

Date 22/07/2020



REGIONAL DIRECTOR FOR
ENVIRONMENTAL PROTECTION
IN SZCZECIN

No ZPT.011.102.2020 Signature 

Szczecin, 20 July 2020

WOPN-OG.6401.00.03.2020.KA

DECISION

Pursuant to Article 104(1) of the Law of 14 June 1960 – Code of Administrative Procedure (Journal of Laws 2020, item 256, as amended) and Article 56 (2) and (4) item 6, (4c) of Act of 16 April 2004 on the nature conservation (Journal of Laws 2020, item 55) and § 6 (1) item 2, 6, 7, 8, 12 and (2) and (3) of the Regulation of the Minister of Environment of December 16, 2016, on the protection of animal species (Journal of Laws 2016, item 2183), having examined the application of Mrs Krystyna Araszkiwicz from the company Sweco Consulting Sp. z o.o. representing the State Water Holding Polish Waters of 20 May 2020, (case no.: POPDOW-ZPT.070.9.2020, received on May 20, 2020),

- I. **I permit** the Applicant for activities covered by prohibitions applicable to the animal species protected by law, i.e.:
- 1) collection, keeping of specimens of species, deliberate movement of specimens from their regular habitats to other locations, destruction of habitats and refuges that are the areas of breeding, rearing, resting or feeding of swan mussel *Anodonta cygnea*, depressed river mussel *Pseudoanodonta complanata*;
 - 2) intentional interference or disturbance of the green snake tail *Ophiogomphus cecilia* and the Atlantic sturgeon *Acipenser oxyrinchus*;
 - 3) destruction of habitats or refuges that are the areas of breeding, rearing, resting or feeding, destruction of wintering sites and other shelters of amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, weatherfish *Misgurnus fossilis*, white-finned gudgeon *Romanogobio albipinatus*, stone loach *Barbatula barbatula*, golden loach *Sabanejewia aurata*, river lamprey *Lampetra fluviatilis*, Atlantic sturgeon *Acipenser oxyrinchus*;
 - 4) collection, keeping of specimens of species, movement of specimens from their regular habitats to other locations of amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, white-finned gudgeon *Romanogobio albipinatus*;
 - 5) intentional interference or disturbance, collection, keeping of specimens of species, movement from their regular habitats to other locations of the following species: fire-bellied toad *Bombina bombina*, common toad *Bufo bufo*, green toad *Pseudepidalea viridis*, common frog *Rana temporaha*, pool frog *Pelophylax lessonae*, marsh frog *Pelophylax ridibundus*, smooth newt *Lissotriton vulgaris*, sand lizard *Lacerta agilis*, grass snake *Natrix natrix*;

