



**REGIONAL DIRECTOR  
FOR ENVIRONMENTAL PROTECTION  
IN GORZÓW WIELKOPOLSKI**

Gorzów Wlkp., 03 July 2020



Date 6.07.2020

WPN-I.6401.186.2020.MJ

**DECISION**

No. ZFA.011.98.2020 Signature:

Pursuant to the Art. 104 § 1 and 105 § 1 of the Act of June 14, 1960 - Code of Administrative Procedure (Journal of Laws of 2020, item 256, as amended) and Art. 56 clause 2 points 1 and 2 and clause 4 points 3, 6 and 7, in conjunction with the Art. 52 clause 1 points 1, 2, 3, 7, 8, 12, 13 and 15 of the Nature Conservation Act of 16 April 2004 (Journal of Laws 2020, item 55, i.e.) and § 6 clause 1 points 6, 8, 12 and clauses 2 and 3 of the Regulation of the Minister of Environment of December 16, 2016, on conservation of animal species (Journal of Laws of 2016, item 2183, as amended,) having examined the application filed by Ms Krystyna Araszkiwicz of Sweco Consulting Sp. z o.o., ul. Łyskowskiego 16, 71-641 Szczecin, representing the investor, State Water Management Polish Waters The Regional Water Management Board in Szczecin, ul. Tama Pomorzańska 13A 70-030 Szczecin, (power of attorney of 28 May 2019 ref.: SZ.R00.012.98.2019.MG,) dated April 6, 2020, ref.: POPDOW- ZPT.070.6.2020 (date received by this office: 10.04.2020,) supplemented by the letter of May 18, 2020 ref.: POPDOW- ZPT.0770.6.1.2020 (date received by this office 21.05.2020) for granting permit for certain activities prohibited in relation to species protected on the basis of conservation of species regulations,

**I. I hereby grant permit**

to the State Water Management Polish Waters, Regional Water Management Board in Szczecin, ul. Tama Pomorzańska 13A, 70-030 Szczecin, to perform the following activities prohibited in relation to the specified animal species, on the territory of Słubice municipality, in the Odra River section between km 581.0 - 585.7; Górzycza municipality in the Odra River sections km 604.0 - 605.0 and 613.1 - 614.3; Kostrzyn nad Odrą municipality in the Odra river section km 614.3 - 614.7:

➤ **MALACOFUNA**

- 1) deliberate movement of specimens from their regular habitats to other locations - outside the area of impact of the works, with regard to the following species: Swan mussel *Anodonta cygnea*, depressed river mussel *Pseudoanodonta complanata*;
- 2) destruction of habitats and refuges that are the areas of breeding, rearing, resting or feeding of the specimens of species: Swan mussel *Anodonta cygnea*, depressed river mussel *Pseudoanodonta complanata*;

➤ **ENTOMOFAUNA**

- 1) deliberate scaring and disturbing the specimens of species: green snaketail *Ophiogomphus cecila*;

## ➤ ICHTYOFAUNA

- 1) destruction of wintering sites and other shelters of the specimens of species: European bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, weatherfish *Misgurnus fossilis*, white-finned gudgeon *Romanogobio albipinnatus*, stone loach *Barbatula barbatula*, golden spined loach *Sabanejewia aurata*, European river lamprey *Lampetra fluviatilis*, Atlantic sturgeon *Acipenser oxyrinchus* from July 16 until the end of February in the years 2021-2023;
- 2) destruction of habitats and refuges that are the areas of breeding, rearing, resting or feeding of the specimens of species: Amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, weatherfish *Misgurnus fossilis*, white-finned gudgeon *Romanogobio albipinnatus*, stone loach *Barbatula barbatula*, golden spined loach *Sabanejewia aurata*, European river lamprey *Lampetra fluviatilis*, Atlantic sturgeon *Acipenser oxyrinchus* between July 16 and the end of February in the years 2021-2023;
- 3) deliberate movement of specimens from their regular habitats to other locations – outside the area of impact of the works, with regard to the following species: European bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, white-finned gudgeon *Romanogobio albipinnatus* between July 16 and the end of February in the years 2021-2023;
- 4) deliberate scaring and disturbance of the specimens of species: Atlantic sturgeon *Acipenser oxyrinchus*, between July 16 and the end of February in the years 2021-2023;

