

Report on Public Consultations

Part 1
03/25 – 04/15/2020

Part 2
06/03 – 06/24/2020



Project/Contract: *Odra-Vistula Flood Management Project (hereinafter referred to as OVFMP) / Works Contract 3D.2/2 – Expansion of the left and right embankment of the Biala River in the Tarnow Municipality and the City of Tarnow*

Consultations' organizer: Consultant acting upon authorization of the State Water Holding Polish Waters RZGW in Cracow (hereinafter referred to as the Consultant)

Type of consultations: correspondence

Speaker: Tomasz Jankowski – Key expert for properties, AECOM Polska Sp. z o.o.
Marta Rak – Senior Supporting Expert for properties and technical assistance for the Client in the Consultant-Engineer's Team, AECOM Polska Sp. z o.o.

Due to the fact of co-funding implementation of the *Works Contract 3D.2/2 – Expansion of the left and right embankment of the Biala River in the Tarnow Municipality and the City of Tarnow*, using resources of the World Bank in accordance with the Bank's operational policy OP 4.12, a document titled Draft Land Acquisition and Resettlement Action Plan (hereinafter referred to as the Draft LA&RAP) has been developed in Polish and in English. The Draft LA&RAP was subject to public consultations.

The aim of the public consultations is – according to the requirements of World Bank's operational policies – to allow for acknowledging contents of that document to natural persons, institutions, and all other interested parties, as well as to secure the possibility of filing remarks, claims, enquiries, and motions referring to its contents.

The consultations in questions have been done twice, while simultaneously meeting requirements of the World Bank's operational policies (OP 4.12.). That was a result of the COVID-19 pandemic and implementation of epidemic threat status in Poland, which disabled organization of an open meeting for all of the interested parties after the first period of publication for the documents.

The first publication of the Draft Land Acquisition and Resettlement Action Plan was commenced on **March 25, 2020**, at publication of an announcement in TEMI Galicyjski Tygodnik Informacyjny and in Gazeta Krakowska (local magazines) (Appendix 2). The announcement invited natural persons, the authorities, and interested institutions to review the Draft LA&RAP for the Works Contract 3D.2/2.

Every interested individual was able to acknowledge – **from March 25, 2020 to April 15, 2020** (inclusive) – the Draft LA&RAP (digital version) made available at the following websites:

- PGW WP RZGW in Cracow at – www.krakow.wody.gov.pl,
- City Office of Tarnów at – www.tarnow.pl,
- Commune Office of Wierzchosławice at – www.wierzchoslawice.pl,
- Odra-Vistula Flood Management Project Coordination Unit at – www.odrapcu2019.odrapcu.pl.

Every interested individual was able to file remarks and motions to the DRAFT LAND ACQUISITION AND RESETTLEMENT ACTION PLAN in a written form (i.e. by letter) to the following address of PIO in Cracow:

State Water Holding Polish Waters

Regional Water Management Authority in Cracow
22. Marszałka J. Piłsudskiego Street
31-109 Cracow

and in digital form to the following e-mail address:

jrp.krakow@wody.gov.pl

on working days from **03/25/2020 to 04/15/2020** (inclusive).

An institution responsible for consideration of remarks and motions was PGW WP RZGW in Cracow (contact persons: Aleksandra Macek, tel. +48 12 62 84 209 or e-mail: Aleksandra.Macek@wody.gov.pl, Rafał Sionko, tel. +48 12 62 84 209 or e-mail: Rafal.Sionko@wody.gov.pl).

As it was banned to organize meetings in Poland, the Investor reserved a right to potentially extend that period and it did not inform a precise date for the planned **open meeting** – for all of the interested parties – and for a public discussion on that document, as well as for remarks and motions filed priorly or during the meeting.

As informed in the announcement (quote): (...) *due to the state of epidemic threat in Poland and concern for your health safety, you will be notified about the date of the open meeting in a separate announcement, which will be published in TEMI Galicyjski Tygodnik Informacyjny, Gazeta Krakowska, and at websites of the institutions indicated above. Persons interested in participating in the aforementioned meeting are requested to send their contact data /home address, email address, phone number/. After the situation in the country gets stabilized, our employees will notify you directly about the planned open meeting. Please submit related information to the following address: jrp.krakow@wody.gov.pl (...).*

No interested person contacted the Investor within the period indicated, what was caused by the situation in Poland and in the world: a shock caused by news on development of the pandemic, disorganization of family and professional lives. All of that caused the society to focus on the pandemic issues.

