



**REGIONAL DIRECTORATE
FOR ENVIRONMENTAL
PROTECTION in SZCZECIN**



Szczecin, 03 September 2020

WOPN-OG.6401.00.34.2020.KA
POPDOW - 5.3 – ZPT.011.41.2020

DECISION

Pursuant to Art. 104 § 1 of the Act of 14 June 1960, the Administrative Procedure Code (Journal of Laws 2020, item 256 as amended) and Art. 56, item 2 and item 4, points 6 and 7, item 4c of the Environmental Protection Act dated 16 April 2004 (Journal of Laws 2020, item 55) and § 6, item 1, points 7 and 8, and items 2 and 3 of the Regulation by the Minister of Environment dated 16 December 2016 on protection of animal species (Journal of Laws 2016, item 2183), having considered the application submitted by Mr. Jerzy Siwicki, Sweco Consulting Sp. z o.o., dated 2 July 2020, (ref: POPDOW-5.3-ZPT.010.4.2020, date received: 3 July 2020),

I authorize

the Applicant to perform actions subject to animal species protection bans, i.e.:

- 1) deliberate disturbance and distressing of green snaketail *Ophiogomphus cecilia* and Eurasian beaver *Castor fiber*,
- 2) damage of 3 dams of European beaver *Castor fiber*,
- 3) deliberate disturbance and distressing at night's rest places, during the period of hatching or rearing the young, and in feeding places used by groups of the following migrating or wintering bird species: red-backed shrike *Lanius collurio*, black woodpecker *Dryocopus martius*, goosander *Mergus merganser*;
- 4) damage of up to 2 nests of red-backed shrike *Lanius collurio*,
- 5) damage of habitats or areas where green snaketail *Ophiogomphus cecilia* breed, rear the young, rest, migrate or feed (1 site);

due to implementation of a flood protection investment project consisting in improvement of high water flow in Kanał Rynica-Ognica, at registered lots no. 3, 9, 10, 11/2, 12, 13, 14/3, 15, 20, 34, 39/3, 40/1, 40/2, 76, 82, 633, 634, 688, 0008 Ognica precinct, Widuchowa municipality.

This decision is valid provided that:

- 1) any works related to the permit are carried out under supervision of an expert naturalist whose duties include on-going monitoring for presence of protected animal species in the work area, potential threats to the species reported, developing methods of preventing the threats, on-going inspections and preparing notices to proceed;

- 2) if specimen of other species are reported or it is necessary to breach a ban not specified in this decision, the works at the site should be suspended and relevant permits should be obtained;
- 3) nests of red-backed shrike *Lanius collurio* can be damaged after the nesting season, when the environmental supervision team confirms the young ones that depended on the breeding pair left the nest;
- 4) dams can be destroyed outside the period of breeding and rearing offspring, i.e. from 1 March to 15 April and from 1 August to 30 November of the years the permit is issued for;
- 5) dams can be destroyed irrespectively of the season but only in special circumstances when the dammed up water poses a threat to people or property and only to the minimum extent necessary to eliminate the threat, after prior confirmation that taken actions would not endanger the local beaver population;
- 6) the Regional Directorate for Environmental Protection is presented a report on application of this permit by 15 January in years 2021 - 2023.

The permit is valid from 1 November 2020 to 31 December 2022.

Statement of reasons

On 2 July 2020 Mr. Jerzy Siwicki, Sweco Consulting Sp. z o.o., representing Państwowe Gospodarstwo Wodne Wody Polskie (ref.: POPDOW-5.3-ZPT.010.4.2020, date received: 3 July 2020) applied to the Regional Directorate for Environmental Protection in Szczecin to issue a permit to derogate from bans on protected animal species, i.e.:

- 1) deliberate disturbance and distressing of green snaketail *Ophiogomphus cecilia* and Eurasian beaver *Castor fiber*;
- 2) damage of 3 dams of European beaver *Castor fiber*;
- 3) deliberate disturbance and distressing at night's rest places, during the period of hatching or rearing the young, and in feeding places used by groups of the following migrating or wintering bird species: red-backed shrike *Lanius collurio*, black woodpecker *Dryocopus martius*, goosander *Mergus merganser*;
- 4) damage of up to 2 nests of red-backed shrike *Lanius collurio*,
- 5) damage of habitats or areas where green snaketail *Ophiogomphus cecilia* breed, rear the young, rest, migrate, or feed (1 site);

due to implementation of a flood protection investment project consisting in improvement of high water flow in Kanał Rynica-Ognica, at registered lots no. 3, 9, 10, 11/2, 12, 13, 14/3, 15, 20, 34, 39/3, 40/1, 40/2, 76, 82, 633, 634, and 688, 0008 Ognica precinct, Widuchowa municipality.