- 6) deliberate scaring and disturbance in night-time shelters, in breeding season in the breeding or rearing areas, or in feeding areas, of the groups of migrating or wintering birds of the following species: little bittern *Ixobrychus minutus*, great bittern *Botaurus stellaris*, barnacle goose *Branta leucopsis*, white-tailed eagle *Haliaeetus albicilla*, marsh harrier *Circus aeruginosus*, black stork *Ciconia nigra*, common sandpiper *Actitis hypoleucos*, sand martin *Riparia riparia*, garganey *Spatula querquedula*, northern lapwing *Vanellus vanellus*, great egret *Ardea alba*, grey heron *Ardea cinerea*, corncrake *Crex crex*, hoopoe *Upupa epos*, black woodpecker *Dryocopus martius*, green woodpecker *Picus viridis*, rook *Corvus frugilegus*, common goldeneye *Bucephala clangula*, red-backed shrike *Lanius collurio*, barred warbler *Curruca nisoria*, black kite *Milvus migrans*, red kite *Milvus milvus*, western jackdaw *Corvus monedula*, common stonechat *Saxicola torquata*, great cormorant *Phalacrocorax carbo*, gadwall *Mareca strepeta*, sparrowhawk *Accipiter nissus*, common raven *Corvus corax*, common snipe *Gallinago gallinago*, woodlark *Lullula arborea*, mute swan *Cygnus olor*, common gull *Larus canus*, herring gull *Larus argentatus*, rough-legged buzzard *Buteo lagopus*, common merganser *Mergus merganser*, common shelduck *Tadorna tadorna*, great crested grebe *Podiceps cristatus*, little grebe *Tachybaptus ruficollis*, northern shoveler *Spatula clypeata*, Eurasian eagle-owl *Bubo bubo*, common kestrel *Falco tinnunculus*, black tern *Chlidonias niger*, western osprey *Pandion haliaetus*, great grey shrike *Lanius excubitor*, common starling *Sturnus vulgaris*, black-headed gull *Chroicocephalus ridibundus*, Eurasian wigeon *Anas penelope*, hooded crow *Corvus cornix*, common kingfisher *Alcedo atthis*, European bee-eater *Merops apiaster*, crane *Grus grus*;
- 7) destruction of habitats or refuges that are the areas of breeding, rearing, resting or feeding of the following species: little bittern *Ixobrychus minutus*, great bittern *Botaurus stellaris*, common sandpiper *Actitis hypoleucos*, sand martin *Riparia riparia*, garganey *Spatula querquedula*, mute swan *Cygnus olor*, common shelduck *Tadorna tadorna*, common kingfisher *Alcedo atthis*;
- 8) destruction of the socket of the common kingfisher *Alcedo atthis*;
- 9) deliberate scaring and disturbance of the following species: otter *Lutra lutra*, beaver *Castor fiber*, wolf *Canis lupus*, weasel *Mustela nivalis*, stoat *Mustela erminea*, common shrew *Sorex araneus*, pygmy shrew *Sorex minutus*, European mole *Talpa europaea*,
- 10) destruction of habitats or refuges that are the areas of breeding, rearing, resting or feeding of the following species: otter *Lutra lutra*, beaver *Castor fiber*,
- 11) destruction of wintering sites and other shelters for the following species: common shrew *Sorex araneus*, pygmy shrew *Sorex minutus*, water vole *Arvicola amphibius*, wood mouse *Apodemus sylvaticus*;
- 12) deliberate scaring and disturbance of the following species: nathusius' pipistrelle *Pipistrellus nathusii*, common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus*, common noctule *Nyctalus noctula*, serotine bat *Eptesicus serotinus*, daubenton's bat *Myotis daubentonii*, mouse-eared bat *Myotis sp.*, pond bat *Myotis dasycneme*,

in connection with modernisation works on the border Odra to be carried out as part of the Odra-Vistula Flood Management Project (OVFMP), section 4: 645.5 – 654.0 km – Gozdowice area – Stara Rudnica and section 5: 654.0 – 663.0 km – Stara Rudnica area – Osinów Dolny.

This decision shall remain valid with the following conditions:

- 1) all works related to the authorisation in question must be supervised by a natural environment specialist, whose task will be, among others, ongoing control of the presence of protected animal species in the area covered by the works, possible threats to the identified species, development of methods to counteract this threat, ongoing controls, as well as permitting work on the section in question to begin;