As a consequence, the Investor – after consulting the Odra-Vistula Flood Management Project Coordination Unit and the World Bank – decided to modify a strategy for the consultations and to repeat them in a correspondence form.

Another publication of the Draft Land Acquisition and Resettlement Action Plan commenced on **June 3, 2020** at publication of an announcement in TEMI Galicyjski Tygodnik Informacyjny and in Gazeta Krakowska (local magazines) (Appendix 2). The announcement invited natural persons, the authorities, and interested institutions to review the Draft LA&RAP for the Works Contract 3D.2/2 again.

As informed in the announcement (quote): (...) **DUE TO THE EPIDEMIC STATE IN POLAND AND CARE FOR YOUR HEALTH SAFETY, THE FORMULA OF PUBLIC CONSULTATIONS FOR THE DRAFT LA&RAP SHALL BE CHANGED – AN OPEN MEETING FOR INTERESTED PARTIES SHALL NOT BE HELD, BUT THE CONSULTATIONS SHALL BE DONE IN A CORRESPONDENCE FORMULA, WHILE USING AVAILABLE (SAFE) COMMUNICATION CHANNELS** (...).

The Draft LA&RAP was published at the following websites:

- PGW WP RZGW in Cracow at – www.krakow.wody.gov.pl,
- City Office of Tarnów at – www.tarnow.pl,
- Commune Office of Wierzchosławice at – www.wierzchoslawice.pl,
- Odra-Vistula Flood Management Project Coordination Unit at – www.odrapcu2019.odrapcu.pl.

Every interested individual was able to file remarks and motions to the DRAFT LAND ACQUISITION AND RESETTLEMENT ACTION PLAN in a written form (i.e. by letter) to the following address of PIO in

Cracow:

State Water Holding Polish Waters
Regional Water Management Authority in Cracow
22. Marszałka J. Piłsudskiego Street
31-109 Cracow

and in digital form to the following e-mail address:

jrp.krakow@wody.gov.pl

and by phone using the following numbers:

+48 12 62 84 209 (from 9:00 am to 2:00 pm)

or 505 028 137, 601 824 298

on working days from **06/03/2020 to 06/24/2020** (inclusive).

An institution responsible for consideration of remarks and motions was PGW WP RZGW in Cracow (contact persons: Aleksandra Macek, tel. +48 12 62 84 209 or e-mail: Aleksandra.Macek@wody.gov.pl, Rafał Sionko, tel. +48 12 62 84 209 or e-mail: Rafal.Sionko@wody.gov.pl).

Except for publishing the announcement in press as informed above (TEM Galicyjski Tygodnik Informacyjny, Gazeta Krakowska – local magazines), it has also been placed on information boards at:

- PGW WP RZGW in Cracow,
- City Office of Tarnów,
- Commune Office of Wierzchosławice,

as well as published at websites of those institutions, and **at performance sites**.

Posters informing about the Works Contract 3D.2/2 were additionally placed – except for the announcement – at performance sites.

Simultaneously, every owner of properties subject to acquisitions was provided – place of residence / correspondence address given in the register of land and buildings – by a Polish Post, priority registered mail with e-mail confirmation, with information packet concerning the Draft LA&RAP, which comprised the following:

1. Cover letter;
2. Announcement on the consultations;
3. Questionnaire for provision of opinions and enquiries;
4. Information brochure;
5. Presentation on the Project and on the Draft LA&RAP.

An example set of documents has been attached to this Report (Appendix no. 3).

Additionally, the Municipality of Tarnów and KOWR were provided with additional letters containing information packets, with a request to spread them among leaseholders / users of properties from the communal resources and the ST, which are subject to acquisition under the Works Contract 3D.2/2 (due to protection of personal data that data is not made available on the current stage of the project).

