

[national emblem of the Republic of Poland]

**REGIONAL DIRECTOR
FOR ENVIRONMENTAL PROTECTION
IN SZCZECIN**

SWECO

RECEIVED ON

Date 14.06. 2019

No. [illegible] Signature: [illegible]

Szczecin, on 14th of June 2019

WOPN-OG.6401.02.134.2019.MK
WOPN-OG.6401.03.12.2019.MK
WOPN-OG.6401.04.11.2019.MK
WOPN-OG.6401.06.06.2019.MK
WOPN-OG.6400.71.2019.AJ

DECISION

Pursuant to the Article 104 (1) of the Act of 14 June 1960, the Code of Administrative Procedure (Dz. U. - Journal of Laws of 2018, item 2096 as amended), Article 56, paragraph 2 and paragraph 4, item 6 of the Act of 16 April 2004 on the Environmental Protection (Dz. U. - Journal of Laws of 2018, item 1614, as amended), after considering the application of Ms. Krystyna Araszkiwicz, representing the State Water Holding Polish Waters, Regional Water Management Board in Szczecin of 26 April 2019,

I hereby grant permit to

State Water Holding Polish Waters, Regional Water Management Board in Szczecin for:

1) activities subject to prohibitions applicable to legally protected animal species, i.e:

- deliberate killing, destruction of their habitats or refuges, being their areas for reproduction, breeding of brood, resting or feeding of the river orb mussel *Sphaerium rivicola*;
- deliberate scaring off and disturbing animals, at the names of which in the attachments 1 and 2 to the regulation the marking (1) was placed, and deliberate scaring off or disturbance at the places of accommodation, during the breeding season at reproduction or breeding sites of brood or at the feeding sites of migratory bird groupings, at the names of which in the attachments 1 and 2 to the regulation the marking (2) was placed, of the following species:

➤ **herpetofauna:**

- European fire-bellied toad *Bombina bombina* (1),
- tree frog *Hyla arborea* (1),
- green toad *Pseudepidalea viridis* (1),

- natterjack toad *Epidalea calamita* (1),
 - common toad *Bufo bufo* (1),
 - marsh frog *Pelophylax ridibundus* (1),
 - pool frog *Pelophylax lessonae* (1),
 - edible frog *Pelophylax esculentus* (1),
 - grass frog *Rana temporaria* (1),
 - moor frog *Rana arvalis* (1),
 - agile frog *Rana dalmatina* (1),
 - smooth newt *Lissotriton vulgaris* (1),
 - crested newt *Triturus cristatus* (1),
 - grass snake *Natrix natrix* (1),
- **chiropterofauna:**
- Nathusius' pipistrelle *Pipistrellus nathusii* (1),
 - common pipistrelle *Pipistrellus pipistrellus s.s.* (1),
 - soprano pipistrelle *Pipistrellus pygmaeus* (1),
 - common noctule *Nyctalus noctula* (1),
 - serotine bat *Eptesicus serotinus* (1),
 - unclassified bat *Mystis* sp. (1),
 - Daubenton's bat *Myotis daubentonii* (1),
 - pond bat *Myotis dasycneme* (1),
- **teriofauna:**
- common shrew *Sorex araneus* (1),
 - Eurasian otter *Lutra lutra* (1),
 - stoat *Mustela erminea* (1),
 - European beaver *Castor fiber* (1),
 - Eurasian pygmy shrew *Sorex minutus* (1),
- **ornitofauna:**
- great cormorant *Phalacrocorax carbo* (2),
 - Savi's warbler *Locustella luscinioides* (2),
 - European greenfinch *Chloris chloris* (2),
 - common blackbird *Turdus merula* (2),
 - gadwall *Anas strepera* (2),
 - marsh warbler *Acrocephalus palustris* (2),
 - common linnet *Cannabina cannabina* (2),
 - Eurasian blue tit *Cyanistes caeruleus* (2),
 - common chiffchaff *Phylloscopus collybita* (2),
 - white wagtail *Motacilla alba* (2),
 - dunnock *Prunella modularis* (2),
 - common reed bunting *Emberiza schoeniclus* (2),
 - sedge warbler *Acrocephalus schoenobaenus* (2),
 - European robin *Erithacus rubecula* (2),

- Eurasian wren *Troglodytes troglodytes* (2),
- great reed warbler *Acrocephalus arundinaceus* (2),
- reed warbler *Acrocephalus scirpaceus* (2),
- common chaffinch *Fringilla coelebs* (2),
- common kingfisher *Alcedo atthis* (2).