- 2) where specimens of species other than those referred to above are found to be present or where prohibitions other than those referred to in this decision need to be infringed, the work at the place of their occurrence shall be suspended and appropriate authorization obtained;
- 3) destruction of breeding bird habitats and nests of the common kingfisher *Alcedo atthis* may be carried out after the breeding season, after confirmation by the environmental supervision of their departure by young individuals dependent on the parent pair;
- 4) if breeding habitats and nests of species listed in Appendix 4 to the Regulation of the Minister of Environment on the protection of animal species are found on the route, the Regional Director for Environmental Protection should be notified, special care should be taken when carrying out the works in order not to cause abandonment of breeding, as well as appropriate permits for derogations from the prohibitions in force in the protection zones of refuges, breeding areas or regular residence;
- 5) destruction of habitats and shelters of fish may be carried out after spawning, hatching and fish growth periods, i.e. from July 16 until the end of February, which date may be modified by the supervising ichthyologist if:
 - a) the reasons for the conservation of species covered by the application so require;
 - b) it will be possible to carry out the action without harming the protected species;
- 6) trapping of amphibian shall be carried out either by herpetological bucket or by hand, by persons with appropriate knowledge;
- 7) trapping of bivalve molluscs must be done under natural supervision, by dredging (approximately 1 m wide and 5 mm mesh), by hand barrier (5 mm mesh) or by any other method indicated by natural surveillance;
- 8) collection, keeping and movement from their regular habitats to other locations of amur bitterling *Rhodeus amarus*, the sined loach *Cobitis taenia*, white-finned gudgeon *Romanogobio albipinatus*, must be carried out in accordance with the methods indicated by nature surveillance, in such a way as to ensure the maximum survival of kept animals,
- 9) captured/collected specimens of bivalve molluscs, amphibians and fish shall be kept in a bucket of clean water (preferably taken from the capture site prior to the operation) until released;
- 10) captured individuals should be released into the environment in the place indicated by environmental supervision, as soon as possible;
- 11) in order to reduce the transmission of pathogens, trapping/capture/collection equipment, and protective clothing, if any, must be disinfected after harvesting at each station;
- 12) a report on the use made of this authorisation shall be submitted to the Regional Director for Environmental Protection in Szczecin by 15 January in 2021, 2022 and a final report by 15 March 2023, together with the results of the studies carried out.

This permit remains valid until February 28, 2023.

II. I refuse to grant permission to destroy the nests of *Riparia riparia*, on the grounds that, in environmental decision No 5/2020 of 18 March 2020, ref. no.: WONS-AŚ.4233.1.2017.KK.68 it was indicated that there will be no interference in slopes on which nest minks of the above species are located.

Justification

By the application dated 20 May 2020, (ref. no.: POPDOW-ZPT.070.9.2020, received on 20 May 2020), Mrs Krystyna Araszkiwicz from the company Sweco Consulting Sp. z o.o. representing the State Water Holding Polish Waters, applied to the Regional Director for Environmental Protection in Szczecin for a permit for a derogation from the prohibitions applicable to protected animal species, i.e.:

- 1) collection, keeping of specimens of species, deliberate movement of specimens from their regular habitats to other locations, destruction of habitats and refuges that are the areas of breeding, rearing, resting or feeding of swan mussel *Anodonta cygnea*, depressed river mussel *Pseudoanodonta complanata*;
- 2) intentional interference or disturbance of the green snaketail *Ophiogomphus cecilia* and the Atlantic sturgeon *Acipenser oxyrinchus*;
- 3) destruction of habitats or refuges that are the areas of breeding, rearing, resting or feeding, destruction of wintering sites and other shelters of amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, weatherfish *Misgurnus fossilis*, white-finned gudgeon *Romanogobio albipinatus*, stone loach *Barbatula barbatula*, golden loach *Sabanejewia aurata*, river lamprey *Lampetra fluviatilis*, Atlantic sturgeon *Acipenser oxyrinchus*;
- 4) collection, keeping of specimens of species, movement of specimens from their regular habitats to other locations of amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, white-finned gudgeon *Romanogobio albipinatus*;
- 5) Intentional interference or disturbance, collection, keeping of specimens of species, movement from their regular habitats to other locations of the following species: fire-bellied toad *Bombina bombina*, common toad *Bufo bufo*, green toad *Pseudepidalea viridis*, common frog *Rana temporaha*, pool frog *Pelophylax lessonae*, marsh frog *Pelophylax ridibundus*, smooth newt *Lissotriton vulgaris*, sand lizard *Lacerta agilis*, grass snake *Natrix natrix*;
- 6) deliberate scaring and disturbance in night-time habitats, during the breeding season in breeding or rearing areas, or in feeding areas, of the groups of migrating or wintering birds of the following species: little bittern *Ixobrychus minutus*, great bittern *Botaurus stellaris*, barnacle goose *Branta leucopsis*, white-tailed eagle *Haliaeetus albicilla*, marsh harrier *Circus aeruginosus*, black stork *Ciconia nigra*, common sandpiper *Actitis hypoleucos*, sand martin *Riparia riparia*, garganey *Spatula querquedula*, northern lapwing *Vanellus vanellus*, great egret *Ardea alba*, grey heron *Ardea cinerea*, corncrake *Crex crex*, hoopoe *Upupa epos*, black woodpecker *Dryocopus martius*, green woodpecker *Picus viridis*, rook *Corvus frugilegus*, common goldeneye *Bucephala clangula*, red-backed shrike *Lanius collurio*, barred warbler *Curruca nisoria*, black kite *Milvus migrans*, red kite *Milvus milvus*, western jackdaw *Corvus monedula*, common stonechat *Saxicola torquata*, great cormorant *Phalacrocorax carbo*, gadwall *Mareca strepeta*, sparrowhawk *Accipiter nissus*, common raven *Corvus corax*, common snipe *Gallinago gallinago*, woodlark *Lullula arborea*, mute swan *Cygnus olor*, common gull *Larus canus*, herring gull *Larus argentatus*, rough-legged buzzard *Buteo lagopus*, common merganser *Mergus merganser*, common shelduck *Tadorna tadorna*, great crested grebe *Podiceps cristatus*, little grebe *Tachybaptus ruficollis*, northern shoveler *Spatula clypeata*, Eurasian eagle-owl *Bubo bubo*, common kestrel *Falco tinnunculus*, black tern *Chlidonias niger*, western osprey *Pandion haliaetus*, great grey shrike *Lanius excubitor*, common starling *Sturnus vulgaris*, black-headed gull *Chroicocephalus ridibundus*, Eurasian wigeon *Anas penelope*, hooded crow *Corvus cornix*, common kingfisher *Alcedo atthis*, European bee-eater *Merops apiaster*, crane *Grus grus*;
- 7) destruction of habitats or refuges that are the areas of breeding, rearing, resting or feeding of the following species: little bittern *Ixobrychus minutus*, great bittern *Botaurus stellaris*,

