

Regional Director for Environmental Protection in Wrocław
WPN.6400.47.2016.IL

[stamp: PROJECT PL 1662
Received on: 30-08-2016
Signature /illegible/ No. 1366/2016]

Wrocław, August 26th, 2016

DECISION

Under Article 56 Par. 2 and Par. 4 Subpar. 6 and 7 in connection with Article 51 Par. 1 Subpar. 1 and 3 of the *Nature Conservation Act of April 16th, 2004 (Journal of Laws of 2015, item 1651 as amended)*, § 2 and 3 in connection with § 6 Par. 1 Subpar. 1 and 3 of the *Regulation of the Minister of the Environment of October 9th, 2014 on protection of plant species (Journal of Laws of 2014, item 1409)* and Article 104 of the *Law of 14 June 1960 – Code of Administrative Procedure (Journal of Laws of 2016, item 23 as amended)*, after reviewing an application submitted by Ms. Dorota Serwecińska from AECOM Polska Sp. z o.o., who acts with the authorization of the Director of the Regional Water Management Authority in Wrocław (power of attorney No. DP.0113-91/2016 of April 21st, 2016), concerning issuing a decision exempting from bans related to specimens of plants subject to protection (an application of August 5th, 2016),

I permit the following

purposeful destruction of specimens and habitats of the following species: **Hildenbrandtia rivularis** *Hildenbrandtia rivularis* (5 sites), **Wall scalewort** *Porella platyphylla* (up to 2 m² on 1 site), **Martagon lily** *Lilium martagon* (up to 30 specimens on 1 site), **Plagiochila asplenioides** *Plagiochila asplenioides* (up to 2 m² on 1 site), **Homalia moss** *Homalia trichomanoides* (up to 6 m² on 2 sites), **Pointed spear-moss** *Calliergonella cuspidata* (up to 10,000 m² on 5 sites), **Rambling tail-moss** *Anomodon viticulosus* (0.1 m² on 1 site), **Common snowdrop** *Galanthus nivalis* (up to 1,500 specimens on 5 sites), **Giant bellflower** *Campanula latifolia* (2 specimens on 1 site), **Wild garlic** *Allium ursinum* (up to 2,000 specimens on 6 sites), **True oxlip** *Primula elatior* (100 specimens on 5 sites) and **Autumn crocus** *Colchicum autumnale* (up to 200 specimens on 6 sites), located in Szalejów Górny and Szalejów Dolny villages (Kłodzko Municipality) in the Bystrzyca Dusznicka river valley (at river chainage from km 8+300 to km 12+500) between Szalejów Górny and Szalejów Dolny (to the north and to the west), Siemków (to the east) and the ridge line separating Szalejów Górny and Szalejów Dolny from Stary Wielisław (to the south), in connection with the implementation of the undertaking entitled: “*Construction of “Szalejów Górny” – a dry reservoir on Bystrzyca Dusznicka River*”, **on the following conditions:**

- 1) up to 50% of specimens of Martagon lily *Lilium martagon*, True oxlip *Primula elatior*, Spring snowflake *Leucoium vernum*, Wild garlic *Allium ursinum* and Autumn crocus *Colchicum autumnale* shall be replanted under the supervision of a botany specialist to appropriate locations in terms of habitat which do not collide with the investment;
- 2) the present permit shall be implemented together with the conditions imposed in the decision of the Regional Director for Environmental Protection in Wrocław on the environmental conditions for the undertaking consisting in the construction of “Szalejów Górny” dry reservoir on Bystrzyca Dusznicka River (ref. No.: WOOŚ.4233.8.2013.ŁCK.54) of September 30th, 2015 and the decision of the General Director for Environmental Protection (ref. No.: DOOŚoall.4200.24.2015.EK.7) of May 16th, 2016.

The permit is valid till December 31st, 2020.

Information about the scope of utilizing this permit shall be submitted to the Regional Director for Environmental Protection in Wrocław till January 15th, 2021.

JUSTIFICATION

On August 5th, 2016, the Regional Directorate for Environmental Protection in Wrocław received an application submitted by Ms. Dorota Serwecińska from AECOM Polska Sp. z o.o., who acts with the authorization of the Director of the Regional Water Management Authority in Wrocław concerning issuing a decision exempting from bans related to specimens of plants covered by protection.

The subject of the application is destruction of specimens and habitats of the following species: Hildenbrandtia rivularis *Hildenbrandtia rivularis*, Wall scalewort *Porella platyphylla*, Martagon lily *Lilium martagon*, Plagiochila asplenioides *Plagiochila asplenioides*, Homalia moss *Homalia trichomanoides*, Pointed spear-moss *Calliergonella cuspidata*, Rambling tail-moss *Anomodon viticulosus*, Common snowdrop *Galanthus nivalis*, Giant bellflower *Campanula latifolia*, Wild garlic *Allium ursinum*, True oxlip *Primula elatior* and Autumn crocus *Colchicum autumnale*, in connection with the implementation of the undertaking entitled: “Construction of “Szalejów Górny” – a dry reservoir on Bystrzyca Dusznicka River”.

