

[stamp: PROJECT PL 1662
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Wrocław, June 13th, 2016

DECISION

Under Article 56 Par. 2 Subpar. 1 and 2 and Par. 4 Subpar. 7 in connection with Article 52 Par. 1 Subpar. 1, 2, 3, 7, 8, 9, 12, 13 and 15 of the *Nature Conservation Act of April 16th, 2004 (Journal of Laws of 2015, item 1651 as amended)*, § 2 and 3 and § 6 Par. 1, 2, 3, 7, 8, 9 and 12 Par. 2 and 3 of the *Regulation of the Minister of the Environment of October 6th, 2014 on protection of animal species (Journal of Laws of 2014, item 1348)* and Article 104 of the *Law of 14 June 1960 – Code of Administrative Procedure (Journal of Laws of 2016, item 23)*, 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 animals subject to protection (the application was submitted on May 2nd, 2016 and corrected on June 2nd, 2016),

I permit the following

- purposeful killing of specimens, purposeful mutilation or catching, purposeful destruction of eggs or growth forms, destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; destruction, removal or damaging of wintering grounds or other refuges; purposeful prevention of access to refuges, purposeful relocation from places of regular presence to new places, purposeful scaring and disturbing of the following species:** up to 600 specimens of Common frog *Rana temporaria*, up to 100 specimens of Slow worm *Anguis fragilis*;
- purposeful killing of specimens, purposeful mutilation or catching, purposeful destruction of eggs or growth forms, destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; destruction, removal or damaging of burrows, lairs, wintering grounds or other refuges; purposeful relocation from places of regular presence to new places, purposeful scaring and disturbing of the following species:** up to 20 specimens of European mole *Talpa europaea*, Common shrew *Sorex araneus* and Pygmy shrew *Sorex minutus*, up to 5 specimens of Eurasian water shrew *Neomys*

fodiens;

3. **purposeful killing of specimens, purposeful mutilation or catching, purposeful destruction of eggs or growth forms, destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; destruction, removal or damaging of spawning grounds, wintering grounds and other refuges; purposeful prevention of access to refuges, purposeful relocation from places of regular presence to new places of the following species:** Stone loach *Barbatula barbatula*, Bullhead *Cottus gobio*, Siberian bullhead *Cottus poecilopus*, Brook lamprey *Lamperta planeri* – on a 2 km long section of the river course;
4. **purposeful killing of specimens, purposeful mutilation or catching, purposeful destruction of eggs or growth forms, destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; destruction, removal or damaging of nests, burrows, lairs, wintering grounds or other refuges; purposeful relocation from places of regular presence to new places, purposeful scaring and disturbing of the following species:** up to 10 species of Harvest mouse *Micomys minutus*, up to 10 species of Wood mouse *Apodemus sylvaticus*;
5. **purposeful mutilation or catching, purposeful destruction of eggs or growth forms, destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; purposeful prevention of access to refuges, purposeful relocation from places of regular presence to new places, purposeful scaring and disturbing of the following species:** up to 10 specimens of Grass snake *Natrix natrix*;
6. **purposeful mutilation or catching, purposeful destruction of eggs or growth forms, destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; destruction, removal or damaging of burrows, lairs, wintering grounds or other refuges; purposeful prevention of access to refuges, purposeful relocation from places of regular presence to new places of the following species:** up to 5 specimens of European water vole *Arvicola amphibius*;
7. **purposeful mutilation or catching, destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; destruction, removal or damaging of nests, lairs, wintering grounds or other refuges; purposeful relocation from places of regular presence to new places, purposeful scaring and disturbing of the following species:** up to 5

specimens of European hedgehog *Erinaceus europaeus*;

8. **destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; destruction, removal or damaging of nests, burrows, lairs, wintering grounds or other refuges; purposeful prevention of access to refuges, purposeful scaring and disturbing of the following species:** up to 5 specimens of Stoat *Mustela erminea* and Least weasel *Mustela nivalis*;
9. **destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; purposeful relocation from places of regular presence to new places, purposeful scaring and disturbing of the following species:** up to 19 daytime refuges of Common noctule *Nyctalus noctula*, Common pipistrelle *Pipistrellus pipistrellus*, Nathusius' pipistrelle *Pipistrellus nathusii*, Soprano pipistrelle *Pipistrellus pygmaeus*, Daubenton's bat *Myotis daubentonii*, Common long-eared bat *Plecotus auritus* and Grey long-eared bat *Plecotus austriacus*;
10. **destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; destruction, removal or damaging of nests or other refuges; purposeful scaring and disturbing in places of night rest, in places of reproduction or growth of the young during the breeding period and on feeding grounds of groups of migrating or wintering birds of the following species:** up to 2 specimens of Northern goshawk *Accipiter gentilis*, Sparrowhawk *Accipiter nisus*, Common buzzard *Buteo buteo* and Common kestrel *Falco tinnunculus*; up to 4 specimens of European turtle dove *Streptopelia turtur*, up to 5 specimens of Long-tailed tit *Aegithalos caudatus*, White-throated dipper *Certhia familiaris*, Eurasian jay *Garrulus glandarius*, Common magpie *Pica pica*, Corn bunting *Emberiza calandra*, Common rosefinch *Carpodacus erythrinus*, Hawfinch *Coccothraustes coccothraustes*, White wagtail *Motacilla alba*, Eurasian golden oriole *Oriolus oriolus*, Willow tit *Poecilla montana*, Eurasian nuthatch *Sitta europaea*, Common chiffchaff *Phylloscopus collybita*, Wood warbler *Phylloscopus sibilatrix*, Icterine warbler *Hippolais icterina*, Willow warbler *Phylloscopus trochilus*, Black redstart *Phoenicurus ochruros*, Great spotted woodpecker *Dendrocopos major* and Long-eared owl *Asio otus*; up to 10 specimens of Song thrush *Turdus philomelos* and Spotted flycatcher *Muscicapa striata*; up to 20 specimens of Eurasian collared dove *Streptopelia decaocto*, Eurasian siskin *Carduelis spinus*, Common chaffinch *Fringilla coelebs*, Eurasian blue tit *Cyanistes caeruleus* and Great tit *Parus major*; up to 50 specimens of House sparrow *Passer domesticus* and Common starling *Sturnus vulgaris*; one site of Common quail *Coturnix coturnix*, Corncrake *Crex crex* and