common sandpiper *Actitis hypoleucos*, sand martin *Riparia riparia*, garganey *Spatula querquedula*, mute swan *Cygnus olor*, common shelduck *Tadorna tadorna*, common kingfisher *Alcedo atthis*;

- 8) destruction of the nests of san martin *Riparia riparia*, common kingfisher *Alcedo atthis*;
- 9) deliberate scaring and disturbance of the following species: otter *Lutra lutra*, beaver *Castor fiber*, wolf *Canis lupus*, weasel *Mustela nivalis*, weasel *Mustela erminea*, common shrew *Sorex araneus*, pygmy shrew *Sorex minutus*, European mole *Talpa europaea*,
- 10) destruction of habitats or refuges that are the areas of breeding, rearing, resting or feeding of the following species: otter *Lutra lutra*, beaver *Castor fiber*,
- 11) destruction of wintering sites and other shelters for the following species: pygmy shrew *Sorex minutus*, water vole *Arvicola amphibius*, wood mouse *Apodemus sylvaticus*;
- 12) deliberate scaring and disturbance of the following species: nathusius' pipistrelle *Pipistrellus nathusii*, common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus*, common noctule *Nyctalus noctula*, serotine bat *Eptesicus serotines*, daubenton's bat *Myotis daubentonii*, mouse-eared bat *Myotis sp.*, pond bat *Myotis dasycneme*,

in relation to modernisation works on the border Odra to be carried out as part of the Odra-Vistula Flood Management Project (OVFMP), section 4: 645.5 – 654.0 km – Gozdowice area – Stara Rudnica and section 5: 654.0 – 663.0 km – Stara Rudnica area – Osinów Dolny.

Pursuant to Article 61 (1) and (4) and Article 10 (1) of the Code of Administrative Procedure, by letter dated 25 June 2020 (ref. no.: WOPN-OG.6401.00.03.2020.KA), the Regional Director for Environmental Protection in Szczecin notified the party of having initiated the proceedings and of the possibility to comment on the evidence and materials collected. The party did not submit any comments in the period prescribed.