## ➤ HERPETOFAUNA

- 1) deliberate scaring and disturbance of the specimens of species: European fire-bellied toad *Bombina bombina*, common toad *Bufo bufo*, moor frog *Rana arvalis*, European grass frog *Rana temporaria*, pool frog *Pelophylax lessonae*, marsh frog *Pelophylax ridibundus*, sand lizard *Lacerta agilis*, grass snake *Natrix natrix*;
- 2) deliberate movement of specimens from their regular habitats to other locations - outside the area of impact of the works, with regard to the following species: European fire-bellied toad *Bombina bombina*, common toad *Bufo bufo*, moor frog *Rana arvalis*, European grass frog *Rana temporaria*, pool frog *Pelophylax lessonae*, marsh frog *Pelophylax ridibundus*, sand lizard *Lacerta agilis*, grass snake *Natrix natrix* within the spring and autumn migration period in the years 2021-2023;

## ➤ ORNITHOFAUNA

- 1) deliberate scaring and disturbance in night-time shelters, in the breeding season, in breeding or rearing areas, or in feeding areas of groups of migratory or wintering birds of the species, i.e.: smew *Mergus albellus*, white-tailed eagle *Haliaeetus albicilla*, Montagu's harrier *Circus pygargus* black stork *Ciconia nigra*, common sandpiper *Actitis hypoleucos*, garganey *Spatula querquedula*, lapwing *Vanellus xanellus*, great egret *Ardea alba*, grey heron *Ardea cinerea*, middle spotted woodpecker *Dendrocopos medius*, green woodpecker *Picus viridis*, common rosefinch *Erythrura erythrurus*, rook *Corvus frugilegus*, goldeneye *Bucephala clangula*, red-backed shrike *Lanius collurio*, red kite *Milvus milvus*, moorhen *Gallinula chloropus*, cormorant *Phalacrocorax carbo*, gadwall *Mareca strepera*, sparrowhawk *Accipiter nisus*, common redshank *Tringa totanus*, whooper swan *Cygnus cygnus*, mute swan *Cygnus olor*, common gull *Larus canus*, herring gull *Larus argentatus*, rough-legged buzzard

*Buteo lagopus*, buzzard *Buteo buteo*, merganser *Mergus merganser*, house martin *Delichon*

*urbicum*, shoveler *Spatula clypeata*, kestrel *Falco tinnunculus*, osprey *Pandion haliaetus*, little ringed plover *Charadrius dubius*, thrush nightingale *Luscinia luscinia*, peregrine falcon *Falco peregrinus*, great grey shrike *Lanius excubitor*, river warbler *Locustella fluviatilis*, black-headed gull *Chroicocephalus ridibundus*, common grasshopper warbler *Locustella naevia*, Eurasian wigeon *Anas penelope*, hooded crow *Corvus cornix*, crane *Grus grus*;

- 2) destruction of habitats or refuges that are the sites of breeding, rearing, resting, migration or feeding of specimens of the following species: garganey *Spatula querquedula* (2 breeding pairs), moorhen *Gallinula chloropus* (2 specimens), sandpiper *Actitis hypoleucos* (1 breeding pair), gadwall *Mareca strepera* (3 breeding pairs), river warbler *Locustella fluviatilis* (5 breeding pairs), shoveler *Spatula clypeata* (15 specimens) between 1 August and the end of February in the years 2021-2023;

#### ➤ MAMMALS (EXCL. BATS)

- 1) destruction of habitats or refuges that are the sites of breeding, rearing, resting, migration or feeding of specimens of the species: otter *Lutra lutra*, European beaver *Casotrfiber* between 16 July and the end of February in the years 2021-2023;
- 2) deliberate scaring and disturbance of specimens of species, i.e.: otter *Lutra lutra*, European beaver *Casotr fiber*, wolf *Canis lupus*, weasel *Mustela nivalis*, stoat *Mustela eremita*, common shrew *Sorex minutus*, pygmy shrew *Sorex minutus*, mole *Talpa europaea*;
- 3) destruction of wintering sites and other shelters for specimens of the following species: common shrew *Sorex minutus*, water vole *Arvicola amphibius*, wood mouse *Apodemus sylvaticus* from 16 July to the end of February 2021-2023;

#### ➤ CHIROPTEROFAUNA

- 1) deliberate scaring and disturbance of specimens of species, i.e. Nathusius' pipistrelle *Pipistrellus nathusii*, common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus*, common noctule *Nyctalus noctula*, serotine bat *Eptesicus serotinus*, Daubenton's bat *Myotis daubentonii*, pond bat *Myotis dasycneme*,

in connection with the implementation of the planned project as part of the Odra-Vistula Flood Protection Project entitled: “Task 1B.2 Stage I and Stage II Modernisation works on boundary sections of Odra River as part of the Odra-Vistula Flood Management Project”,

