

**REGIONAL DIRECTOR FOR
ENVIRONMENTAL PROTECTION
IN CRACOW**

OP.6400.31.2020.KW

Cracow, December 15, 2020

D E C I S I O N

Pursuant to Article 56 (2) item 1 and (4) item 7 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, items 256, 695, and 1298) in connection with Article 1 (1) letter b) and 6 (1) items 1 and 3 of the Regulation of the Minister of the Environment of October 9, 2014 on the protection of plant species (Journal of Laws of 2014, item 1409), after examining into the application of the State Water Holding "Polish Waters" (59A. Żelazna Street, 00-848 Warsaw), in the name of which Regional Water Management Authority in Cracow – represented by the Director of Regional Water Management Authority – acts, acting through the Proxy, Mr. Dariusz Adamek (AECOM Polska Sp. z o.o.), as developed on December 8, 2020 (reception date: December 8, 2020), on the issuance of a permit for derogations from certain activities prohibited for protected species:

I. I hereby permit the State Water Holding "Polish Waters" with its registered office in Warsaw (59A. Żelazna Street, 00-848 Warsaw), in the name of which the Regional Water Management Authority – represented by the Director of Regional Water Management Authority in Cracow – acts, for intentional damaging of specimens and for damaging of habitats of broom forkmoss (*Dicranum scoparium*) – about 1.2 m² in total – occurring within four stands at register plot no. 961/1, unit 3 Wieliczka, due to implementation of the investment comprising development of Malinówka 3 dry flood storage reservoir, including a dam, ditches, and redevelopment of water facilities.

The permit is valid from July 1, 2021 to June 30, 2023.

II. The permit is issued provided that the Regional Director for Environmental Protection in Cracow shall be provided with a report on application of the permit immediately after the application, and not later than until July 15, 2023.

JUSTIFICATION

The State Water Holding "Polish Waters" with its registered office in Warsaw (59A. Żelazna Street, 00-848 Warsaw) in the name of which the Regional Water Management Authority – represented by the Director of Regional Water Management Authority in Cracow – acts, acting through the Proxy, Mr. Dariusz Adamek (AECOM Polska Sp. z o.o.), applied on December 8, 2020 (reception date: December 8, 2020) to the Regional Director for Environmental Protection in Cracow for the issuance of a permit for damaging about 1.2 m² of habitat and specimens of broom forkmoss (*Dicranum scoparium*) present on register plot no. 961/1, area 3 Wieliczka, due to implementation of the investment comprising development of Malinówka 3 dry flood storage reservoir, remaining one of the protection system's elements in the river valleys of Serafa and Malinówka.

The discussed actions are implemented to limit the flood damage and the hazard to human life through modernization of the protection system within valleys of the aforementioned rivers. The investment shall be financed by a loan of the International Bank for Reconstruction and Development and by a loan of the Council of Europe Development Bank under the: ODRA-VISTULA FLOOD MANAGEMENT PROJECT.

Broom forkmoss (*Dicranum scoparium*) is under partial protection based upon the Regulation of the Minister of the Environment of October 9, 2014 on the protection of plant species. In case of that species bans are valid as determined under Article 6 (1) of that regulation, including a ban of damaging its habitats and a ban of intentional damaging of specimens.

In accordance with Article 56 (2) item 1 and (4) item 7 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 plant species – referring to intentional damaging of specimens and to damaging of habitats – if they are not detrimental to the conservation of wild populations of protected plant species in the appropriate condition and if they are in the interest of public health or safety.

It was established in the course of the proceedings that in this case there are no alternative solutions, because implementation of the investment in question is not possible without damaging specimens and habitats of the aforementioned protected plant species.

The planned actions shall not be detrimental for keeping the proper protection status for wildy occurring population of broom forkmoss, as it is planned to damage a small patch of the habitat and specimens present there, as well as due to the fact that it is a common species present in Małopolskie Province.

The planned actions result from legitimate interest of the party and from necessary requirements of the overriding public interest, as a basic objective for the investment is limiting flood damage and threat to human life through modernization of the protection system in the river valleys of Serafa and Malinówka, which meets the rationale resulting from Article 56 (4) item 7 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 Act of June 14, 1960, 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
/electronic signature/**

A stamp duty of PLN 82.00 was collected for the issuance of the permit based upon the Act of November 16, 2006 on stamp duty (Journal of Laws of 2020, items 1546 and 1565).

Recipients:

1. Applicant,
2. OP-I file.

**INFORMATION CLAUSE REFERRING TO PERSONAL DATA PROCESSING
BY THE REGIONAL DIRECTORATE FOR ENVIRONMENTAL PROTECTION IN CRACOW**

Pursuant to Article 13 (1) and (2) 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 (general regulation on the protection of personal data), hereinafter referred to as GDPR, I hereby inform that:

- 1) The Regional Director for Environmental Protection with its office in Cracow administers your personal data. Detail information on the Data Administrator may be obtained from the website: <http://krakow.rdos.gov.pl/kontakt>, under e-mail address: sekretariat.krakow@rdos.gov.pl, and under telephone number: 12 619 81 21 (fax no.: 12 619 81 22).*
- 2) Contact with the data protection inspector at the Regional Directorate for Environmental Protection in Cracow, with its office in Cracow (31-542) at 25. Mogilska Street, may be established using e-mail address: sekretariat.krakow@rdos.gov.pl, and telephone number: 12 619 81 21 (fax no.: 12 619 81 22).*
- 3) Your personal data shall be processed for the purpose of performing assignments of the Regional Director for Environmental Protection, as specially determined under Article 131 of the Act of 3 October 2008 on providing information on environment and its protection, public participation in the environmental protection and Environmental Impact Assessments (consolidated text: Journal of Laws of 2018, item 2081, as amended), and as results from the binding provisions of law. Pursuant to Article 6 (1) letter e) of the GDPR, the processing is necessary for completion of the task to be implemented in the public interest and within the framework of public authority entrusted to the administrator.*
- 4) Your personal data shall not be transferred to third countries/international organizations; however, if it would be necessary to transfer them, you shall be informed about this fact, as well as you shall receive a copy of personal data transferred to the third country.*
- 5) Your data may be provided by the Regional Directorate for Environmental Protection in Cracow to units authorized to obtain information based upon particular regulations.*
- 6) Provision of your personal data is necessary for implementation of statutory tasks of the Regional Director for Environmental Protection in Cracow, and you are obliged to provide that data.*
- 7) Personal data provided by you shall be stored for the time necessary for implementation of statutory tasks of the Regional Director for Environmental Protection in Cracow, as results from particular regulations referring to archiving of the documents.*
- 8) You have a right to access your personal data and a right to adjust them, demand their deletion, a right to transfer the data, a right to appeal, a right to withdraw consent in any moment, without affecting compliance with the processing law, as done based upon the consent.*
- 9) You have a right to file a claim to the President of the Personal Data Protection Office, if you would deem that processing of your personal data in question violates general provisions of the regulation on the protection of personal data.*