

**REGIONAL DIRECTOR
FOR ENVIRONMENTAL PROTECTION
IN SZCZECIN**

ZZMiUW in Szczecin

INCOMING DATE

04-12-2015

Ref. No: 12724

Szczecin, dated 3 December 2015

WOPN-OG.6401.210.2015.MKP

DECISION

Under Article 104 § 1 of the Act of 14 June 1960 Administrative Proceedings Code (Journal of Laws of 2013, item 267, as amended), in connection to Article 56.2.2, 56.4c of the Act of 16 April 2004 on the environment protection (Journal of Laws of 2015, item 1651, as amended) and § 6.3 of the Regulation of the Minister of Environment of 6 October 2014 on the fauna species protection (Journal of Laws of 2014, item 1348), upon having considered the application of the Director of ZZMiUW in Szczecin of 2 October 2015, supplemented with the letter of 6 November 2015,

I hereby approve of the following

ZZMiUW intentional scaring away and disturbing *Passer domesticus*, *Passer montanus*, *Certhia brahcydactula*, *Fringilla coelebs*, *Carduelis carduelis* and *Carduelis chlorus* in their breeding season, in the localisation of breeding and young species raising, in connection with the implementation of the Project named: "Flood Embankment – Chlewice – Porzecze – backwater embankment of the Odra River at the Myśla River" within Boleszkowice Commune.

This permission is valid provided that the following conditions are met:

- 1) Scaring away and disturbing the species specified in this permission must take place by means of rattles and also through the presence of people on the investment area, as well as through oscillations, vibrations and noise generated by the operation of vehicles and devices, including construction machines and devices used during the project implementation;
- 2) The project must be implemented under the supervision of the natural environment supervision panel; the personnel supervising the works will control the correctness of works connected with scaring away and disturbing the species, as well as fulfilling the obligations arising from this decision and the special provisions of law;

- 3) Partial reports must be submitted to the Regional Director for Environmental Protection in Szczecin on the usage of this permission by 15 January in each year of the permission term and by 15 January 2018 on the entire permission execution.

This permission is valid by 31 December 2017

Substantiation

By means of the letter of 2 October 2015, Mr Stanisław Cygiel – per procura Director of ZZMiUW in Szczecin, applied to the Regional Director for Environmental Protection in Szczecin for issuing permission for activities prohibited in relation to the protected species of animals, i.e. intentional scaring away and disturbing birds, connected with the implementation of the Project named: “Flood Embankment – Chlewice – Porzecze – backwater embankment of the Odra River at the Myśla River” within Boleszkowice Commune.

The species of birds indicated in the application: *Passer domesticus*, *Passer montanus*, *Certhia brachydactyla*, *Fringilla coelebs*, *Carduelis carduelis*, *Carduelis chloris*, *Troglodytes troglodytes*, *Luscinia luscinia*, *Turdus merula*, *Locustella fluviatilis*, *Sylvia atricapilla*, *Phylloscopus collybita*, *Phylloscopus trochilus*, *Parus major*, *Cyanistes caeruleus*, *Sitta europea*, *Sturnus vulgaris*, *Emberiza citronella*, *Pica pica*, under Annex No 1 to the Regulation of the Minister of Environment of 6 October 2014 on the fauna species protection (Journal of Laws of 2014, item 1348) belong to the species under strict protection. Their names, in Annex No 1, are marked with the symbol “2”. Pursuant to § 6.3 of the aforementioned Regulation, wild animals with the symbol (2), in Annex No 1 and No 2 to the Regulation, are under the prohibition of intentional scaring away and disturbing in their sleeping localisations, in the breeding season, in the localisations of young species breeding and raising or in the places where migrating and wintering birds gather. Therefore, upon having analysed the application filed, it has been decided that it does not meet the conditions specified in Article 56.6 of the Act of 16 April 2004 on the natural environment protection (Journal of Laws of 2015, item 1651, as amended), thus on the day of 28 October 2015 we called for supplementing the said application with species whose breeding and migrations have been confirmed on the impact area connected with the project implementation.

By means of the letter of 6 November 2015, the Applicant informed that on the basis of the “Report on the construction environmental impact. Flood embankment Chlewice-Porzecze. Backwater embankment of the Odra River at the Myśla River”, within the area of the planned investment project there has been the following breeding discovered: *Passer domesticus*, *Passer montanus*, *Certhia brachydactyla*, *Fringilla coelebs*, *Carduelis carduelis* and *Carduelis chlorus*.

Pursuant to Article 56.2.2 of the Act on environmental protection, the Regional Director for Environmental Protection, within the area of its competence, may permit the intentional scaring away and disturbing, in the sleeping places, in the breeding season, in the breeding localisations or places where young birds are raised, or in the places where

migrating and wintering birds gather. In accordance with Article 56.4c of the Act on environmental protection, this permission may be issued if there are no alternative solutions and if they are not harmful to the correct preservation of the wild population of protected birds.

Due to the nature of the investment project, there are no alternative solutions. Intentional scaring away and disturbing birds in the breeding season and in the places where young species are raised will not affect their quantity adversely.

Therefore, it is hereby decided as above.

This decision has been issued on the basis of:

- Annex No 1 to the Regulation of the Minister of Environment of 6 October 2014 on the fauna species protection (Journal of Laws of 2014, item 1348), in accordance with which *Passer domesticus*, *Passer montanus*, *Certhia brachydactyla*, *Fringilla coelebs*, *Carduelis carduelis* and *Carduelis chloris* are subject to strict protection;
- § 6.3 of the Regulation, in compliance with which wild animals with (2) symbol marked in Annex No 1 and No 2 to the Regulation are prohibited from intentional scaring away and disturbing in the breeding season, in the breeding localisations or places where young species are raised or in the feeding places of the flocks of migrating or wintering birds;
- Article 56.2.2 of the Act of 16 April 2004 on environmental protection (Journal of Laws of 2015, item 1651, as amended) according to which the Regional Director for Environmental Protection within the area of its competence, may permit the intentional scaring away and disturbing, in the sleeping places, in the breeding season, in the breeding localisations or places where young birds are raised, or in the places where migrating and wintering birds gather;
- Article 56.4c of the aforementioned Act, according to which the said permission may be issued if there are no alternative solutions and if they are not harmful to the correct preservation of the wild population of protected birds;
- Article 104 of the Act of 14 June 1960 on the Administrative Proceedings Code (Journal of Laws of 2013, item 267) which states that a body of public administration shall handle the case through issuing a decision, unless the provisions of the said Code provide otherwise.

Instructions

A party dissatisfied with the decision, pursuant to Article 127 § 1 and Article 129 § 1 and § 2 of the Administrative Proceedings Code, shall be entitled to appeal to the General Director for Environmental Protection by agency of the Regional Director for Environmental Protection in Szczecin within 14 days of the date of being served with this decision.

A failure to meet the conditions imposed by the decision shall constitute a basis for withdrawing the permission under Article 56.7j of the Act of 16 April 2004 on the natural environment protection.

REGIONAL DIRECTOR FOR ENVIRONMENTAL PROTECTION IN SZCZECIN

Per procura REGIONAL DIRECTOR OF ENVIRONMENTAL PROTECTION

Monika Bochenko

03.12.2015

With copies to:

- West Pomerania Board of Amelioration and Hydraulic Structures in Szczecin
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71-421 Szczecin