#### under the following conditions:

1. activities covered by this permit should be carried out under the supervision of the Environmental Team of the construction works Contractor;
2. the works will be carried out in daylight hours and the time of execution of the requested activities will be limited to the necessary minimum;
3. Unionidae mussels will be caught by hand nets on shallows, bottom dredge in deeper places and moved from endangered areas along reconstructed groynes to safe places (groyne fields where work has not yet been undertaken or has already been completed).
4. the breeding site of the moor frog (602.1 km - near the embankment) should be visibly marked in order to avoid damage;

**This permit remains valid until 28 February 2023.**

I further oblige the Applicant to provide the Regional Director for Environmental Protection in Gorzów Wielkopolski with a report on the extent to which this permit has been used, **until 31 March 2023**. The report must refer the number of this decision.

## II. I hereby discontinue

the proceedings for issuing this decision, in the part concerning the following activities:

- 1) collecting, keeping and possessing specimens of the following species: swan mussel *Anodonta cygnea*, depressed river mussel *Pseudoanodonta complanata*;
- 2) collecting, keeping and possessing specimens of the species amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia* and white-finned gudgeon *Romanogobio albipinnatus* from July 16 until the end of February;
- 3) collecting, keeping and possession of specimens of species: European fire-bellied toad *Bombina bombina*, common toad *Bufo bufo*, moor frog *Rana arvalis*, grass frog *Rana temporaria*, lake frog *Pelophylax lessonae*, marsh frog *Pelophylax ridibundus*, snake lizard *Lacerta agilis*, grass snake *Natrix natrix* during spring and autumn migration;

since the said proceedings have no grounds.

## EXPLANATORY STATEMENT

By the letter dated 06 April 2020, ref.: POPDOW- ZPT.070.6.2020 (date received by this office: 10.04.2020,) supplemented by the letter of May 18, 2020 ref.: PDOW-ZPT.0770.6.1.2020 (received by this office on 21.05.2020) Ms Krystyna Araszkiwicz of Sweco Consulting Sp. z o.o., ul. Łyskowskiego 16, 71-641 Szczecin, representing the investor, State Water Management Polish Waters The Regional Water Management Authority in Szczecin, ul. Tama Pomorzańska 13A 70-030 Szczecin, (power of attorney of 28 May 2019 ref.: SZ.ROO.012.98.2019.MG), applied to the Regional Director for Environmental Protection in Gorzów Wielkopolski for a permit to carry out the activities listed below in Słubice municipality at 581.0 - 585.7 km of the river Odra; Górzycza at 604.0 - 605.0 and 613.1 - 614.3 km of the river Odra; Kostrzyn nad Odrą at 614.3 - 614.7 km of the river Odra: MALACOFUNA collecting, keeping and possessing specimens of the following species: swan mussel *Anodonta cygnea*, depressed river mussel *Pseudoanodonta complanata*; deliberate movement of specimens from their regular habitats to other locations - outside the area of impact of the works: swan mussel *Anodonta cygnea*, depressed river mussel *Pseudoanodonta complanata*; destruction of habitats and refuges that are the areas of breeding, rearing, resting or feeding of specimens of the following species: swan mussel *Anodonta cygnea*, depressed river mussel *Pseudoanodonta complanata*; ENTOMOFAUNA deliberate scaring and disturbing the specimens of species: green snaketail *Ophiogomphus cecilia*; ICTHYOFAUNA destruction of wintering sites and other shelters of specimens of the following species: amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, weatherfish *Misgurnus fossilis*, white-finned gudgeon *Romanogobio albipinnatus*, *Barbatula barbatula*, golden loach *Sabanejewia aurata*, stone loach *Lampetra fluviatilis*, *Acipenser oxyrinchus* from July 16 until the end of February; destruction of habitats and refuges that are the areas of breeding, rearing, resting or feeding of specimens of the following species: amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, weatherfish *Misgurnus fossilis*, white-finned gudgeon *Romanogobio albipinnatus*, *Barbatula barbatula*, golden loach