Acting pursuant to Art. 61 § 1 and 4, Art. 10 § 1 and Art. 36 of the Administrative Procedure Code, in the letter dated 21 July 2020 (ref.: WOPN-OG.6401.00.34.2020.KA) the Regional Directorate for Environmental Protection in Szczecin notified the party of instigating the procedure and possibility of submitting comments to the collected materials and other evidence. The party submitted no comments regarding the documentation by the specified deadline.

Pursuant to a regulation by the Minister of Environment on protection of animal species red-backed shrike *Lanius collurio*, black woodpecker *Dryocopus martius*, goosander *Mergus merganser*, and green snaketail *Ophiogomphus cecilia* are subject to strict protection, and Eurasian beaver *Castor fiber* is subject to partial protection. Pursuant to Art. 56, item 2, points 1 and 2 of the Environmental Protection Act of 16 April 2004, a regional director for environmental protection can authorize such actions in his / her operational territory as deliberate disturbance and distressing of animals marked with “(1)” in appendices 1 and 2 to the regulation of the Minister of Environment on protection of animal species, deliberate disturbance and distressing of the species at their night’s rest places, during their period of breeding and rearing the young, or group feeding sites of the migrating birds marked with “(2)” in appendices 1 and 2 to the regulation, damage of their habitats or sites where the species breed, rear their young, rest, migrate, or feed, damage of nests and dams of the species covered by protection of species.

Subject to art. 56, item 4 of the environmental protection act, the permit can be issued when there are no alternative solutions, if the requested actions would not pose any risk to the proper protection status of wild populations of protected plants, animals or fungi, and in one of the cases specified in art. 56, item 4, points 1-7 of the act.

This body is of the opinion that the premise for issuing the permit is imperative public interest of social and economic nature (art. 56, item 4, points 6 and 7 of the environmental protection act) because the planned investment project is to improve flood security.

There are no alternative solutions in the case because flood security cannot be ensured without performing the actions specified in the application.

Bearing in mind the considerations for protecting the animals specified in the application and securing their hatching, the permit is conditioned by environmental supervision and timing limits for the actions.

Eurasian beavers *Castor fiber* mate in January and February. Offspring is born in May and June after 105 - 107 days of pregnancy (Zajac T., Romatowski J., Kozyra K. 2015. Eurasian beaver *Castor fiber* (1337). in: M. Makomaska-Juchiewicz, M. Bonk (editors). Monitoring of animal species. A methodological guide. Part IV. GIOŚ, Warsaw, pages 281-316). Winter is the most critical period for beavers. That is when beaver families gather in one place and occupy one chamber in a lodge or den. It helps them maintain a higher inside temperature compared to the outside (a natural monograph of beaver by Czech A. from 2000 published by Wydawnictwo Lubuskiego Klubu Przyrodników, Świebodzin).

Therefore, bearing in mind the ecology of breeding and ethology of the species, it has been permitted to damage dams from 1 March to 15 April and from 1 August to 30 November, i.e. outside the period of breeding and rearing the young, as well as outside the winter period, because removal of dams in that period would mean destroying winter food stores and risk of starvation. Dams can be removed irrespectively of the season in special circumstances when the dammed up water poses a threat to people or property but only to the extent required to eliminate the threat, and after prior confirmation that the actions would not endanger the local beaver population;

The collected documentation and requirements of this decision suggest that performance of the requested actions should not pose a threat to wild populations of the species covered by the permit.

Instruction

A party not satisfied with the decision, according to Art. 127, §1, and Art. 129, §1, and §2 of the Administrative Procedure Code, can appeal to the General Director for Environmental Protection through the Regional Director for Environmental Protection in Szczecin within fourteen days following the day the decision is received.

Furthermore, according to art. 127a, § 1 of the Administrative Procedure Code, during the term specified for lodging an appeal a party can waive the right to appeal against the public administration body that issued the decision. According to art. 127a, § 2 of the APC, as of the day the public administration body is delivered the waiver of the right to appeal by the last party to the proceedings, the decision becomes final and binding, which means no possibility of appealing to the General Directorate for Environmental Protection.

Responsibility for safety of people and property during the works and breaches of third parties' interests rests with the Applicant.

Failure to meet the conditions specified herein will void the permit according to art. 56, item 7j of the environmental protection act of 16 April 2004.

According to art. 130, §4 of the Administrative Procedure Code, the decision is enforceable before the deadline specified for the appeal if it is compliant with all the parties' requirements or all the parties waived their right to appeal.

Issuing this decision is subject to a stamp duty of PLN 82 per decision and PLN 17 for the power of attorney pursuant to the stamp duty act of 16 November 2006 (Journal of Laws 2019, item 1000 as amended). The fees have been paid.

9.0 REGIONALNEGO DYREKTORA
OCHRONY ŚRODOWISKA
w Szczecinie
Aleksandra Stolarzka

Sent to:

Mr. Jerzy Siwicki, Sweco Consulting Sp. z o.o., ul. Łyskowskiego 16, 71-641 Szczecin - ZPO