

**REGIONAL DIRECTOR FOR  
ENVIRONMENTAL PROTECTION  
IN CRACOW**

OP-I.6401.204.2020.GZ

Cracow, July 2, 2020

**D E C I S I O N**

Pursuant to Article 56 (2) items 1 and 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) items 7 and 8 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 implementation 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”*, work scope of which includes activities carried out on a plot no. 38/19, precinct no. 42, register unit Nowa Huta, the City of Cracow (so called Kujawy Port), for the:
1. destruction of habitats or refuges, which are the site of breeding, rearing the young individuals, resting or feeding, and destroying, removing or damaging a nest of a single pair of birds of river warbler species (*Locustella fluviatilis*);
  2. destruction of habitats or refuges, which are the site of breeding, rearing the young individuals, resting or feeding, and destroying, removing or damaging a system of lairs and dams of a beaver family (*Castor fiber*), precise number of which cannot be determined.
- II.** The permit is valid from August 1, 2020 to March 1, 2022, **under the following conditions:**
1. The works shall be carried out under environmental supervision by an expert in biology of animal species under the permit.
  2. Prior to the commencement of works associated with the removal of nest, 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 environmental inspector. If a hatch would be identified, the nest may be removed just after young specimens leave the nest.
  3. In case of identifying on plot no. 38/19, precinct no. 42, register unit Nowa Huta, the City of Cracow, of other animal species under protection, the Regional Director for Environmental Protection shall be provided with a relevant application allowing for departure from bans related to determined species.

4. From December 15 to February 28 and from April 1 to June 30 it is not allowed to demolish dams and damage lairs, due to the wintering period for beavers and due to their breeding and rearing.
  5. The demolition shall be done in such a way to avoid flooding of the areas located downstream of the dam by water collected upstream of the dam, during the works.
  6. Prior to the commencement of damaging the lairs it shall be checked if they are not inhabited by beavers. In case it would be stated that they are inhabited, the lairs may be damaged just after prior scaring of the beavers away.
  7. Damaging of the lairs shall be done manually or with mechanical equipment through digging-up, in order to make sure that animals are not present there, and subsequently through filling them with natural material, proper for the particular area.
- 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 a single pair of birds of river warbler species (*Locustella fluviatilis*), as well as for the destruction of habitats or refuges, which are the site of breeding, rearing the young individuals, resting or feeding, and destroying, removing or damaging a system of lairs and dams of a beaver family (*Castor fiber*), precise number of which cannot be determined. The actions shall be done in the area of the Kujawy Port, on plot no. 38/19, precinct no. 42, register unit Nowa Huta, the City of Cracow, due to implementation 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 environmental inventory, containing numerous maps and photographs, in the area of the Kujawy Port, confirming the presence within the area covered by the investment of the animal species listed in the application.

Eurasian beaver is under partial protection under appendix no. 2 of the Regulation of the Minister of Environment of December 16, 2016 on the protection of animal species, whereas river warbler is under strict protection (appendix no. 1).

In case of the aforementioned animal species bans set out in Article 6 (1) items 7 and 8 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, and a ban of destroying, removing or damaging e.g. nests, lairs, and dams, are binding.

In accordance with Article 56 (2) items 1 and 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 analyzing the information established in the course of the proceedings, it should be stated that in this case there are no alternative solutions, because the modernization 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 be harmful to keeping wild populations of protected animal species mentioned in the application in proper protection condition. Damaging of a single nest of river warbler shall not affect its local population adversely. A pair of birds may easily move to the neighbourhood with similar habitat conditions allowing for successful reproduction.

The population of beavers in the country, as well as in a local range, i.e. in Małopolskie Province, is numerous and stable, which is proved by site observations and valid data on the number and range of occurrence (Atlas of Polish Mammals, <https://www.iop.krakow.pl/Ssaki/gatunek/61>). Those actions do not aim at elimination of specimens of the listed protected species, but only interfere in one of the forms of its environmental impact. The works comprising demolition of a dam do not cause reduction of that species' population. The animals affected by the demolition will surely move to another location with similar parameters, placed in a small distance. After the analysis it was therefore deemed that the requested actions shall not be harmful to keeping the proper condition for wildly occurring populations of Eurasian beaver.

While observing the rule of caution and the possibility of occurrence of animals under protection subsequently within the investment site, in the conditions of the decision, however, it was recommended to carry out activities under environmental supervision, which will allow for protection of even single specimens. The investor shall be obliged to apply with an additional request for departure from bans related to protected species, if such would be observed by the environmental inspectors. Moreover, further conditions given in the decision are to protect possible young individuals of animal species, as listed in the application.

The aim of the investment is to reduce flood damage 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 April 16, 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.

## INFORMATION OF THE ADMINISTRATOR ON PERSONAL DATA PROCESSING

Due to enactment of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 *on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC* (hereinafter referred to as GDPR) on May 25, 2018, we hereby inform that:

- 1) The Regional Director for Environmental Protection with its office in Cracow, 25. Mogilska Street, 31-542 Cracow, administers your personal data.
- 2) Your personal data shall be processed by the Regional Directorate for Environmental Protection for the purpose of administrative / court-administrative proceedings, in accordance with Article 6 (1) letter c) of the GDPR.  
Provision of your personal data is voluntary, but necessary for fulfilling the legal obligation of addressing the case.
- 3) Your data may be provided by the Regional Director for Environmental Protection in Cracow to units authorized to obtain information based upon commonly valid provisions of the law.
- 4) Personal data provided by you shall be stored by the time required by provisions of the law.
- 5) You have a right to access your personal data and a right to adjust them, limit their processing, and a right to transfer the data.
- 6) Due to processing of your personal data you have a right to file a claim to the President of the Personal Data Protection Office.
- 7) Contact data to the Data Protection Inspector: e-mail address: [iod.krakow@rdos.gov.pl](mailto:iod.krakow@rdos.gov.pl), postal address: 25. Mogilska Street, 31-542 Cracow.