Hildenbrandtia rivularis *Hildenbrandtia rivularis*, Wall scalewort *Porella platyphylla* and Martagon lily *Lilium martagon* are species subject to strict protection, listed in respective items No. 2, 56 and 246 of appendix No. 1 to the *Regulation of the Minister of the Environment of October 9th, 2014 on protection of plant species*.

All the remaining abovementioned species are subject to partial protection under Appendix No. 2 to the *Regulation of the Minister of the Environment of October 9th, 2014 on protection of plant species* (they are listed there under the following numbers: Plagiochila asplenioides

Plagiochila asplenioides – No. 23, Homalia moss *Homalia trichomanoides* – No. 60, Pointed spear-moss *Calliergonella cuspidata* – No. 88, Rambling tail-moss *Anomodon viticulosus* – No. 172, Common snowdrop *Galanthus nivalis* – No. 182, Giant bellflower *Campanula latifolia* – No. 187, Wild garlic *Allium ursinum* – No. 218, True oxlip *Primula elatior* – No. 231, Autumn crocus *Colchicum autumnale* – No. 296).

Under Article 51 Par. 1 Subpar. 1 and 3 of the *Nature Conservation Act* and § 6 Par. 1 Subpar. 1 and 3 of the *Regulation on protection of plant species*, wild plants subject to species protection are covered by bans on purposeful destruction of specimens and their habitats.

Under Article 56 Par. 2 and Par. 4 Subpar. 6 and 7 of the *Nature Conservation Act*, a regional director for environmental protection may permit activities covered by bans in relation to wild plant species subject to species protection, including purposeful destruction of specimens, habitats and refuges, provided that the activities do not have an adverse impact on the preservation of wild populations of protected plant species in an appropriate status and stem from the necessary requirements of an overriding public interest.

As stems from the submitted application, the prohibited activities planned in relation to the abovementioned species are inevitable – they are connected with the implementation of the undertaking consisting in the construction of “Szalejów Górny” dry reservoir, the main aim of which is the reduction of flooding risk in the Kłodzko Valley (the Regional Director for Environmental Protection in Wrocław issued a decision on the environmental conditions for the undertaking in question, with ref. No. WOŚ.4233.8.2013.ŁCK.54, of September 30th, 2015, partially overruled by the decision of the General Director for Environmental Protection with ref. No.: DOOŚoall.4200.24.2015.EK.7, of May 16th, 2016).

The performance of the planned project should not have a significant influence on the populations of the abovementioned plant species: as stems from the submitted application, they are relatively common in the discussed area and its vicinity.

The destruction of specimens or habitats of the plant species listed in the application in connection with the implementation of the discussed undertaking is inevitable: the reservoir construction shall include earthworks consisting in the removal of the topsoil layer on which they grow.

In view of the above, the present body permitted the prohibited activities in relation to the discussed plant species, simultaneously imposing a condition that up to 50% of specimens of Martagon lily *Lilium martagon*, True oxlip *Primula elatior*, Spring snowflake *Leucoium vernum*, Wild garlic *Allium ursinum* and Autumn crocus *Colchicum autumnale* be replanted to locations which do not collide with the investment (the solution is an alternative to a complete destruction of the specimens of those plants in the undertaking area, even more so because they are relatively easy to replant and adapt well in new locations). The condition ordering the performance of those activities under a botanist's supervision was imposed to ensure

appropriate performance of the works consisting in replanting the specimens of the abovementioned plants.

Moreover, the present permit should be implemented together with the conditions imposed in the decision on the environmental conditions for the undertaking consisting in the construction of "Szalejów Górny" dry reservoir on Bystrzyca Dusznicka River (ref. No.: WOOŚ.4233.8.2013.ŁCK.54) of September 30th, 2015 and the decision of the General Director for Environmental Protection (ref. No.: DOOŚoall.4200.24.2015.EK.7) of May 16th, 2016, as the two documents are jointly aimed at minimizing the undertaking influence on the surroundings, including the populations of protected plants.

In the light of the above, it was ruled as in the sentence.

Information

The party may appeal against the decision to the General Director for Environmental Protection via the body that issued the decision within 14 days of the delivery date.

Exempt from stamp duty under Article 7 Subpar. 2 of the Act of November 16th, 2006 on stamp duty (Journal of Laws of 2015, item 783 as amended).

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Sylwia Szefer-Michalak

Chief specialist at the Department of Nature Conservation and Natura 2000 Sites]

Recipients:

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