Pursuant to the Regulation of the Minister of Environment on conservation of animal species, all species covered by the application are subject to conservation of species – strict or partial. Pursuant to Article 56 (2) item 1 and 2 of the Act of 16 April 2004 on the nature conservation, the Regional Director for Environmental Protection, in the area of his activity, may allow, among others, the collection, retention of specimens of species, deliberate movement from regular habitats to other places, deliberate scaring and disturbance of animals, whose names are marked in Appendices 1 and 2 to the Regulation of the Minister of Environment on the protection of animals (1), deliberate scaring and disturbance in night-time habitats, in the breeding season in breeding or rearing areas, or in feeding areas of groups of migrating birds, whose names are marked in Appendices 1 and 2 to the above-mentioned Regulation (2), destruction of habitats or refuges that are the areas of breeding, rearing, resting or feeding, destruction of nests, wintering areas, or other shelters of protected animals.

Pursuant to Article 56 (4) of the Act of nature conservation, the above authorisation may be issued in the absence of alternative solutions, if the requested activities are not detrimental to maintaining the proper conservation status of wild populations of protected plants, animals or fungi, and in the event of the occurrence of one of the conditions specified in Article 56 (4) item 1–7 of the Act.

In the opinion of the local authority, the prerequisite for issuing this authorisation is an overriding social and economic interest (Article 56 (4) item 6 and 7 of the Act of nature conservation), as the implementation of the investment will improve flood safety and reduce the costs of de-icing and maintaining the riverbed.

In the present case, there are no justified alternatives, due to the fact that it is not possible to conduct fully valuable research without performing the activities covered by the application.

In view of the fact that, in environmental decision No 5/2020 of 18 March 2020, ref. no.: WONS-OŚ.4233.1.2017.KK.68 indicated that there will be no interference in the slopes on which nest minks *Riparia riparia* are located, permission to destroy nests of the above species was refused.

Taking into account the protection of the population of animals covered by the application and the reduction of trapping stress and the protection of breeds, appropriate conditions were imposed concerning natural surveillance, deadlines for carrying out the activities covered by the application, limiting the stress of trapped animals and preventing the transmission of possible pathogens between sites.

In the light of the documentation collected and subject to the conditions of this decision, it is appropriate that the performance of the requested activities will not result in a threat to wild populations of the species covered by the authorisation.

Instruction

Pursuant to Article 127 (1) and Article 129 (1) and (2) of the Code of Administrative Procedure, a party dissatisfied with this decision may appeal to the General Director for Environmental Protection through the Regional Director for Environmental Protection in Szczecin, within fourteen days from the date the decision was served.

Pursuant to Article 127a (1) of the Code of Administrative Procedure, during the time for submitting an appeal, a party may waive its right to bring an appeal against the public administration body that issued the decision. In accordance with Article 127a (2) of the Code of Administrative Procedure, the decision shall become final and legally binding on the date the public administration body receives the statement of derogation of the right to appeal from the last of the parties involved, after which no appeal may be brought to the General Director for Environmental Protection.

The Applicant is responsible for the safety of people and property during the above-mentioned works, as well as for violation of the interests of third parties.

If the conditions laid down in the decision are not fulfilled, an authorisation shall be withdrawn under Article 56(7j) of Act of 16 April 2004 on the nature conservation.

Pursuant to Article 130 (4) of the Code of Administrative Procedure (Journal of Laws 2020, item 256), a decision shall be enforceable before the expiry of the term to bring an appeal if it is in accordance with the request of all parties or if all parties have waived their right to bring an appeal.

This decision was subject to a stamp duty of PLN 82 per decision and PLN 17 per power of attorney under the The Act Of 16 November 2006 On Stamp Duty (Journal of Laws 2019, item 1000, as amended) The above fees have been paid.



p.o. Zastępcy Regionalnego Dyrektora
Ochrony Środowiska
w Szczecinie
Regionalny Konserwator Przyrody
Marcin Siedziński

Recipient:

Mrs Krystyna Araszkiwicz, Sweco Consulting Sp. z o.o., Łyskowskiego 16 Street, 71-641 Szczecin – against confirmation of receipt