*Sabanejewia aurata*, stone loach *Lampetra fluviatilis*, *Acipenser oxyrinchus* from July 16 to the end of February; collecting, keeping and possessing specimens of the following species: amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, white-finned gudgeon *Romanogobio albiginnatus* from July 16 to the end of February; deliberate movement of specimens of the following species outside the area of impact of the works: amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, white-finned gudgeon *Romanogobio albiginnatus* from July 16 to the end of February; deliberate disturbance and disturbance of specimens of the species: *Acipenser oxyrinchus* from July 16 to the end of February from 16 July to the end of February; HERPETOFAUNA deliberate scaring and disturbance of specimens of species, i.e.: European fire-bellied toad *Bombina bombina*, grey toad *Bufo bufo*, marsh frog *Rana arvalis*, grass frog *Rana lemporaria*, lake frog *Pelophylax lessonae*, marsh frog *Pelophylax ridibundus*, sand lizard *Lacerta agilis*, grass snake *Natrix natrix*; collecting, keeping and possession of specimens, i.e.: European fire-bellied toad *Bombina bombina*, grey toad *Bufo bufo*, marsh frog *Rana arvalis*, grass frog *Rana lemporaria*, lake frog *Pelophylax lessonae*, marsh frog *Pelophylax ridibundus*, sand lizard *Lacerta agilis*, grass snake *Natrix natrix* during spring and autumn migrations; intentional relocation from places of regular residence to other places - outside the area of the work of specimens, i.e. European fire-bellied toad *Bombina bombina*, grey toad *Bufo bufo*, marsh frog *Rana arvalis*, grass frog *Rana lemporaria*, lake frog *Pelophylax lessonae*, marsh frog *Pelophylax ridibundus*, sand lizard *Lacerta agilis*, grass snake *Natrix natrix*; during spring and autumn migration; ORNITHOFAUNA deliberate scaring and disturbance in night-time habitats, in the breeding season in breeding or rearing areas, or feeding areas, of groups of migrating or wintering birds of the following species: smew *Mergus albellus*, white-tailed eagle *Haliaeetus albicilla*, Montagu's harrier *Circus pygargus* black stork *Ciconia nigra*, common sandpiper *Actitis hypoleucos*, garganey *Spatula querquedula*, lapwing *Vanellus xanellus*, great egret *Ardea alba*, grey heron *Ardea cinerea*, middle spotted woodpecker *Dendrocopos medius*, green woodpecker *Picus viridis*, common rosefinch *Erythrura erythrurus*, rook *Corvus frugilegus*, goldeneye *Bucephala clangula*, red-backed shrike *Lanius collurio*, red kite *Milvus milvus*, moorhen *Gallinula chloropus*, cormorant *Phalacrocorax carbo*, gadwall *Mareca strepera*, sparrowhawk *Accipiter nissus*, common redshank *Tringa totanus*, whooper swan *Cygnus cygnus*, mute swan *Cygnus olor*, common gull *Larus canus*, herring gull *Larus argentatus*, rough-legged buzzard, *Buteo lagopus*, buzzard *Buteo buteo*, merganser *Mergus merganser*, house martin *Delichon urbicum*, shoveler *Spatula clypeata*, kestrel *Falco tinnunculus*, osprey *Pandion haliaetus*, little ringed plover *Charadrius dubius*, thrush nightingale *Luscinia luscinia*, peregrine falcon *Falco peregrinus*, great grey shrike *Lanius excubitor*, river warbler *Locustella fluviatilis*, black-headed gull *Chroicocephalus ridibundus*, common grasshopper warbler *Locustella naevia*, Eurasian wigeon *Anas penelope*, hooded crow *Corvus cornix*, crane *Grus grus*; the destruction of habitats or refuges being the areas of breeding, rearing, resting, migration or feeding of specimens of the following species: garganey *Spatula querquedula* (2 breeding pairs), moorhen *Gallinula chloropus* (2 specimens), common sandpiper *Actitis hypoleucos* (1 breeding pair), gadwall *Mareca strepera* (3 breeding pairs), river warbler *Locustella fluviatilis* (5 breeding pairs), shoveler *Spatula clypeata* (15 specimens) between 1 August and the end of February; MAMMALS (EXCLUDING BATS) destruction of habitats or habitats constituting the breeding, rearing, resting, migration or feeding area of specimens of species, i.e.: otter *Lutra lutra*, European beaver *Casotr flber* from 16 July to the end of February; deliberate frightening and disturbing of specimens, i.e.: otter *Lutra lutra*, European beaver *Casotr flber*, wolf *Canis lupus*,