After 10 days from provision of the documents, a process of direct telephone discussions with the PAPs has been commenced, and it aimed at presenting effects of the investment on their situation and at provision of information on the properties acquired for the purpose of Task implementation, as well as at clarifying potential doubts related to contents of the LA&RAP.

None of the PAPs requested for submission of the LA&RAP by mail, and such a possibility was proposed

to persons without an access to the Internet.

Publication of the Draft LA&RAP, commenced officially for the second time on **June 3, 2020**, and was completed after 21 days on **June 24, 2020**. During the publication process for the Draft Land Acquisitions and Resettlement Action Plan:

- 62 telephone discussions were held;
- 2 enquiries/motions were provided via Polish Post;
- interest in the documents was noted; downloads of files from websites given in the announcement was observed.

Questions/groups of questions were asked or clarifications were requested during the consultations, and the following questions were provided:

1. The biggest group of questions referred to the issues of property acquisition and compensation payment. The PAPs asked about the area of acquisition referring to their properties, about investment elements/objects for which their properties would be applied, and about the amount of compensation for the planned acquisition of properties.

Answer: the Consultant informed about acquisition areas referring to properties owned by the PAPs, about percentage of a plot to be permanently acquired or restricted in the use, and about the type of its use/development. In case of the compensation amount the Consultant informed that the amounts are currently now known, and those issues would be settled by a valuer in estimate studies, which shall be developed after the IPIP decision becomes final. The PAPs were provided with a procedure, which shall be applied to agree on and to pay the compensation, and they were encouraged to review Chapter 8 of the Draft LA&RAP and the brochure provided.

2. The PAPs also asked about the remaining part of the property, if it would be acquired partially.

Answer: the Consultant informed about a possibility of purchasing so-called "remnants", if a part of property was acquired (i.e. it is subject to permanent acquisition), and the remaining part is not fit for proper use for previous purposes (it was informed that those issues were described in detail in Chapter 8.2.4 of the LA&RAP). It was informed that the PAPs may apply to the Investor, i.e. PGW WP. The Consultant declared support in developing such an application.

3. The PAPs also asked if it is necessary to provide all of the data given in the forms provided?

Answer: the Consultant informed that we request for necessary basic data only, and it would allow for contacting the PAP quickly on the stage of proceeding and establishing the compensation. The information packet submitted to the PAPs contains a GDPR information clause, which clarifies that the data made available shall be applied for the purpose of implementing the Works Contract 3D.2/2 only, and it shall not be transferred to any other unit.

4. One of the PAPs informed an issue with access to the embankment from Tęczowa Street – it is provided with a load restriction of up to 3.5 tons and has a curve with an angle of 90 degrees. He doubts if the Contractor's equipment or – later – the embankment maintenance equipment will be able to reach the technological road via that street.

Answer: that issue was analyzed by the Consultant with the Task – Works Contract 3D.2/2 – designer. The issue of access to the embankment raised by the PAP was a subject of technical analyses and discussions with the City Office of Tarnów and the Board of Roads and Traffic in Tarnów. Both of the units provided positive opinions for the technical solutions, which meet technical standards.

Tęczowa Street provides access to the technological road at the left embankment of the River Biała at chainage km 5+500. The road provides access to the pumping station at the embankment culvert securing gravitational discharge of Bródka Stream's water. Upon a request of the City Office of Tarnów, as informed by the Municipality in the note in question, i.e. while considering investment plans of the Municipality of Tarnów and flood threat recorded throughout the years, the construction design comprises

an additional embankment culvert located above the existing one. That solution increased flood safety for the area; however, regardless of designing the additional culvert, a pumping station was also designed for the purpose of accommodating high water levels in the River Biała, which would exceed elevation of the second – higher – culvert's outlet.

Structure of Tęczowa Street is adapted to transferring loads of single drives of fire brigade's trucks in case the flood situation requires that, and of embankment maintenance services' vehicles (e.g. related to mowing of the grass twice a year).

The Contractor shall – prior to commencing the works – develop the Traffic Plan for the time of construction works, and shall agree on it with road administrators; thus, the investor cannot currently decide if the traffic would be present at Tęczowa Street during the construction works. It shall however be noted that in accordance with provisions under the draft Agreement for construction works, amounts for repairs of roads applied during the construction works have been included. Prior to the use of roads an inventory of their technical conditions shall be done, including development of a relevant photo documentation in attendance of a particular road Administrator, and after the completion the condition shall be restored.

