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GENERAL DIRECTOR FOR ENVIRONMENTAL PROTECTION

Date 19/06/ 2019

Andrzej Szweda-Lewandowski

No.

Signature

DZP-WG.6401.01.18.2019.eb

Warsaw, 12/06/2019

DECISION

Pursuant to Article 104(1) of the Code of Administrative Proceedings of 14 June 1960 (consolidated text: Polish Journal of Laws 2018, item 2096, as amended) and Article 56 para. 1(1) and para. 4(3) and (6), in conjunction with Article 52(1)(3) of the Nature Conservation Act of 16 April 2004 (Polish Journal of Laws 2018, item 1614, as amended), having examined the application filed on 10 May 2019 by the State Water Holding Polish Waters – Regional Water Management Board in Szczecin, represented by the attorney, Ms Krystyna Araszkiwicz of Sweco Consulting Sp. z o.o. under the letter of authorisation dated 27 March 2019, ref.: SZ.R00.012.58.2019.MG, for an exemption from the bans regarding the green snaketail (*Ophiogomphus cecilia*),

I hereby allow

the State Water Holding Polish Waters – Regional Water Management Board in Szczecin for incidental, intentional destruction of up to 20 larvae of the green snaketail at each position, during the works carried out on the Oder river, at:

1. km 572.0 of the river – Kunice, Słubice commune, Lubuskie province;
2. km 595.3 of the river – Pławidło, Słubice commune, Lubuskie province;
3. km 607.5 of the river – Ługi Górzycykie, Górzycza commune, Lubuskie province;
4. km 663.1 of the river – Osinów Dolny, Cedynia commune, Zachodniopomorskie province;
5. km 688.0 of the river – Zatoń Dolna, Chojna commune, Zachodniopomorskie province.

This permit remains valid until 31 December 2021.

I oblige the Applicant to provide the General Director for Environmental Protection with a report on the extent this permit has been used, until 31 January 2022. The report shall specify the number of specimens killed and the dates and locations of killing. A copy of the report must be sent to the Regional Directors for Environmental Protection in Gorzów Wielkopolski and in Szczecin.

Justification

By the application dated 10 May 2019, Ms Krystyna Araszkiwicz of Sweco Consulting

Sp. z o.o., representing the State Water Holding Polish Waters – Regional Water Management Board in Szczecin under the letter of authorisation dated 27 March 2019, ref.: SZ.ROO.012.58.2019.MG, has applied to the General Director for Environmental Protection for a permit for intentional destruction of the eggs and growing forms of the green snaketail. The activities applied for arise from the planned project titled ‘The construction of docking-mooring infrastructure on Lower Odra River and on boundary sections of Odra River as well as new aids to navigation’, and concern the construction of mooring facilities for icebreakers (installing dolphins outside the waterway boundary).

The green snaketail is under strict protection, in accordance with Appendix 1 to the Regulation of the Minister of Environment of 16 December 2016 species of wild animals under protection (Polish Journal of Laws 2016, item 2183). Pursuant to § 6(3) of the said Regulation, and pursuant to Article 52(1)(3) of the Nature Conservation Act, it is forbidden to intentionally destroy the eggs or growing forms of protected wild animals.

Pursuant to Article 56 para. 1(1) and para. 4, in conjunction with Article 52(1)(3) of the Nature Conservation Act, an exemption from that ban, for wild animals under strict protection, may be issued by the General Director for Environmental Protection, if there is no alternative solution, it is not detrimental for maintaining the favourable conservation status of wild populations of protected animal species, and one of the substantive-law conditions listed in Article 56(4)(1) to (6) of the cited Act is fulfilled.

The green snaketail exists virtually all over Poland (except the mountains). It is locally regarded as a common species and is rare in only few areas – those which are most modified and poor in watercourses, for instance in some regions of the central and southern Poland. It is a species that develops in running waters only. It settles watercourses situated on lowlands and submontane areas, from streams to large rivers. In Poland, small rivers are not very important to that species, but watercourses of several to more than ten meters wide are often settled. At many watercourses it exists on a continuous basis, and its population is high, for instance along the middle Warta river. In Poland, the average lifecycle of the green snaketail is 2 years. During most of that time, it remains a larva. Larvae often live at a shallow level and are almost completely buried in the riverbed deposits. The countrywide population of that species is stable. Therefore, a destruction of up to 100 larvae of the green snaketail at 116 km of the Oder river will not adversely affect its population. It is all the more so as the larvae will be destroyed only locally, at the positions covered by the site of the project.