2) activities subject to prohibitions applicable to legally protected plant species, i.e:

- deliberate picking or damage to specimens, gathering or collection, keeping or possession of specimens, deliberate moving of the water caltrop *Trapa natans* in the natural environment.

This decision shall be valid subject to the following conditions:

- 1) the implementation of the investment will be carried out under the environmental supervision. The persons supervising the executed works will control the correctness of the execution of works with respect to the species occurring in the vicinity of the works' impact;
- 2) scaring off and disturbance will be caused by the presence of people and the noise emitted by the equipment used for hydraulic engineering works;
- 3) if any breeding sites of the above mentioned species are found directly on the investment site, the works on this site will be discontinued until the broods are reared;
- 4) in the case of detecting the presence of protected species other than those indicated in the submitted application, the works shall be suspended until the natural rearing of the brood from their nests or leaving their hiding places, and a separate permit should be obtained from the local Regional Directorate for Environmental Protection for derogations from the prohibitions applicable to the protected species;
- 5) submission of the final report on the implementation of the permit to the Regional Director for Environmental Protection in Szczecin by 15 January 2022

The permit is valid until 31st of December 2021

Justification

Ms. Krystyna Araszkiwicz, representing the Polish State Water Holding Polish Waters, Regional Water Management Board in Szczecin, in the letter dated 26 April 2019, applied to the Regional Director for Environmental Protection in Szczecin for a permit for:

1) activities subject to prohibitions applicable to legally protected animal species, i.e:

- deliberate killing, destruction of their habitats or refuges, being their areas for reproduction, breeding of brood, resting or feeding of the river orb mussel *Sphaerium rivicola*;
- deliberate scaring off and disturbing animals, at the names of which in the attachments 1 and 2 to the regulation the marking (1) was placed, and deliberate scaring off or disturbance at the places of accommodation, during the breeding season at reproduction or breeding sites of brood or at the feeding sites of migratory bird groupings, at the names of which in the attachments 1 and 2 to the regulation the marking (2) was placed, of the following species:

➤ **herpetofauna:**

- European fire-bellied toad *Bombina bombina* (1),

- tree frog *Hyla arborea* (1),
 - green toad *Pseudepidalea viridis* (1),
 - natterjack toad *Epidalea calamita* (1),
 - common toad *Bufo bufo* (1),
 - marsh frog *Pelophylax ridibundus* (1),
 - pool frog *Pelophylax lessonae* (1),
 - edible frog *Pelophylax esculentus* (1),
 - grass frog *Rana temporaria* (1),
 - moor frog *Rana arvalis* (1),
 - agile frog *Rana dalmatina* (1),
 - smooth newt *Lissotriton vulgaris* (1),
 - crested newt *Triturus cristatus* (1),
 - grass snake *Natrix natrix* (1),
- **chiropterofauna:**
- Nathusius' pipistrelle *Pipistrellus nathusii* (1),
 - common pipistrelle *Pipistrellus pipistrellus* s.s. (1),
 - soprano pipistrelle *Pipistrellus pygmaeus* (1),
 - common noctule *Nyctalus noctula* (1),
 - serotine bat *Eptesicus serotinus* (1),
 - unclassified bat *Mystis* sp. (1),
 - Daubenton's bat *Myotis daubentonii* (1),
 - pond bat *Myotis dasycneme* (1),
- **teriofauna:**
- common shrew *Sorex araneus* (1),
 - Eurasian otter *Lutra lutra* (1),
 - stoat *Mustela erminea* (1),
 - European beaver *Castor fiber* (1),
 - Eurasian pygmy shrew *Sorex minutus* (1),
- **ornitofauna:**
- great cormorant *Phalacrocorax carbo* (2),
 - Savi's warbler *Locustella luscinioides* (2) ,
 - European greenfinch *Chloris chloris* (2),
 - common blackbird *Turdus merula* (2),
 - gadwall *Anas strepera* (2),
 - marsh warbler *Acrocephalus palustris* (2),
 - common linnet *Cannabina cannabina* (2),
 - Eurasian blue tit *Cyanistes caeruleus* (2),
 - common chiffchaff *Phylloscopus collybita* (2),
 - white wagtail *Motacilla alba* (2),
 - dunnock *Prunella modularis* (2),
 - common reed bunting *Emberiza schoeniclus* (2),

- sedge warbler *Acrocephalus schoenobaenus* (2),
- European robin *Erithacus rubecula* (2),
- Eurasian wren *Troglodytes troglodytes* (2),
- great reed warbler *Acrocephalus arundinaceus* (2),
- reed warbler *Acrocephalus scirpaceus* (2),
- common chaffinch *Fringilla coelebs* (2),
- common kingfisher *Alcedo atthis* (2).

