



GENERAL DIRECTOR FOR ENVIRONMENT PROTECTION

Andrzej Szweda-Lewandowski

Date 25.06.2019

No. ZPT. 011.110.2019 Signature

DZP-WG.6401.01.17.2019.eb

Warsaw, 18.06.2019

DECISION

Pursuant to Article 104(1) of the Law of 14 June 1960 – Code of Administrative Procedure (consolidated text: Journal of Laws of 2018, item 2096, as amended) and Article 56 paragraph 1 (1) and (2) and paragraph 4(3) and (6), in conjunction with Article 52(1)(3), of the Nature Conservation Act of 16 April 2004 (Journal Of Laws of 2018, item 1614 as amended), having examined the application of 27 May 2019 of State Water Management Polish Waters The Regional Water Management Authority in Szczecin, represented by Ms Krystyna Araszkiwicz from Sweco Consulting Sp. z o. o. based on the power of attorney of 27 March 2019, ref: SZ.R00.012.58.2019.MG, on the issue of a permit to derogate from the bans applicable to the green snaketail (*Ophiogomphus cecilia*),

I hereby allow

The State Water Management Polish Waters The Regional Water Management Authority in Szczecin to conduct incidental, intentional destruction of up to 20 larvae of the green snaketail at 2+450 km of the river Warta below plots no.: 2/1 and 2/3, locality 0006 Stare Miasto, the commune of Kostrzyn nad Odrą, Gorzów district, Lubuskie province.

This permit remains valid until 31 May 2023.

I oblige the Applicant to provide the General Director for Environment Protection with a report on the extent this permit has been used, until 30 June 2023. 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 Director for Environment Protection in Gorzów Wielkopolski.

Justification

With the application of 27 May 2019, Ms Krystyna Araszkiwicz from Sweco Consulting Sp. z o. o., representing the State Water Management Polish Waters The Regional Water Management Authority in Szczecin under the power of attorney of 27 March 2019, ref.: SZ.R00.012.58.2019.MG,

has asked the General Director for Environment Protection for permission to deliberately destroy eggs and growing forms as well as the habitat of the green snaketail. The activities applied for arise from the planned project titled "Expansion of national road no. 31 as part of the task titled: "Demolition and construction of the road bridge at 107+211 km of national road no. 31 in Kostrzyn nad Odrą (at 2.45 km of the river Warta) implemented as part of the Odra-Vistula Flood Management Project "Task 1B.5 Reconstruction of bridges to ensure a minimum clearance".

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 (Journal of Laws of 2016, item 2183). Pursuant to § 6(3) and (7) of the said Regulation, and pursuant to Article 52(1)(3) and (7) of the Nature Conservation Act, it is forbidden to intentionally destroy the eggs or growing forms of protected wild animals or their habitats.

Pursuant to Article 56 paragraph 1(1) and paragraph 4, in conjunction with Article 52(1)(3) of the Nature Conservation Act, a permit to derogate from the ban on destroying eggs or growing forms of wild animals under strict protection may be issued by the General Director for Environment 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 life cycle 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 20 larvae of the green snaketail 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 "Expansion of national road no. 31 as part of the task titled: "Demolition and construction of the road bridge at 107+211 km of national road no. 31 in Kostrzyn nad Odrą (at 2.45 km of the river Warta) implemented as part of the Odra-Vistula Flood Management Project "Task 1B.5 Reconstruction of bridges to ensure a minimum clearance". 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. It is necessary to reconstruct the existing bridge crossing the waterway in order to ensure proper clearance for icebreaking operations using icebreakers. The parameters of the current bridge on the Warta make it difficult, and often impossible, to conduct an effective icebreaking operation. The destruction of growing forms of the green snaketail in this location

results from the necessity to construct the pillars of a temporary bridge in the Warta riverbed. However, the scale of possible damage is small. On the other hand, the pillars of the permanent bridge structure will be founded outside the Warta riverbed, so they do not threaten the population of this species.

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. Considering the purpose of the actions which are the subject of the application, it should be understood that there are no alternative solutions in this case, because other bridge locations would have a much greater impact on the environment than dismantling the existing structure and constructing a new one in the same place.

In accordance with art. 56 paragraph 2(2) of the Nature Conservation Act, the local competent regional director for environment protection is the competent authority to issue a permit to derogate from the ban on the destruction of habitats of strictly protected animal species. In connection with the above, the Authority informed about the need to submit a separate application to the Regional Director for Environment Protection in Gorzów Wielkopolski regarding the issue of a permit for derogations from the ban on destroying green snaketail habitats with the notification ref.: DZP-WG.6401.17.2019.eb.2.,.

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 Procedure, a party dissatisfied with the decision may, within 14 days of the date this decision is received, apply to the General Director for Environment 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 (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 Environment 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 Procedure, 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 Procedure, 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 appealed 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 (Journal of Laws of 2017, item 459 as amended). Therefore, prior to entering the property, it is necessary to obtain a relevant authorisation by the owner or a person entitled to grant such authorisation under any other title.




Environmental Director
Szweda-Lewandowski

Recipients:

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

Copy to:

Regional Director for Environment Protection in Gorzów Wielkopolski