weasel *Mustela nivalis*, stoat *Mustela eremita*, common shrew *Sorex minutus*, pygmy shrew *Sorex minutus*, mole *Talpa europaea*, destruction of wintering habitats and other shelters of specimens, i.e.: common shrew *Sorex minutus*, water vole *Arvicola amphibius*, wood mouse *Apodemus sylvaticus* from 16 July to the end of February; CHIROPTEROFAUNA intentional scaring and disturbance of specimens of species, i.e.: Nathusius' pipistrelle *Pipistrellus nathusii*, common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus*, common noctule *Nyctalus noctula*, serotine bat *Eptesicus serotinus*, Daubenton's bat *Myotis daubentonii*, pond bat *Myotis dasycneme* in accordance with the construction works schedule: 03.2021 - 02.2023 in connection with the implementation of the planned project as part of the Odra-Vistula Flood Protection Project entitled: "IB.2 Modernization works on boundary sections of Odra River, Stage I to provide Good Condition for Ice-breaking." The application was accompanied by the environmental permit issued by the Regional Director for Environmental Protection in Szczecin dated 18 March 2020 ref.: WONS-OŚ.4233.1.2017.KK.68 and the Power of Attorney of 28 May 2019, ref.: SZ.R00.012.98.2019.MG for Ms Krystyna Araszkiwicz.

The Regional Director for Environmental Protection in Gorzów Wielkopolski, by his letter dated 08 June 2020, ref.: WPN-I.6401.186.2020.MJ, notified the Applicant about the right of the party to read and comment on the evidence and materials collected before issuing a decision in the matter, pursuant to art. 10 § 1 of the Act of June 14, 1960 – Code of Administrative Procedure. In the course of the proceedings, the party did not exercise that right and did not file any comments.

Pursuant to Appendix 1 to the Ordinance of the Minister of the Environment of 16 December 2016 on the protection of animal species, green snaketail *Ophiogomphus cecila*, golden loach *Sabanejewia aurata*, sturgeon *Acipenser oxyrinchus*, European fire-bellied toad *Bombina bombina*, moor frog *Rana arvalis*, smew *Mergus albellus*, white-tailed eagle *Haliaeetus albicilla*, Montagu's harrier *Circus pygargus*, black stork *Ciconia nigra*, common sandpiper *Actitis hypoleucos*, garganey *Spatula querquedula*, lapwing *Vanellus xanellus*, great egret *Ardea alba*, grey heron *Ardea cinerea*, middle spotted woodpecker *Dendrocopos medius*, green woodpecker *Picus viridis*, wild woodpecker common rosefinch *Erythrina erythrinus*, rook *Corvus frugilegus*, goldeneye *Bucephala clangula*, red-backed shrike *Lanius collurio*, red kite *Milvus milvus*, moorhen *Gallinula chloropus*, cormorant *Phalacrocorax carbo*, gadwall *Mareca strepera*, sparrowhawk *Accipiter nissus*, common redshank *Tringa totanus*, whooper swan *Cygnus cygnus*, mute swan *Cygnus olor*, common gull *Larus canus*, herring gull *Larus argentatus*, rough-legged buzzard, *Buteo lagopus*, buzzard *Buteo buteo*, merganser *Mergus merganser*, house martin *Delichon urbicum*, shoveler *Spatula clypeata*, kestrel *Falco tinnunculus*, osprey *Pandion haliaetus*, little ringed plover *Charadrius dubius*, thrush nightingale *Luscinia luscinia*, peregrine falcon *Falco peregrinus*, great grey shrike *Lanius excubitor*, river warbler *Locustella fluviatilis*, black-headed gull *Chroicocephalus ridibundus*, common grasshopper warbler *Locustella naevia*, Eurasian wigeon *Anas penelope*, hooded crow *Corvus cornix*, crane *Grus grus*, wolf *Canis lupus*, Nathusius' pipistrelle *Pipistrellus nathusii*, common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus*, common noctule *Nyctalus noctula*, serotine bat *Eptesicus serotinus*, Daubenton's bat *Myotis daubentonii*, pond bat *Myotis dasycneme*. Whereas, according to Annex 2 to the abovementioned regulation, swan mussel *Anodonta cygnea*, depressed river mussel *Pseudoanodonta complanata*, amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia*, weatherfish *Misgurnus fossilis*, white-finned gudgeon *Romanogobio albipinnatus*, stone loach *Barbatula barbatula*, river lamprey *Lampetra*

*fluviatilis*, grey toad *Bufo bufo*, grass frog *Rana temporaria*, pool frog *Pelophylax lessonae*, marsh frog *Pelophylax ridibundus*, sand lizard *Lacerta agilis*, grass snake *Natrix natrix*, otter *Lutra lutra*, beaver *Casotr fiber*, weasel *Mustela nivalis*, stoat *Mustela eremita*, common shrew *Sorex minutus*, pygmy shrew *Sorex minutus*, mole *Talpa europaea*, water vole *Arvicola amphibius*, wood mouse *Apodemus sylvaticus* are partly protected.