The answer was given in a telephone discussion, according to the communication mode initiated by the PAP.

5. One of the PAPs also asked about the access to his property (plot no. 7/2, Area 200, register unit: City of Tarnów) from Kwiatkowskiego Street?

Answer: the Consultant obtained information from the Task – Works Contract 3D.2/2 – designer: the factual conditions associated with the access to plot 7/2, Area 200, register unit: City of Tarnów, shall not be changed due to implementation of the Works Contract in question. The cross-section proves that at plot 7/2 the road's gradeline shall be raised by about 30 cm, and it still would be a road paved with concrete slabs, with a drop towards the embanked area (rainfall water shall be discharged towards the embanked area, without a risk of flooding plot 7/2). Due to the fact that there was no access to the road in question from plot 7/2, the design also did not provide construction of an entry road. Plot 7/2, Area 200, register unit: City of Tarnów has and will have – as before – access to a public road via a road developed at property no. 1/260, Area 200, register unit: City of Tarnów.

The answer was given in a telephone discussion, according to the communication mode initiated by the PAP.

6. The PAPs also asked about the time of planned commencement of the construction works and about the duration of implementation.

Answer: the Consultant informed that according to the currently bidding schedule the planned commencement of construction works is likely to take place in the 1st quarter of 2021; however, that deadline may be modified. The PAPs shall be informed about an exact commencement date by the Contractor. The planned performance time is about 1.5 year.

7. The PAPs also informed about changing address data and expressed a will to provide a telephone contact data. In such cases the Consultant updated address and telephone data of the PAPs on an ongoing basis.

Enquiries/motions notified in writing (via Polish Post) referred to the following issues:

1. Notification on contact data to the PAP.
2. The PAP provided PGW WP with an application referring to the following three issues:
 - a) accepting him as a proceeding party (in that range the PAP did not define the type of proceeding) due to unfavorable impact of the planned investment on the property (none of two properties indicated by the PAP is subject to any type of acquisition).
 - b) Development of drainage at the embankment on the side of his property, and connecting it to the storm drainage developed in 2019 by VEGA;
 - c) Redevelopment of the existing land utilities, i.e. sewerage and water-supply system.

Currently the well and cesspool are located within the boundaries of his property, 3 m from the embankment foot, which is against the construction law. Land utilities were left in that condition at the construction of the embankment. The PAP applied for reaching the condition compliant with the spatial development plan and with the binding law on the investor's cost.

The PAP's letter form appendix no. 5 to this Report.

Answer: in reference to the PAP's application, an answer was developed and submitted in a written form. The letter forms appendix no. 6 to this Report:

In the letter in question the PAP was provided with the following answers (quotes):

(...) Ad. a) – request for accepting as “a party of proceeding”

Due to public consultations referring to the LA&RAP for an investment task titled *Works Contract 3D.2/2 – Expansion of the left and right embankment of the Biala River in the Tarnow Municipality and the City of Tarnow*, in the light of provisions under the Operational Policy OP 4.12 “*Involuntary Resettlement*” of the World Bank (institution co-funding implementation of the investment in question) you are considered by the Investor, i.e. State Water Holding Polish Waters Regional Water Management Authority in Cracow, as so-called PAP (*Project Affected Person*), it is a Person affected by effects of Project implementation, because your properties shall neighbor the construction site during the performance. As a consequence, in accordance with planned mitigation measures given under item 25 of Chapter 6.2 of the Draft LA&RAP, which have been described in details in the Environmental Management Plan (you may review the document in question at:

http://odrapcu2019.odrapcu.pl/wp-content/uploads/2020/02/3D2_2_PZS-Rozbudowa-lewego-i-prawego-walu-rz.-Biala-gm.-Tarnow-m.-Tarnow.pdf),

during the performance the Contractor shall undertake measures to cause the smallest amount of nuisance for neighboring properties. If you would like to inform any motions or reservations, or eventually obtain information on the works to be performed, you would be able to use contact data given in the Draft LA&RAP and to apply the form given in Appendix no 6.