The purpose of the actions which the Contractor has applied for is to carry out the planned project titled ‘The construction of docking-mooring infrastructure on Lower Odra River and on boundary sections of Odra River as well as new aids to navigation’, and concern the construction of mooring facilities for icebreakers (installing dolphins outside the waterway boundary). The task is carried out as part of the Odra-Vistula Flood Management Project, and aims at allowing safe and effective ice-breaking.

It also pursues the flood risk management plans for specific catchment areas, which have been adopted by Regulation of the Council of Ministers of 18 October 2016. The main objective of these plans is to mitigate the potential adverse effects of flooding on human life and health, the environment, cultural heritage and business activity, by implementing actions aimed to minimise the identified hazards. The actions will, for example, reduce the losses due to flooding. The location of the dolphins (mooring facilities for icebreakers) is based on many consultations and a proven approach, as the daily length of ice-breaking operations, if there is no extraordinary

danger, should be no more than approx. 20 km. Once the new mooring facilities are built, the average distance between the mooring places will be 12.6 km, which will allow the icebreakers to work upstream, without having to return downstream to distant mooring locations after assessing the risk of icing existing upstream of the place where the operations were completed. This is particularly important where the water level goes down after breaking the ice, and the icebreakers, in order to continue their work on the following days, find it difficult to approach the face of the remaining ice cover. It is estimated that, due to the works, up to 20 specimens of green snaketail larvae may be destroyed at each position (up to 100 specimens in total). This may occur during the works covered by the project, for instance while performing the works which only involve the vibration hammering of an open-end steel pipe with a soil plug created inside and the remainder filled with sand, as well as during related works which must be carried out from water. Given the foregoing, the implementation of the actions applied for fulfils the conditions specified in Article 56(4)(3) and (6) of the Nature Conservation Act, which means that they fall within the public health and safety and are due to necessary overriding reasons of public interest, including social or economic requirements, or requirements related to favourable effects of principal importance to the environment. Given the purpose of the actions applied for, it must be considered that there is no alternative solution in this case.

With the above in mind, I rule as stated.

Instruction

This decision is not appealable, but pursuant to Article 127(3) of the Code of Administrative Proceedings, a party dissatisfied with the decision may, within 14 days of the date this decision is received, apply to the General Director for Environmental Protection for reconsidering the case.

Pursuant to Article 52(3), Article 53(1) and Article 54(1), and Division V, Chapters 2 and 3 of the Law of Proceedings Before Administrative Courts of 30 August 2002 (Polish Journal of Laws 2016, item 718, as amended), if the party does not wish to use the right to apply for reconsidering the case, it may lodge a complaint against the decision with the Provincial Administrative Court within 30 days of the date it received the decision. The complaint shall be lodged through the General Director for Environmental Protection. The fee is PLN 200, but the party may apply for exemption from the court costs or for granting the right of aid.

In addition, pursuant to Article 127a(1) of the Code of Administrative Proceedings, during the term to apply for reconsideration of the case, the party may waive the right to file such application. In accordance with Article 127a(2) of the Code of Administrative Proceedings, on the date the public administration authority receives the statement of waiver of the right to apply for reconsidering the case, the decision shall become final and binding, which means that it may not be complained against to the Provincial Administrative Court.

This permit does not exempt from compliance with other provisions, including those set forth in the Civil Code of 23 April 1964 (Polish Journal of Laws 2017, item 459, as amended). Therefore, prior to entering the real property, it is required to obtain a relevant authorisation by the owner or a person entitled to grant such authorisation under any other title.

GENERAL DIRECTOR FOR
ENVIRONMENTAL PROTECTION

Registration date / signature
Addressee
Action
Copy

Recipients:

Ms Krystyna Araszkiewicz, Sweco Consulting Sp. z o.o., ul. Łyskowskiego 16, 71-641 Szczecin

Copy to:

1. Regional Director for Environmental Protection in Gorzów Wielkopolski
2. Regional Director for Environmental Protection in Szczecin