



**REGIONAL DIRECTORATE
FOR ENVIRONMENTAL
PROTECTION in SZCZECIN**



WOPN-OG.6401.00.37.2020.MR

Szczecin, 2 September 2020

DECISION

Pursuant to art. 56, item 2, points 1 and 2, item 4, point 3 of the environmental protection act of 16 April 2004 (Journal of Laws 2020, item 55), art. 104, § 1 of the Administrative Procedure Code of 14 June 1960 (Journal of Laws 2020, item 256, as amended), and § 6, 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, representing Państwowe Gospodarstwo Wodne Wody Polskie, dated 22 July 2020, ref.: POPDOW-5.3-ZPT.010.11.2020 (date received by this Office: 23 July 2020),

I authorize

Państwowe Gospodarstwo Wodne Wody Polskie to derogate from the bans on strict and partial protection of animal species, i.e. to deliberately disturb and distress the following species in their night's rest places, during the hatching period in their places of nesting or rearing the young, and at group feeding sites of migrating or wintering birds: Eurasian bittern *Botaurus stellaris*, smew *Mergellus albellus*, western marsh harrier *Circus aeruginosus*, northern lapwing *Vanellus vanellus*, great egret *Ardea alba*, corn crake *Crex crex*, gadwall *Anas strepera*, spotted crake *Porzana porzana*, mute swan *Cygnus olor*, goosander *Mergus merganser*, greater scaup *Aythya marila*, bluethroat *Luscinia svecica*, northern pintail *Anas acuta*, black tern *Chlidonias niger*, Eurasian wigeon *Anas penelope*, aquatic warbler *Acrocephalus paludicola*, little crake *Porzana parva*, common crane *Grus grus*, common snipe *Gallinago gallinago*, and to deliberately disturb and distress Eurasian beaver *Castor fiber* and otter *Lutra lutra* at lots no. 43, 41/1, 111, 112, 234/4, 114/2, 114/6, and 114/7, Widuchowa Międzyodrze precinct, lots no. 309, 310, 423, 413, 416/2, 417, and 352, Marvice precinct, Widuchowa municipality, and at lots no. 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343/1, 343/2, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 364, 365, 366, 378, 379, 371, 406, 136, 135, 134/11, 134/12, 380, 195/3, 195/2, 134/9, 134/10, 134/5, 134/14, 134/13, 134/4, 200, and 222/2, Krajnik precinct, Gryfino municipality. The actions are related to modernization of Krajnik pump station under Odra - Vistula Flood Management Project.

This decision is valid provided that:

- 1) the investment project is carried out under the supervision of an environmental team whose duties include monitoring the work area for presence of protected animal species, potential threats to the species reported, developing methods of preventing the threats, and preparing notices to proceed for specific sections;
- 2) works in the vicinity of lots no. 326 and 328/1, Krajnik precinct, Gryfino municipality, are carried out from 1 April to 31 August with particular care and minimizing the scope of the works that generate excessive noise due to documented presence of aquatic warbler nests on the lots;

- 3) if aquatic warbler specimen are spotted, the works should be suspended until the birds leave the habitat;
- 4) if other protected species, not specified in this permit, are spotted, the works should be suspended and relevant permits for derogation should be obtained from local RDEP;
- 5) Regional Directorate for Environmental Protection in Szczecin should be provided with a report on use of this permit by 15 January 2024.

The permit is valid until 31 December 2023.