With regard to protected wild animals, according to Article 52 (1)(6),(7),(8),(12),(13) and (15) of the Nature Conservation Act of 16 April 2004, collecting, obtaining, keeping, possessing or preparing specimens of species, destroying habitats or habitats being their areas of breeding, rearing, resting, migration or feeding; destroying, removing or damaging nests, anthills, burrows, lairs, feeding grounds, dams, spawning grounds, wintering grounds or other shelters; deliberate scaring or disturbance; deliberate scaring or disturbance in night-time habitats, in breeding season in breeding or rearing areas, or in feeding areas, of groups of migrating or wintering birds, and deliberate movement from regular habitats to other sites, is forbidden. The foregoing has been specified in §6 paragraph 1 items 6, 7, 8 and 12, and paragraphs 2 and 3 of Regulation of the Minister of Environment on conservation of animal species. Pursuant to §6 (2), with regard to the wild animals marked with (1) in Annexes 1 and 2 to the Regulation, there is an additional ban on deliberate scaring or disturbance. Pursuant to §6 (3), wildlife identified by the symbol (2) in Annexes 1 and 2 to the Regulation additionally prohibited is the deliberate scaring or disturbing in night-time habitats, in the breeding period, in breeding or rearing places, or feeding places for migratory or wintering bird groups.

In the light of Article 5(18) of the Nature Conservation Act, a habitat of plants, animals or fungi shall be defined as an area where such plants, animals or fungi exist throughout their life or at any stage of growth. Therefore, works related to the implementation of the investment in question, where protected species can be found, should be treated as habitats of these species subject to legal protection. In consequence, each instance where works restrict the species' access to their regular habitats should be classified as destruction of the habitats of those species, and thus as an infringement of the ban referred to in Article 52(1)(7) of the abovementioned Act. Planned work as part of the investment, where protected species are found, results in the destruction of their habitats. Therefore, the implementation of the investment requires a permit from the Regional Director for Environmental Protection in Gorzów Wielkopolski, issued pursuant to art. 56 paragraph 2 (1) and (2) of the Nature Conservation Act, for derogation from the bans referred to in art. 52 paragraph 1 of the cited act.

Based on Article. 56 paragraph 2 items 1 and 2 of the Nature Conservation Act, the regional director of environment protection in the area of their activity may issue a permit in relation to wild species of protected animals for activities subject to the bans specified in art. 52 paragraph 1 in the absence of alternative solutions, if it does not cause a threat to wild populations of protected species and in the event of the occurrence of one of the conditions specified in art. 56 paragraph 4 items 1-7 of the cited act.

While analysing this case, the fact that the site identified by the Applicant is covered by the Natura 2000 areas The Warta River Mouth (PLC080001), The Middle Odra Valley (PLB080004) and the Słubice Riparian Forests (PLH 080013), as referred to in Article 6 (5) was noted. In the analysed area there is also a landscape park "Ujście Warty", referred to in Article 6 (1) (3) of the cited Nature Conservation Act, and the landscape protection area "Słubice Odra Valley", referred to in Article 6 (1) (4) of the cited Nature Conservation Act. After examining the collected documentation, the Authority excluded the possibility of a negative impact on the

conservation objectives of Natura 2000 sites located on the impact of the investment, as confirmed by the decision of the Regional Director for Environmental Protection in Szczecin dated 18 March 2020, which is attached to the application, ref. no.: WONS-OŚ.4233.1.2017.KK.66 of 18 March 2020 specifying the environmental conditions for the project implementation.

In the part of the Party's request for a permit for collecting, keeping and possessing specimens of species, i.e.: Malacofauna - swan mussel *Anodonta cygnea*, depressed river mussel *Pseudoanodonta complanata*; Ichthyofauna - amur bitterling *Rhodeus amarus*, spined loach *Cobitis taenia* and white-finned gudgeon *Romanogobio albipinnatus* from July 16 until the end of February; Herpetofauna European fire-bellied toad *Bombina bombina*, gray toad *Bufo bufo*, moor frog *Rana arvalis*, grass frog *Rana temporaria*, pool frog *Pelophylax lessonae*, marsh frog *Pelophylax ridibundus*, sand lizard *Lacerta agilis*, grass snake *Natrix natrix* during spring and autumn migration, the Authority dismissed the proceedings due to the fact that the applicant indicated in the application the act of deliberate movement from places of regular residence to other places, which, in the opinion of the Authority, is tantamount to capture, thus the procedure for issuing the authorisation of the abovementioned activity was considered to be unsubstantiated and was discontinued pursuant to Article 105 § 1 of the Code of Administrative Procedure. In addition, it should be noted that the collection, keeping and possession operation concerns specimens of species that are permanently kept away from their place of occurrence. In the application, the applicant specified that specimens of the abovementioned species will be released within the scope of the investment outside the place of impact of the ongoing works.