Common grasshopper warbler *Locustella naevia*; up to 5 sites of Eurasian skylark *Alauda arvensis*, European goldfinch *Carduelis carduelis*, European serin *Serinus serinus*, European greenfinch *Carduelis chloris* and Eurasian tree sparrow *Passer montanus*; a pair of Kingfisher *Alcedo atthis*, Raven *Corvus corax*, Meadow pipit *Anthus pratensis*, Grey wagtail *Motacilla cinerea* and Grey-headed woodpecker *Picus canus*; 0.5 pair of Lesser whitethroat *Sylvia curruca* / 10 ha; 1 pair of Goldcrest *Regulus regulus* and Garden warbler *Sylvia borin* / 10 ha; 1.5 pair of Western yellow wagtail *Motacilla flava* / 10 ha; 1.8 pair of Whinchat *Saxicola rubetra* / 10 ha; 2 pairs of Eurasian wryneck *Jynx torquilla* and Tree pipit *Anthus trivialis*, 2.3 pairs of Eurasian blackcap *Sylvia atricapilla* and Common whitethroat *Sylvia communis* / 10 ha; 2.5 pairs of European robin *Erithacus rubecula* and Common blackbird *Turdus merula* / 10 ha; 3 pairs of Yellowhammer *Emberiza citrinella* / 10 ha; up to 5 pairs of Eurasian treecreeper *Certhia familiaris*, Dunnock *Prunella modularis* and Marsh tit *Poecilla palustris*; 4 pairs of Eurasian linnet *Carduelis cannabina*; 14-15 pairs of Red-backed shrike *Lanius collurio*; up to 19 pairs of Fieldfare *Turdus pilaris* and Marsh warbler *Acrocephalus palustris*;

11. **destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; scaring and disturbing in places of night rest, during the breeding season in places of reproduction and growth of the young, and on feeding grounds of groups of migrating or wintering birds of the following species:** 2 specimens of White stork *Ciconia ciconia* and Black stork *Ciconia nigra*, up to 5 specimens of Hooded crow *Corvus cornix* and Common cuckoo *Cuculus canorus*, up to 20 specimens of Barn swallow *Hirunda rustica* and Common house martin *Delichon urbica*, up to 30 specimens of Rook *Corvus frugilegus* and Western jackdaw *Corvus monedula*, up to 40 specimens of Common swift *Apus apus*;
12. **purposeful scaring and disturbing of the following species:** up to 5 specimens of Serotine bat *Eptesicus serotinus* and Particoloured bat *Vespertilio murinus*;
13. **purposeful scaring and disturbing in places of night rest, in places of reproduction and growth of the young during the breeding period and on feeding grounds of groups of migrating or wintering birds of the following species:** up to 10 specimens of Feral pigeon *Columba livia f. urbana*,

in connection with the implementation of the undertaking entitled: “Construction of “Krosnowice” – a dry flood control reservoir on Duna stream near Krosnowice, Kłodzko Municipality in the Lower Silesian Province” – on 300 m wide strips along the banks of Duna Dolna and Duna Górna (Topolica) streams, from chainage km 0+000 to km 3+400 of Duna Dolna and from chainage km 0+000 to km 1+400 of Duna Górna (Topolica), **on the following**

conditions:

- 1) the animals (specimens of fish, amphibians, reptiles and mammals) shall be carried away from the construction works area only under the supervision of specialists in relevant fields of science: an ichthyologist, a herpetologist, a chiropterologist, and a zoologist;
- 2) the present permit shall be implemented together with the conditions imposed in the decision on the environmental conditions for the undertaking consisting in the construction of “Krosnowice” flood control reservoir (ref. No.: WOOŚ.4204.2.2013.ŁCK.24) of March 13th, 2015.

