



**REGIONAL DIRECTOR
FOR ENVIRONMENTAL PROTECTION
IN CRACOW**

OP-I.6401.65.2020.PKw

Cracow, 29 May 2020

DECISION

Pursuant to Article 56(2)(1) and (2) and Article 56 (4)(6) and (7) of the Act of 16 April 2004 on nature protection (i.e. Journal of Laws of 2020, item 55) and Article 104 of the Code of Administrative Procedure (i.e. Journal of Laws of 2020, item 256) in conjunction with § 6(3) of the Regulation of the Minister of the Environment of 16 December 2016 on the protection of animal species (Journal of Laws of 2016, item 2183, amended with JoL of 2020, item 26), after examining into the application of AECOM Polska Sp. z o.o., Al. Pokoju 1 (building K1), 31-548 Cracow, of 21 February 2020 (date of receipt: 21 February 2020), supplemented finally on 17 April 202, on issuing the permit for derogations from certain activities prohibited for protected species:

- I. I permit AECOM Polska Sp. z o.o. Al. Pokoju 1 (building K1) 31-548 Cracow to:**
- a.** deliberately capture, transport, confine temporarily, destroy habitats or refuges that are areas of breeding, rearing of young individuals, resting and feeding, and to intentionally transfer from one place of regular inhabitation to another place up to 100 specimens of the Roman Snail (*Helix pomada*), Water Frog (*Pelophylax esculentus*), Pool Frog (*Pelophylax lessonae*), Sand Lizard (*Lacerta agilis*);
 - b.** destroy the habitats or refuges being the areas of breeding, rearing of young individuals, resting and feeding grounds and destroy, remove or damage the nests of Blackbird (*Turdus merula*) and Squirrel (*Sciurus vulgaris*);
 - c.** destroy the habitats or refuges being the areas of breeding, rearing of young individuals, resting and feeding grounds of Grey Wagtail (*Motacilla alba*), Yellow Wagtail (*Motacilla flava*), Corn Bunting (*Emberiza calandra*), Skylark (*Alauda arvensis*) Yellowhammer (*Emberiza citrinella*), in connection with the need to remove trees and bushes and to carry out earthworks consisting in shaping the reservoir and surrounding embankments as part of the modernisation of the protection system in the valleys of the Serafa and Malinówka rivers within Cracow District, precinct no. 100 Podgórze, Małopolskie Province.

II. The permit shall be valid from the date of issuing the decision until the end of February 2022, under the following conditions:

- 1. Activities should be carried out under natural supervision.
- 2. The duration of transport, keeping and relocation of animals shall be kept to a minimum. Individuals should be moved to the nearest optimal habitat location.
- 3. Works shall be carried out in such a way as to prevent the killing of individuals.
- 4. The implementation of works must not lead to the complete disappearance of habitats.
- 5. If nests, hollows or other shelters with young or adult animals or individuals who have started breeding, hibernating bats, adult individuals, eggs and larvae of beetles or other protected species are found during the performance of cutting works within the trees or bushes to be removed and in their immediate vicinity, works shall be stopped and the instructions of supervision must be followed so as not to kill, injure, damage or destroy them.

IV. I oblige the Applicant to submit to the Regional Director for Environmental Protection in Cracow a report on the use of this permit by 15 April 2022, which will include, in particular, a description and dates of the activities carried out.

REASONS

With the letter of 21 February 2020 (date of receipt: 21 February 2020), completed finally on 17 April 2020, AECOM Polska Sp. z o.o. Al. Pokoju 1 (building K1) 31-548 Cracow, applied to the Regional Director for Environmental Protection in Cracow for a permit to deliberately capture, transport, temporarily detain, destroy habitats or refuges which are the area of breeding, rearing of individuals, resting and feeding, to intentionally relocate from places of regular inhabitation to other places and to remove or damage the nests of amphibian, reptile, bird and mammal species, indicated in the conclusion to the decision, in connection with the need to remove trees and bushes and to carry out earthworks consisting in shaping the reservoir and surrounding embankments within Cracow District, precinct no. 100 Podgórze, Małopolskie Province.

The proposed activities are carried out in order to reduce flood losses and the threat to human life by modernising the protection system in the Serafa and Malinówka river valleys. The investment will be financed by a loan from the International Bank for Reconstruction and Development, and by a loan from the Council of Europe Development Bank under the framework of: ODRA-VISTULA FLOOD MANAGEMENT PROJECT.

The application was accompanied by a natural valorisation of the area for the planned investment made by expert naturalists.

The species indicated in the application are subject to strict protection under appendix no. 1 and 2 of the Regulation of the Minister of Environment of 16 December 2016 on the protection of animal species. The prohibitions set forth in § 6(1)(2,4,6,7,8 and 15) of this Regulation apply to these species, i.e. to deliberately capture, transport, temporarily detain, destroy habitats or refuges which are the area of breeding, rearing of individuals, resting and feeding, to remove or damage the nests and to intentionally relocate from the places of regular inhabitation to other places

In accordance with Article 56(2)(1, 2) and (4)(7) of the Act of 16 April 2004 on nature protection, the regional director for environmental protection, in the absence of alternative solutions, may allow derogations from the prohibitions applicable to protected animal species if they are not detrimental to the conservation in the appropriate condition of wild populations of protected animal species and result from necessary requirements of the overriding public interest or from the party's legitimate interest.

While analysing the information established in the course of the proceedings, it should be stated that in this case there are no alternative solutions, because it is not possible to carry out the felling works at the indicated location without performing the activities permitted by this decision.

