



**REGIONAL DIRECTOR FOR
ENVIRONMENTAL PROTECTION
IN CRACOW**

OP-I.6401.205.2020.GZ

Cracow, July 2, 2020

DECISION

Pursuant to Article 56 (2) item 2 and (4) item 3 of the Act of April 16, 2004 on nature protection (consolidated text: Journal of Laws of 2020, item 55, as amended) and Article 104 of the Code of Administrative Procedure (consolidated text: Journal of Laws of 2020, item 256, as amended) in connection with Article 6 (1) item 7 of the Regulation of the Minister of the Environment of December 16, 2016 on the protection of animal species (Journal of Laws of 2016, item 2183; as amended: Journal of Laws of 2020, item 26), after examining into the application of May, 19 2020 (date of receipt of June 18, 2020), finally supplemented on June 25, 2020 by AECOM Polska Sp. z o.o., 1. Pokoju Alley, 31-548 Cracow, represented by Ms Barbara Chammas, acting under the power of attorney, ref.: KR.ROO.012.311.2018 of 06/21/2018, on the issue of the permit for derogations from certain activities prohibited for protected species:

I. I hereby permit AECOM Polska Sp. z o.o., 1. Pokoju Alley, 31-548 Cracow, represented by Ms Barbara Chammas, as a proxy, in connection with the performance of the contract titled: *“Design and Construction Supervision. Project Management, Technical Assistance and Support for the PIU in Implementation of the Odra Vistula Flood Management Project”*, whose scope of works includes activities carried out on plots with registration numbers: 3/10, 3/25, 4/1, 6/9, 6/10, 7/11, 7/12, 46/2, 30/1, 30/4, 30/5, 33/1, 33/2, precinct no. 16, register unit Podgórze, the city of Cracow (so-called Płaszów Port), for the destruction of habitats or refuges, which are the site of breeding, rearing the young individuals, resting or feeding of birds belonging to the following species: the European Greenfinch (*Chloris chloris*) - 1 pair, Garden Warble (*Sylvia borin*) - 1 pair, Blackcap (*Sylvia atricapilla*) - 1 pair, Great Tit (*Parus major*) - 2 pairs and Common Nightingale (*Luscinia megarhynchos*) - 1 pair.

II. The permit is valid from August 1, 2020 to March 1, 2022, under the following conditions:

1. Works should be carried out under strict ornithological supervision.
2. Prior to the commencement of works, the area must be checked again for the occurrence of protected animal species and for inhabited nests. The re-verification should be done by a person acting as the nature supervisor. If breeding sites are found, activities related to habitat destruction can only continue after the young individuals have left the nest.

III. I oblige the applicant to submit to the Regional Director for Environmental Protection in Cracow a report on the use of this permit by April 1, 2022, which will include, in particular, a description and dates of the activities carried out together with photographic documentation.

JUSTIFICATION

Ms Barbara Chammas, a proxy of AECOM Polska Sp. z o. o., 1. Pokoju Alley, 31-548 Cracow, with the application of May 19, 2020 (date of receipt: June 18, 2020) supplemented on June 25, 2020, has requested the Regional Director for Environmental Protection in Cracow for permit for the destruction of habitats or refuges, which are the site of breeding, rearing the young individuals, resting or feeding of birds belonging to the following species: the European Greenfinch (*Chloris chloris*) – 1 pair, Garden Warble (*Sylvia borin*) - 1 pair, Blackcap (*Sylvia atricapilla*) - 1 pair, Great Tit (*Parus major*) - 2 pairs and Common Nightingale (*Luscinia megarhynchos*) - 1 pair.

The activities will be carried out in the area of Płaszów Port, on plots with registration numbers: 3/10, 3/25, 4/1, 6/9, 6/10, 7/11, 7/12, 46/2, 30/1, 30/4, 30/5, 33/1, 33/2, precinct 16, register unit Podgórze, the city of Cracow, in connection with the performance of the contract titled: *“Design and Construction Supervision. Management, Technical Assistance and Training Technical Support for the Project and Strengthening of PIO’s Institutional Capacity”*.

The application was accompanied by a report on the nature inventory, containing numerous maps and photographs, in the area of Płaszów Port, confirming the presence within the area covered by the investment of the bird species listed in the application. They are subject to strict protection under appendix no. 1 of the Regulation of the Minister of Environment of December 16, 2016 on the protection of animal species. They are subject to the prohibition set out in Article 6 (1) item 7 of that regulation, i.e. the prohibition to destroy habitats or refuges, which are the site of breeding, rearing the young individuals, resting or feeding.

In accordance with Article 56 (2) item 2 and (4) item 3 of the Act of April 16, 2004 on nature protection, the Regional Director for Environmental Protection, in the absence of alternative solutions, may allow derogations from the prohibitions applicable to protected animal species if they are not detrimental to the conservation of their wild populations in the appropriate condition and if they are in the interest of public health or safety.

While analysing the information established in the course of the proceedings, it should be stated that in this case there are no alternative solutions, because the modernisation of the existing system of protection against flood waters within Cracow requires cutting down the trees and bushes colliding with the investment and changing the terrain relief to enable engineering works related to the construction of the flood gate body.

However, these measures will not cause significant threats to the populations of the protected bird species listed in the application, as they occur quite numerously throughout Poland and are not considered to be at risk in any region of the country. Moreover, the activities in question concern only a small number of pairs of each of the above-mentioned species, all of which will be able to find convenient substitute habitats in the vicinity, where similar habitat conditions prevail giving chances for successful reproduction. In consideration of the above circumstances, i.e. the small number of affected bird pairs and the lack of threat to their population on a regional scale, no obligation to carry out compensatory measures was imposed.

In the conditions of the decision, however, it was recommended to carry out activities under ornithological supervision, which will limit the scale of damage to the habitat and protect possible young individuals.

The aim of the investment is to reduce flood losses and the threat to human life, so the proposed activities are undoubtedly in the interest of public health and safety, which meets the conditions set out in Article 56 (4) item 3 of the Act on nature protection.

The obligation to submit information on the use of this permit results from Article 56 (7) of the Act of 16 April 2004 on nature protection.

In view of the foregoing, it has been decided as in the conclusion of the Decision.

INSTRUCTION

This decision may be appealed against to the General Director for Environmental Protection in Warsaw (52/54. Wawelska Street, 00-922 Warsaw) within 14 days from the date of its receipt through the Regional Director for Environmental Protection in Cracow (25. Mogilska Street, 31-542 Cracow).

Pursuant to Article 127a (1) and (2) of the Code of Administrative Procedure, a party may, within the time limit for lodging an appeal, waive the right to lodge an appeal against the decision of the public administration body which issued the decision. The decision becomes final and binding on the day of delivering a statement waiving the right to appeal by the last of the parties to the proceedings to the public administration body.

This decision pursuant to Article 130 (4) of the Code of Administrative Procedure shall be enforceable before the expiry of the time limit for appeal if it complies with the request of all parties or if all parties have waived their right to appeal.

The Regional Director for Environmental Protection in Cracow may inspect the Applicant's compliance with the conditions set out herein, as well as withdraw the permit if the conditions are not met (Article 56 (7a) and (7j) of the Act on nature protection).

Per procuration by the Regional Director
for Environmental Protection in Cracow

Małgorzata Mordarska-Duda, MSc
Deputy Regional Director
Regional Conservator of Nature

A stamp duty of PLN 82.00 (say: eighty-two zloty 00/100) was collected pursuant to Article 7 of the Act of November 16, 2006 on stamp duty (consolidated text: Journal of Laws of 2019, item 1000, as amended).

Recipients:

1. Applicant.
2. OP-I file.