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 May 2nd, 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 (power of attorney No. DP.0113-91/2016 of April 21st, 2016), concerning issuing a decision exempting from bans related to specimens of animals subject to protection. On June 2nd, 2016, Ms. Dorota Serwecińska submitted a new, corrected application, the subject matter of which replaces that of the application of May 2nd, 2016.

The applicant needs the decision exempting from bans related to specimens of animals subject to protection in connection with the implemented undertaking entitled: “Construction of “Krosnowice” – a dry flood control reservoir on Duna stream near Krosnowice, Kłodzko Municipality in the Lower Silesian Province”.

All the species listed in the application are subject to protection under the *Regulation of the Minister of the Environment of October 6th, 2014 on protection of animal species*, but only 21 species are subject to partial protection under Appendix No. 2 to the abovementioned *Regulation* (i.e. European mole *Talpa europaea*, Common shrew *Sorex araneus*, Pygmy shrew *Sorex minutus*, Eurasian water shrew *Neomys fodiens*, European hedgehog *Erinaceus europaeus*, Stoat *Mustela erminea*, Least weasel *Mustela nivalis*, European water vole *Arvicola amphibius*, Harvest mouse *Micomys minutus*, Wood mouse *Apodemus sylvaticus*, Feral pigeon *Columba livia f. urbana*, Raven *Corvus corax*, Hooded crow *Corvus cornix*, Common magpie *Pica pica*, Common frog *Rana temporaria*, Slow worm *Anguis fragilis*, Grass snake *Natrix natrix*, Stone loach *Barbatula barbatula*, Bullhead *Cottus gobio*, Siberian bullhead

Cottus poecilopus and Brook lamprey *Lamperta planeri*), while the remaining 79 listed species are subject to strict protection under Appendix No. 2 to the abovementioned *Regulation*.

Animals subject to species protection under Article 52 Par. 1 Subpar. 1, 2, 3, 7, 8, 9, 12, 13 and 15 of the *Nature Conservation Act of April 16th, 2004* and § 6 Par. 1, 2, 3, 7, 8, 9 and 12 Par. 2 and 3 of the *Regulation of the Minister of the Environment on protection of animal species* are covered by bans on: purposeful killing, purposeful mutilation or catching, purposeful destruction of eggs or growth forms, destruction of habitats or refuges constituting their places of reproduction, growth of the young, rest, migration or feeding; destruction, removal or damaging of nests, anthills, burrows, lairs, lodges, dams, spawning grounds, wintering grounds and other refuges; purposeful prevention of access to refuges, purposeful relocation from places of regular presence to new places, purposeful scaring and disturbing as well as purposeful scaring and disturbing in places of night rest, in places of reproduction or growth of the young during the breeding period and on feeding grounds of groups of migrating or wintering birds.

However, under Article 56 Par. 2 Subpar. 1 and 2 and Par. 4 Subpar. 7 of the *Nature Conservation Act*, a regional director for environmental protection may permit an exemption from the abovementioned bans in the area it governs if there are no alternative solutions available, provided that the activities do not have an adverse impact on the preservation of wild populations of protected animal species in an appropriate status and stem from the necessary requirements of an overriding public interest.

As stems from the application, killing or mutilation of animals impossible to identify and carry away before works commencement may take place during the implementation of the undertaking in question (e.g. if the animals hide in the brush or in burrows). Animal scaring may happen during the entire construction period. Habitats of the animals listed in the application shall be permanently destroyed and a dry flood control reservoir shall take their place.

Reservoir construction is aimed at 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. WOOŚ.4204.2.2013.ŁCK.24, of March 13th, 2015).

There are no alternative solutions available in the discussed case: due to technological reasons, it is impossible to implement the planned project without breaching the bans related to wild animals subject to species protection (however, the applicant assures the present body that all animals spotted during the performance of earthworks shall be caught and carried away from the construction site to avoid their mutilation or killing).

In view of the above, the present body permitted the prohibited activities in relation to the

discussed animal species, simultaneously imposing a condition that specimens of fish, amphibians, reptiles and mammals be carried away from the construction works area only under the supervision of specialists in relevant fields of science: an ichthyologist, a herpetologist, a chiropterologist, and a zoologist (the above should ensure animal treatment in a manner corresponding to their species and biological requirements as well as carrying them to appropriate locations in terms of habitat).

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 "Krosnowice" flood control reservoir (ref. No.: WOOS.4204.2.2013.LCK.24, of March 13th, 2015), as the two documents are jointly aimed at minimizing the undertaking influence on the surroundings, including the populations of protected animals (I would like to highlight that the above decision imposes i.a. compensation measures related to destroying the nesting places of Grey wagtail *Motacilla cinerea*, i.e. performance of alternative nesting places in the form of two boxes appropriate for that species, as well as recommends hanging and later maintenance of 50 nest boxes for bats in order to exclude the risk of destruction of bat breeding grounds during the removal of trees and shrubs).

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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/illegible name and signature/
Head of the Department of Nature Conservation and Natura 2000 Sites]

Recipients:

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