2) activities subject to prohibitions applicable to legally protected plant species, i.e.:

- deliberate picking or damage to specimens, gathering or collection, keeping or possession of specimens, deliberate moving of the water caltrop *Trapa natans* in the natural environment.

Acting pursuant to the Article 61 (1) (4) and the Article 10 (1) of the Act of 14 June 1960 Code of Administrative Procedure (Dz. U. - Journal of Laws of 2018, item 2096 as amended) in the letter of 20 May 2019, the Regional Director for Environmental Protection in Szczecin informed the party about the initiation of the procedure and the opportunity to comment on the evidence and materials collected. No objections were raised by the party within the specified deadline.

Pursuant to the Article 56 (2) of the Nature Conservation Act of 16 April 2004 (Dz. U. - Journal of Laws of 2018, item 1614, as amended), the Regional Director for Environmental Protection, within the area of his activity, may issue a permit to derogate from selected prohibitions specified in the Article 51, paragraphs 1 and 1a and the Article 52, paragraphs 1 and 1a of this Act as well as the Article 6 of the Regulations of the Minister of the Environment on the protection of species of animals and plants. In accordance with the Article 56 (4)(0) of the Nature Conservation Act, the permits may be issued in the case if alternative solutions cannot be applied and these activities do not adversely affect the maintenance of the favourable conservation status of the wild populations of protected plant, animal and fungi species and at least one of the conditions listed in the Article 56 (4) (1) to (7) of the aforementioned Act must be fulfilled.

The local authority considered that there were grounds for issuing the requested permit. Among the prerequisites specified in the Article 56 (4) of the Nature Conservation Act, an overriding public interest applies (Article 56 (4)(6) of the aforementioned Act).

The activities in question are related to the activity named "Dredging of the Klucz-Ustowo cut" within the framework of the Odra - Vistula Flood Management Project, aimed at increasing the depth of the existing Klucz - Ustowo waterway. This will enable efficient ice protection and navigation of icebreakers participating in the icebreaking action in this section of the river in winter conditions. The scope of works includes silting of the spoil from the bottom of the Klucz - Ustowo cut (approx. 2.7 km long) in order to achieve the required depth of the fairway, in accordance with the agreement of 27 April 2015 between the Government of the Republic of Poland and the Government of the Federal Republic of Germany on joint improvement of the situation on waterways on the Polish-German border (flood protection, flow and navigation conditions).

The implementation of the activities applied for will not cause any threat to the occurring wild populations of protected animal and plant species. The works will be carried out under permanent

environmental supervision, and in case of detecting the presence of other protected species than those indicated in the submitted application, the works will be suspended until the natural rearing of the brood from their nests or hiding places and a separate permit for derogations from the prohibitions applicable to protected species will be obtained.

With regards to the water caltrop *Trapa natans*, which is listed in the Polish Red Book of Plants as an endangered species, it is planned to transfer at least 50 rosettes from the Klucz-Ustowo cut to a replacement site in order to safeguard the population of this species. The above activities will contribute to the settlement of the water caltrop *Trapa natans* on the new site and to the protection of its population within the region boundaries.

Therefore, and taking into account the testing methodology, there are no alternative solutions to the derogations in question.

The granting of the permit for the aforementioned activities corresponds to the prerequisite mentioned in the Article 56 (4)(6) of the Nature Conservation Act, which conditions the issue of the permit in question. Considering the above, it was ruled as in the decision.

Instruction

A party dissatisfied with the decision, pursuant to the Article 127 (1) and the Article 129 (1) and (2) of the Code of Administrative Procedure may appeal to the General Director for Environmental Protection through the Regional Director for Environmental Protection in Szczecin within fourteen days of receipt of the decision.

Failure to comply with the conditions imposed in the decision will be the basis for withdrawal of the permit pursuant to the Article 56 paragraph 7j) of the Nature Conservation Act of 16 April 2004.

The issuance of the decision in question was subject to the stamp duty in the amount of PLN 82, pursuant to the Act of 16 November 2006 on stamp duty (Dz. U - Journal of Laws of 2018, item 1844 as amended), which was paid.

Pursuant to the Article 127a (1) and (2) of the Code of Administrative Procedure, a party may, during the period prescribed for lodging an appeal, waive the right to appeal against the decision of the public administrative authority, which issued the decision. As of the date of delivery of the statement to the public administration authority on waiving the right to appeal by the last party to the proceedings, the decision becomes final and legally binding.

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REGIONAL DIRECTOR FOR ENVIRONMENTAL PROTECTION IN SZCZECIN

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Acting Deputy Director for Environmental Protection in Szczecin
Regional Nature Conservator

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Marcin Siedlecki

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