According to the application, the requested activities are necessary to implement the planned project to be carried out as part of the Odra-Vistula Flood Management Project, titled “Task 1B.2 Stage 1 and Stage II Modernisation works on boundary sections of Odra River as part of the Odra-Vistula Flood Management Project”. According to the information contained in the application, the material scope of the task includes the reconstruction of 60 existing groynes, the demolition of 18 existing groynes, the construction of 1 new longitudinal dam with a total length of approx. 1506.00 m, the reconstruction of fragments of existing revetments, longitudinal dams and river walls in places of contact with new or reconstructed buildings. The investor is State Water Management Polish Waters The Regional Water Management Authority in Szczecin, ul. Tama Pomorzańska 13 A 70-030 Szczecin. The Applicant pointed out in the application that the project consisting in the reconstruction of the river sections indicated in the application is part of the implementation of the provisions of the Polish-German agreement on joint efforts to improve the condition of waterways on the Polish-German border (flood protection, flow and shipping conditions). The Applicant indicated that the execution of works from water, transport of crushed stone by water, transport of beans by land and water was assumed. Therefore, at the construction stage, the transformation of the area will concern only construction sites, including the constructed and reconstructed river control structures. In accordance with the information contained in the application, with regard to malacofauna, the Applicant indicated that during the execution of the works, the principle of limiting interference in the groyne fields, i.e. not removing deposits, leaving shallows and submerged vegetation, collecting all available bivalve molluscs (hand nets on shallows, bottom dredge in deeper places) and moving from areas at risk of work along the reconstructed groynes to safe places (groyne fields where work has not yet been undertaken or has already been completed) will apply. The mussels will be collected and then placed in containers with water and moved to safe places in

the groyne fields. The Applicant pointed out that conducting works from water will have a small, local impact on the green snaketail population. According to the information contained in the application, for ichthyofauna, earthworks in the riverbed carried out during the modernisation and construction of groynes will be carried out between 16 July and the end of February, taking into account spawning, growth and hatching periods for fish. During particularly invasive works carried out during the period October-December, additional protection against spreading of suspension (curtains) will be applied, and if concentrations of suspension higher than 200 mg/l or dissolved oxygen concentrations  $<4$  mg O<sub>2</sub>/l are recorded, work intensity will be reduced by introducing 2-hour breaks. In addition, if concentrations  $>400$  mg/l of suspension or  $<3$  mg of O<sub>2</sub>/l are observed, works will be suspended for at least 24 hours until a suspension concentration below 200 mg/l is obtained. The Applicant pointed out that if the bank zone of the area of the planned work is found to be populated by protected species, such as spined loach, amur bitterling and white-finned gudgeon, inhabiting growing submerged and floating hydrophytes, they will be caught and released into the river, above the place of the work. The Applicant indicated that the implementation of the investment may temporarily deteriorate living conditions of herpetofauna. The vast majority of the planned works will be carried out on the water side, however, the possible construction of access roads and material storage yards for the implementation of the project and the adoption of the precautionary principle indicate that there is a risk of local loss of amphibian and reptile habitats. The Applicant pointed out that possible collisions will only occur at few points and thus will not have a significant negative impact on the condition of individual herpetofauna populations, and that at the current stage no immediate destruction of amphibian and reptile habitats is expected, however, due to the fact that these sites are located in the immediate vicinity of the planned works, it will be necessary to apply minimizing measures in the form of movements from places of regular residence to other places, only if amphibians appear on the construction site during the spring and autumn migrations. In addition, in order to minimise the impact of investment works on herpetofauna (602.1 km - near the embankment), breeding sites of the moor frog will be visibly marked so that it is not damaged by construction equipment when using the road. The Applicant indicated that the noise accompanying the construction works will be a factor causing the scaring of birds from the immediate vicinity of the works sites. However, the impact of noise will not be significant, as most species will be able to use convenient resting and feeding places along the entire Odra river on the border section. Furthermore, this impact will be relatively short term and completely reversible as it will cease to exist when the works are completed. The Applicant also pointed out that the implementation of the project will require cutting down shrubs and trees located on the site of the planned engineering structures, as well as on the route of possible planned access road to the construction sites, in which case a separate request for derogations will be drawn up. The occupation of the site for construction may result in the destruction of breeding habitats of birds or the destruction of habitats in bank slopes or riverside reeds, in which case a separate request for derogations will be drawn up. The Applicant pointed out that scaring animals as a result of investment works and noise will cause most large and medium-sized mammals to move outside the area of the works. The Applicant also pointed out that small-scale impact, consisting in the destruction of shelters - as a result of the operation of heavy equipment, underground corridors and shelters of small mammals (rodents, insectivora, weasels) may be destroyed. As they are common, widespread species, this will not pose a threat to their populations. A more serious threat may be the destruction of the burrows of earth-water mammals, especially European beavers and otters. The