It cannot be demonstrated that the activities, for which the permit has been issued, are harmful in terms of maintaining, in the appropriate condition, the protection of the wild populations of the species concerned, as they are common and abundant in the territory of Małopolska and the whole country, and in addition it should be stated that they will not be killed or injured. The above activities will be carried out under natural supervision. The conditions to be observed when carrying out the activities and the working methodology adopted will ensure that the activities are carried out safely and effectively, eliminating the possibility of adverse effects on particular individuals and their local populations.

The conditions also stipulate that if nests, hollows or other shelters with individuals who have started breeding, hibernating bats, adult individuals, eggs and larvae of beetles or other protected species are found during the performance of cutting works within the trees or bushes to be removed and in their immediate vicinity, the works shall be stopped and the instructions of

supervision must be followed so as not to kill, injure, damage or destroy them.

At the same time, the activities permitted under this Decision originate from the party's legitimate interest and the necessary requirements of an overriding public interest, since the primary objective of the investment is to reduce flood losses and the threat to human life through the modernisation of the protection system in the Serafa and Malinowka valleys. The above meets the conditions laid down in Article 56(4)(7) of the Act on nature protection. The obligation to submit information on the use of this permit results from Article 56(7) of the Act of 16 April 2004 on nature protection.

In view of the foregoing, it has been decided as in the conclusion of the Decision.

INSTRUCTION

This decision may be appealed against to the General Director for Environmental Protection in Warsaw (52/54 Wawelska Street, 00-922 Warsaw) within 14 days from the date of its receipt through the Regional Director for Environmental Protection in Cracow (25 Mogilska Street, 31-542 Cracow).

This decision, pursuant to Article 130(4) of the Code of Administrative Procedure, shall be enforceable before the expiry of the time limit for appeal if it complies with the request of all parties or if all parties have waived their right to appeal.

Pursuant to Article 127a § 1 and 2 of the Code of Administrative Procedure, a party may, within the time limit for lodging an appeal, waive the right to lodge an appeal against the decision of the public administration body which issued the decision. The decision becomes final and binding on the day of delivering a statement waiving the right to appeal by the last of the parties to the proceedings to the public administration body.

The Regional Director for Environmental Protection in Cracow may inspect the Applicant's compliance the conditions set forth herein, and to withdraw the permit if the conditions are not met (Article 56(7a) and (7j) of the act on nature protection).



Regionalny
Dyrektor Ochrony Środowiska
w Krakowie
mgr Rafał Rostecki

Regional Director for
Environmental Protection in Cracow
Rafał Rostecki, M.Sc.

A stamp duty of PLN 82.00 (say: eighty-two zloty 00/100) was collected pursuant to Article 7 of the Act of 16 November 2006 on stamp duty (i.e. Journal of Laws of 2019, item 1000 as amended). The fee was paid to the account of the City Office in Cracow, no. 49 1020 2892 2276 3005 0000 0000.

Recipients:

1. Applicant.
2. OP-I a/a.

INFORMATION CLAUSE ON THE PROCESSING OF PERSONAL DATA IN THE REGIONAL DIRECTORATE FOR ENVIRONMENTAL PROTECTION IN CRACOW

In accordance with Article 13 (1) and (2) of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ EU L 119/1), (*general data protection regulation*), hereinafter referred to as GDPR I inform that:

- 1) The Controller of your personal data is the Regional Director for Environmental Protection in Cracow. Detailed information on the Data Controller can be obtained from the following website <http://Krakow.rdos.gov.pl/kontakt>, at the e-mail address sekretariat.krakow@rdos.gov.pl and at the telephone number 12 619 81 21 (fax: 12 619 81 22).
- 2) The contact with the Data Protection Officer of the Regional Directorate for Environmental Protection in Cracow, with the registered office in Cracow (31-542), 25 Mogilska Street, is possible via e-mail sekretariat.krakow@rdos.gov.pl and under the phone number. 12 619 81 21 (fax: 12 619 81 22).
- 3) Your personal data will be processed for the purpose of carrying out the tasks of the Regional Director for Environmental Protection in Cracow, in particular those laid down in Article 131 of the Act of 3 October 2008 *on the provision of information on the environment and its protection, public participation in environmental protection and environmental impact assessments* (unified text: Journal of Laws of 2018, item 2081, as amended) and resulting from the provisions of generally applicable law. Pursuant to Article 6(1)(e) of the GDPR, processing is necessary for the performance of a task carried out in the public interest and in the exercise of public authority vested in the controller.
- 4) Your personal data will not be transferred to a third country/international organisation, however, if it is necessary to do so, you will be informed of this fact and receive a copy of the personal data transferred to the third country.
- 5) Your data may be made available by the Regional Directorate for Environmental Protection in Cracow to entities authorised to obtain information on the basis of special regulations.
- 6) The provision of personal data by you is necessary to carry out the statutory tasks of the Regional Director for Environmental Protection in Cracow and you are obliged to provide it.
- 7) The personal data you provide will be kept for the period necessary to carry out the statutory tasks of the Regional Director for Environmental Protection in Cracow and resulting from special regulations on document archiving.
- 8) You have the right to access the content of your data and the right to correct it, to request its erasure, the right to transfer the data, the right to object, the right to withdraw your consent at any time without affecting the lawfulness of the processing carried out on the basis of your consent.
- 9) You have the right to lodge a complaint with the President of the Office for the Protection of Personal Data, if you believe that the processing of your personal data violates the provisions of the General Data Protection Regulation.