Ad. b) – request for development of drainage at the embankment on the side of your property

The construction design does not foresee development of such a drainage, as the slope at plots no. 21/11 and no. 21/12, area 291, register unit: City of Tarnów, shall be raised by about 0.5 m, and the slope developed as an earth-fill embankment shall be top-soiled and sown with grass (permeable surface); a technological road with a course made of compacted breakstone – with counter-slope running towards the embanked area – shall be developed on the embankment crest (also partially permeable). As a consequence, rainfall water shall discharge toward the embanked area without posing a risk of flooding to your plots.

Ad. c) – request for redevelopment of the existing land utilities, i.e. sewerage and water-supply system

In the range of requested redevelopment of the water intake (well) and tight tank for household sewage we inform that the indicated elements of facilities remain your property and are located within the properties owned by you, and they shall not be comprised by the Works Contract 3D.2/2. Additionally, as indicated in your correspondence with Małopolski Board of Amelioration and Water Structures dated 03/30/2015 the facilities existed even before developing the flood embankments for the River Biała.

In conformity with Article 5 (1) of the Act of July 7, 1994 Construction Law (consolidated text: OJ of 2019, item 1186, as amended), “An engineering object – as a whole – and its individual parts, along with related facilities, shall be designed and constructed – while considering their expected time of use – in a way determined in the regulations, including technical-engineering ones, and in accordance with technical know-how, while assuring proper location on a construction plot (...) as indicated under item 8.”

The legislator indicated in Article 7 (1) of the Construction Law that the technical-engineering regulations comprise, in accordance with item 1), the technical conditions for engineering objects and their location, as determined by the minister competent for civil engineering issues, spatial planning and management, and housing industry in a regulation.

A legal act discussed above is the Regulation of the Minister of Infrastructure dated April 12, 2002 on the

technical conditions for buildings and their location (consolidated text, OJ of 2019, item 1065). In Article 31 (1) item 1 of that regulation it was indicated that a distance from a well providing potable water to people, not requiring – according to the regulations on protection of water intakes and sources – establishment of a protective zone, shall amount to – while counting from the well's axis – at least 5 m from the plot boundaries; however, (2) of that Article states that it is allowed to locate a well in a distance smaller than 5 m from the plot boundaries, as well as a common well within the boundaries between two plots, provided that distances stated in (1) items 2-5 would be kept at both of the plots. Those requirements are associated with the use of land, which may result in contamination of ground water and pose risk of polluting to water in the well. Existence of the embankment and its periodical mowing do not remain such elements; thus, location of the well on your property is compliant with the binding law. That condition shall also not be modified after implementing the planned investment.

Furthermore, in conformity with Article 36 (2) item 2 of the aforementioned regulation, a distance from tight tanks for solid waste shall in that situation amount to at least 2 m from the plot boundaries.

Considering the provisions quoted above, as well as the fact that we face the existing facilities, developed prior to the construction of the existing embankment, it shall be stated that you are not obliged – as the property owner – to redevelop the existing facilities, but it is not against the construction law; thus, it is not necessary and it is not possible for the Investor to redevelop it on the cost of the State Treasury. (...)

After the Consultant and the Employer answered all of the question, this Report was developed. Detailed data on the discussions and questions asked are given in files of particular PAP kept by the PIO/Consultant.

Remarks and motions provided during the debate have been analyzed in terms of necessary correction to the final version of the document. Considering the nature of remarks, requests, and questions asked during the consultations by the public in the publication period for the Draft LA&RAP to Contract 3D.2/2, authors of the document concluded that its contents require minor modifications resulting from the publication procedure, mainly in the scope of consultations' implementation method. Those amendments have been implemented.

After updating the document with a report on the publication procedure, the final LA&RAP shall be submitted to the World Bank for the purpose of obtaining "No objection" clause.

This is the end of the report.

Report developed by:

Marta Rak

Appendices:

1. List of persons provided with information packets on the consultations (personal data anonymized).
2. Documented announcements.
3. Information packet on the consultation, as submitted to the PAPs.
4. Question form submitted to the PAPs (information on contact data).
5. Letter of the PAP with remarks on the technical issues.
6. Answer to the PAP's letter given in appendix 5.