Statement of reasons

In the letter dated 22 July 2020 (date received by the local Office: 23 July 2020), ref.: POPDOW-5.3-zpt.010.11.2020, Mr. Jerzy Siwicki, representing Państwowe Gospodarstwo Wodne Wody Polskie, appealed to the Regional Directorate for Environmental Protection in Szczecin to issue a permit to derogate from the bans on strict and partial protection of animal species, i.e. to deliberately disturb and distress the following species at their night's rest places, during the hatching period in their places of nesting or rearing the young, and at group feeding sites of the following migrating or wintering birds: Eurasian bittern *Botaurus stellaris*, smew *Mergellus albellus*, western marsh harrier *Circus aeruginosus*, northern lapwing *Vanellus vanellus*, great egret *Ardea alba*, corn crake *Crex crex*, gadwall *Anas strepera*, spotted crake *Porzana porzana*, mute swan *Cygnus olor*, goosander *Mergus merganser*, greater scaup *Aythya marila*, bluethroat *Luscinia svecica*, northern pintail *Anas acuta*, black tern *Chlidonias niger*, Eurasian wigeon *Anas penelope*, aquatic warbler *Acrocephalus paludicola*, little crake *Porzana parva*, common crane *Grus grus*, common snipe *Gallinago gallinago*, and to deliberately disturb and distress Eurasian beaver *Castor fiber* and otter *Lutra lutra* at lots no. 43, 41/1, 111, 112, 234/4, 114/2, 114/6, and 114/7, Widuchowa Międzyodrze precinct, lots no. 309, 310, 423, 413, 416/2, 417, and 352, Marwice precinct, Widuchowa municipality, lot no. 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343/1, 343/2, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 364, 365, 366, 378, 379, 371, 406, 136, 135, 134/11, 134/12, 380, 195/3, 195/2, 134/9, 134/10, 134/5, 134/14, 134/13, 134/4, 200, and 222/2, Krajnik precinct, Gryfino municipality. The actions are related to modernization of Krajnik pump station under Odra - Vistula Flood Management Project.

Acting pursuant to art. 61, § 1 and 4, and art. 10, § 1 of the Administrative Procedure Code, in the letter dated 6 August 2020 (ref.: WOPN-OG.6401.00.37.2020.MR) the Regional Directorate for Environmental Protection in Szczecin notified the party on instigating the procedure and possibility of submitting comments to the collected materials and other evidence. The party submitted no comments by the specified deadline.

According to appendices 1 and 2 to the regulation of the Minister of Environment dated 16 December 2016 on protection of animal species, Eurasian bittern *Botaurus stellaris*, smew *Mergellus albellus*, western marsh harrier *Circus aeruginosus*, northern lapwing *Vanellus vanellus*, great egret *Ardea alba*, corn crake *Crex crex*, gadwall *Anas strepera*, spotted crake *Porzana porzana*, mute swan *Cygnus olor*, goosander *Mergus merganser*, greater scaup *Aythya marila*, bluethroat *Luscinia svecica*, northern pintail *Anas acuta*, black tern *Chlidonias niger*, Eurasian wigeon *Anas penelope*, aquatic warbler *Acrocephalus paludicola*, little crake *Porzana parva*, common crane *Grus grus*, and common snipe *Gallinago gallinago* are species subject to strict protection, and Eurasian beaver *Castor fiber* and otter *Lutra lutra* are species subject to partial protection.

Pursuant to Art. 56, item 2, points 1 and 2 of the Environmental Protection Act of 16 April 2016, 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 the regulation of the Minister of Environment dated 16 December 2016 on protection of animal species (Journal of Laws 2016, item 2183), and 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 the regulation.

The permit can be issued when there are no alternative solutions, if the requested actions do 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 general safety (art. 56, item 4, point 3 of the act). The objective of the investment project is flood protection of areas in Zachodniopomorskie Voivodeship. It is implemented under Odra - Vistula Flood Management Project. Due to the nature of the works, there are no alternative solutions for handling the bans specified in this decision because upgrading flood protection structures would not be possible without deliberate disturbance and distressing of animals.

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

Based on the material collected, RDEP Szczecin has concluded that the case meets the requirements specified in art. 56, item 4 of the environmental protection act, which justifies issuing the requested 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.

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.

Safety of people and property during the works and breaches of third parties' interests rests is responsibility of the Applicant.

According to art. 130, §4, of the Administrative Procedure Code (Journal of Laws 2020, item 256, as amended), 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, pursuant to art. 1, and PLN 17 for the power of attorney (part IV of the appendix), pursuant to the stamp duty act of 16 November 2006 (Journal of Laws 2019, item 1000 as amended). The fees have been paid.

p.o. Zastępcy Regionalnego Dyrektora
Ochrony Środowiska
w Szczecinie
Regionalni Konserwator Przyrody

Marcin Siedlecki

Sent to: Mr. Jerzy Siwicki, ul. Łyskowskiego 16, 71-641 Szczecin - ZPO

