is to be rehabilitated. The EIA Directive was not applicable at the time of the opening of the landfill.

Would the above fall in any of the Annexes of the EIA Directive?