burrows of these species may extend up to 3-5 m from the bank of the stream perpendicular to the land. Destruction of the riverbank vegetation and damage to the integrity of the watercourse bank may affect the deterioration of feeding conditions and the destruction of shelters of these species. The Applicant indicated that during the implementation phase of the investment, the functionality of corridors may be disrupted. However, due mainly to night-time or dawn-dusk activity of mammals, no significant impact of the investment on the passability of wildlife corridors during the implementation phase of the investment is expected, provided that the works are carried out during daytime. The Applicant pointed out that most species of bats registered on the studied sections use open areas of the valley as a feeding ground and seek refuge in trees or buildings. Carrying out works along the bank will result in bats avoiding feeding in this area and choosing forests and trees farther from the banks of the river as day shelters. The Applicant pointed out that if local felling of individual trees is necessary, this may result in the destruction of existing bats' day shelters, in which case a separate request for derogations will be drawn up. As is evident from the application, the actions applied for will be under responsibility of the construction works Contractor, who will appoint an in-house Environmental Team.

In this case, given the location, purpose, and scope of the actions applied for, there is no alternative solution to carry out these actions. Furthermore, the conditions specified in the introduction impose appropriate requirements regarding the protection of the aforementioned species during project execution, in order to maintain their local populations in a favourable conservation status.

Considering the foregoing, pursuant to the requirement laid down in Article 56(4) items 3, 6 and 7 of the Nature Conservation Act, which sets conditions for the Regional Director for Environmental Protection in Gorzów Wielkopolski to issue the requested permit, I have decided to issue the said permit.

With the above in mind, I rule as stated.

## INSTRUCTION

This decision is appealable – pursuant to Article 129(1) and (2) of the Code of Administrative Procedure, a party may appeal to the General Director for Environmental Protection, through the Regional Director for Environmental Protection in Gorzów Wielkopolski, within 14 days of the date the decision was served.

Please also be advised that pursuant to Article 127a (1) and (2) of the Code of Administrative Procedure, during the time for submitting the appeal, a Party may waive the right to appeal against the public administration authority which issued the decision. The statement of waiver of the right to appeal shall be lodged with the Regional Director for Environmental Protection in Gorzów Wielkopolski. 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 to the proceedings.

Pursuant to Article 130(4) of the Code of Administrative Procedure, a decision shall be enforceable before the expiry of the term to lodge an appeal if it accepts the requests of all parties.

In order to implement the permit, the Regional Director for Environmental Protection in Gorzów Wielkopolski shall check whether the Applicant fulfils the conditions specified in the permit, and shall withdraw the permit if the conditions are not fulfilled, pursuant to Article 56 (7a) and (7i) of the Nature Conservation Act.

Please also note that if any plants, fungi or animals, other than those listed herein, are discovered while commencing and executing the works, or in the event of violating any bans other than those referred to herein, it is required to obtain an additional permit by the Regional Director for Environmental Protection for exemption from the bans listed in Article 51(1) and Article 52(1) of the Nature Conservation Act.

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 2019, item 1145 as amended) Consequently, before entering the real property, it is required to obtain a relevant consent by the person authorised (owner or manager).

*To the application for a permit for activities subject to the bans set out in Art. 56 section 2 of the Nature Protection Act of 16 April 2004 (consolidated text: Journal of Laws of 2020, item 55) the Applicant has paid stamp duty in in the amount of PLN 82.00 (in words: eighty-two zlotys 00/100) on 27.03.2020 and a stamp duty for granting a power of attorney in the amount of PLN 17.00 (in words: seventeen zlotys 00/100) to the account of the City Hall in Gorzów Wielkopolski 44 1020 5402 0000 0302 0325 6575.*

*Marta Janikowska*

*Senior Nature Protection Inspector*



Recipients:

1. Ms Krystyna Araszkievicz of Sweco Consulting Sp. z o.o., ul. Łyskowskiego 16, 71-641 Szczecin (Poland)
2. To files.