

REGIONAL DIRECTOR FOR  
ENVIRONMENTAL PROTECTION  
IN SZCZECIN

Date 27/06/2019

No. Signature

Szczecin, 25 June 2019

WOPN-OG.6401.02.162.2019.MK

WOPN-OG.6401.03.16.2019.MK

WOPN-OG.6401.04.14.2019.MK

WOPN-OG.6401.06.08.2019.MK

**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), Article 56(2) and (4)(6) of the Nature Conservation Act of 16 April 2004 (Polish Journal of Laws 2018, item 1614, as amended), having examined the application filed by Ms Krystyna Araszkiwicz, representing the State Water Holding Polish Waters – Regional Water Management Board in Szczecin, dated 10 May 2019, ref.: POPDOW-ZPT.071.3.2019 (received on 13 May 2019),

**I hereby allow**

the State Water Holding Polish Waters – Regional Water Management Board in Szczecin, for:

- deliberate killing, deliberate destruction of eggs or growing forms, deliberate scaring off and disturbance of the animals marked with (1) in Appendices 1 and 2 to the Regulation, representing the following species:

➤ **entomofauna:**

- buff-tailed bumblebee *Bombus terrestris* – 10 spec.;
- red-tailed bumblebee *Bombus lapidarius* – 10 spec.;
- early bumblebee *Bombus pratorum* – 10 spec.;
- common carder bee *Bombus pascuorum* – 10 spec.;
- white-tailed bumblebee *Bombus lucorum* – 10 spec.;
- *Carabus coriaceus* – 16 spec.;
- green snaketail *Ophiogomphus cecilia* (1) – 20 spec.;
- deliberate killing, deliberate destruction of eggs or growing forms; destruction of habitats or sanctuaries being the areas of breeding, rearing, resting or feeding; destruction of formicaries, burrows, dens, lodges, dams, spawning grounds, winter habitats and other shelters, of the following species:

ul. Teofila Firlika 20, 71-637 Szczecin tel.: 91 43-05-200, fax: 91 43-05-201, e-mail:  
sekretariat.szczecin@rdos.gov.pl, szczecin.rdos.gov.pl

➤ **ichtiofauna:**

- white-finned gudgeon *Romanogobio albipinnatus* – 3 to 5 spec.;
- spined loach *Cobitis taenia* – 20 spec.;
- European weatherfish *Misgurnus fossilis* – 5 spec.;
- European bitterling *Rhodeus amarus* – 10 spec.;

- deliberate scaring off and disturbance of the animals marked with (1) in Appendices 1 and 2 to the Regulation; and deliberate scaring off and disturbance in night-time shelters, in breeding season in the breeding or rearing areas, or in feeding areas, of groups of the migrating birds marked with (2) in Appendices 1 and 2 to the Regulation – representing the following species:

➤ **herpetofauna:**

- marsh frog *Pelophylax ridibundus* (1);
- pool frog *Pelophylax lessonae* (1);
- edible frog *Pelophylax esculentus* (1);
- viviparous lizard *Zootoca vivipara* (1);
- sand lizard *Lacerta agilis* (1);
- grass snake *Natrix natrix* (1);

➤ **chiropterofauna:**

- nathusius' pipistrelle *Pipistrellus nathusii* (1) – 5 to 10 spec.;
- common pipistrelle *Pipistrellus pipistrellus s.s.* (1) – 5 to 10 spec.;
- soprano pipistrelle *Pipistrellus pygmaeus* (1) – 5 to 10 spec.;
- common noctule *Nyctalus noctula* (1) – 5 to 10 spec.;
- serotine bat *Eptesicus serotinus* (1) – 5 to 10 spec.;
- the mouse-eared bat belonging to *Mystis sp.* (1) – 5 to 10 spec.;

➤ **teriofauna:**

- Eurasian otter *Lutra lutra* (1);
- least weasel *Mustela nivalis* (1);

➤ **ornitofauna:**

Breeding species within a buffer zone of 500 m from the project site:

- western marsh harrier *Circus aeruginosus* (2) – 2 spec.;
- red-backed shrike *Lanius collurio* (2) – 4 spec.;
- barred warbler *Sylvia nisoria* (2) – 4 spec.;
- mallard *Anas platyrhynchos* (2) – 4 spec.;
- woodlark *Lullula arborea* (2) – 4 spec.;
- mute swan *Cygnus olor* (2) – 4 spec.;
- thrush nightingale *Luscinia luscinia* (2) – 4 spec.;
- European stonechat *Saxicola rubicola* (2) – 4 spec.;
- common grasshopper warbler *Locustella naevia* (2) – 4 spec.;
- Eurasian reed warbler *Acrocephalus scirpaceus* (2) – 4 spec.;
- great reed warbler *Acrocephalus arundinaceus* (2) – 4 spec.;
- common whitethroat *Sylvia communis* (2) – 4 spec.;
- Eurasian blackcap *Sylvia atricapilla* (2) – 4 spec.;
- common chiffchaff *Phylloscopus collybita* (2) – 4 spec.;
- willow warbler *Phylloscopus trochilus* (2) – 4 spec.;
- Eurasian golden oriole *Oriolus oriolus* (2) – 4 spec.;
- red-backed shrike *Lanius collurio* (2) – 4 spec.;
- yellowhammer *Emberiza citrinella* (2) – 4 spec.;

- common reed bunting *Emberiza schoeniclus* (2) – 4 spec.;
- corn bunting *Emberiza calandra* (2) – 4 spec.;

Non-breeding and passing-by species within a buffer zone of 500 m from the project site:

- common goldeneye *Bucephala clangula* (2) – 4 spec.;
- greylag goose *Anser anser* (2) – 4 spec.;
- cormorant *Phalacrocorax carbo* (2) – 4 spec.;
- common coot *Mergus merganser* (2) – 4 spec.;
- European bee-eater *Merops apiaster* (2) – 4 spec.;
- mute swan *Cygnus olor* (2) – 4 spec.;
- black kite *Milvus migrans* (2) – 2 spec.;
- common kestrel *Falco tinnunculus* (2) – 4 spec.;
- black-headed gull *Chroicocephalus ridibundus* (2) – 4 spec.;
- Caspian gull *Larus cachinnans* (2) – 4 spec.;
- black tern *Sterna hirundo* (2) – 4 spec.;
- barn swallow *Hirundo rustica* (2) – 4 spec.;
- hooded crow *Corvus cornix* (2) – 4 spec.;
- common starling *Sturnus vulgaris* (2) – 4 spec.;
- greenfinch *Carduelis chloris* (2) – 4 spec.

The aforesaid actions are due to the undertaking titled ‘Construction of mooring facilities at the lower and border Oder river and new waterway signage’, which covers the construction of icebreaker mooring facilities (having the form of dolphins located beyond the waterway boundary) in 7 independent locations at the section of the Oder river from the Nysa Łużycka to Szczecin, and the installation of new waterway signs. The application refers to the 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 at km 663.0 of the Oder river’, to be carried out in Osinów Dolny, Cedynia commune.

**This decision shall remain valid under the following conditions:**

- 1) the project shall be implemented under environmental supervision. The work supervisors shall check whether the works are carried out properly in terms of the species living near the work site;
- 2) the scaring off and disturbance shall be caused by human presence and the noise emitted by the equipment used for hydrotechnical works;
- 3) if any breeding site of the above-mentioned species is found on the project site, the works in that area shall be held until the juveniles leave the hatching sites;
- 4) if any protected species other than those listed in the application are found, the works shall be held until the juveniles naturally leave their nests or hiding places, and a separate consent, issued by this Regional Director for Environmental Protection, for derogation from the bans applicable to the protected species must be obtained;
- 5) the Regional Director for Environmental Protection in Szczecin shall be provided, until 15 January 2022, with a final report of the implementation of this permit.

**This permit remains valid until 31 December 2021.**

**Reasons**

Ms Krystyna Araszkiwicz, representing the State Water Holding Polish Waters – Regional Water Management Board in Szczecin, by the letter dated 10 May 2019, ref.: POPDOW-

ZPT.071.3.2019 (received on 13 May 2019), applied to the Regional Director for Environmental Protection in Szczecin for issuing a permit for:

- deliberate killing, deliberate destruction of eggs or growing forms, deliberate scaring off and disturbance of the animals marked with (1) in Appendices 1 and 2 to the Regulation, representing the following species:

➤ **entomofauna:**

- buff-tailed bumblebee *Bombus terrestris* – 10 spec.;
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- green snaketail *Ophiogomphus cecilia* (1) – 20 spec.;
- deliberate killing, deliberate destruction of eggs or growing forms; destruction of habitats or sanctuaries being the areas of breeding, rearing, resting or feeding; destruction of formicaries, burrows, dens, lodges, dams, spawning grounds, winter habitats and other shelters, of the following species:

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- viviparous lizard *Zootoca vivipara* (1);
- sand lizard *Lacerta agilis* (1);
- grass snake *Natrix natrix* (1);

➤ **chiropterofauna:**

- nathusius' pipistrelle *Pipistrellus nathusii* (1) – 5 to 10 spec.;
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➤ **teriofauna:**

- Eurasian otter *Lutra lutra* (1);
- least weasel *Mustela nivalis* (1);

➤ **ornitofauna:**

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- woodlark *Lullula arborea* (2) – 4 spec.;
- mute swan *Cygnus olor* (2) – 4 spec.;
- thrush nightingale *Luscinia luscinia* (2) – 4 spec.;
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- common grasshopper warbler *Locustella naevia* (2) – 4 spec.;
- Eurasian reed warbler *Acrocephalus scirpaceus* (2) – 4 spec.;
- great reed warbler *Acrocephalus arundinaceus* (2) – 4 spec.;
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- hooded crow *Corvus cornix* (2) – 4 spec.;
- common starling *Sturnus vulgaris* (2) – 4 spec.;
- greenfinch *Carduelis chloris* (2) – 4 spec.

Pursuant to Article 61(1), (4) and Article 10(1) of the Code of Administrative Proceedings of 14 June 1960 (Polish Journal of Laws 2018, item 2096, as amended), by the letter dated 14 June 2019, the Regional Director for Environmental Protection in Szczecin notified the party of having initiated the proceedings and of the possibility to take a stance on the gathered evidence and materials. The party did not submit any comments in the period prescribed.

In accordance with Article 56(2) of the Nature Conservation Act of 16 April 2004 (Polish Journal of Laws 2018, item 1614, as amended), the Regional Director for Environmental Protection may, within his jurisdiction, issue a consent for derogation from selected bans specified in Article 52(1) and (1a) of the said Act and in § 6 of the Regulation of the Minister of Environment on conservation of animal species. Pursuant to Article 56(4) of the Nature Conservation Act, the permits may be issued if there is no alternative solution, and the actions will not adversely affect the favourable conservation status of the wild populations of protected

plants, animals and fungi, and additionally at least one of the conditions listed in Article 56(4)(1) to (7) of the cited Act must be fulfilled.

I have concluded that there are prerequisites to issue the permit. Amongst the conditions specified in Article 56(4) of the Nature Conservation Act, the overriding public interest (Article 56(4)(6) of the Act) applies in this case.

The aforesaid actions are due to the undertaking titled 'Construction of mooring facilities at the lower and border Oder river and new waterway signage', which covers the construction of icebreaker mooring facilities (having the form of dolphins located beyond the waterway boundary) in 7 independent locations at the section of the Oder river from the Nysa Łużycka to Szczecin, and the installation of new waterway signs. The application refers to the 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 at km 663.0 of the Oder river', to be carried out in Osinów Dolny, Cedynia commune.

The activities applied for will not endanger the wild populations of protected animal species. The works will be carried out under environmental supervision, and if any protected species other than those listed in the application are found, the works will be held until the juveniles naturally leave their nests or hiding places, and a separate consent for derogation from the bans applicable to the protected species will be obtained.

Given the foregoing, and considering the method of survey, there is no solution that would be alternative to the said derogations.

The authorisation for the aforementioned actions meets the condition for issuing the authorisation, set forth in Article 56(4)(6) of the Nature Conservation Act.

With the above in mind, I rule as stated.

### **Instruction**

Pursuant to Article 127(1) and Article 129(1) and (2) of the Code of Administrative Proceedings, 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.

If the conditions laid down in the decision are not fulfilled, the permit shall be withdrawn under Article 56(7j) of the Nature Conservation Act of 16 April 2004.

*This decision was subject to a stamp duty of PLN 82 under the Stamp Duty Act of 16 November 2006 (Polish Journal of Laws 2018, item 1844, as amended), which has been paid.*

Pursuant to Article 127a(1) and (2) of the Code of Administrative Proceedings, during the time for submitting the appeal, a party may waive the right to appeal against the public administration authority which issued the permit. The decision shall become final and binding on the date the public administration authority receives the statement of waiver of the right to appeal from the last of the parties.

Recipients:

Krystyna Araszkiewicz

Sweco Consulting Sp. z o. o.  
ul. I. Łyskowskiego 16  
71-641 Szczecin

p.p. Deputy Regional Director for Environmental Protection in Szczecin Regional Nature Conservation Officer Marcin Siedlecki
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