

Report on Public Consultations

22.07 – 12.08.2020

13.08.2020 (17.00-19.00) - webinar



Project/Contract:	<i>Odra-Vistula Flood Management Project (hereinafter referred to as OVFMP) / Contract 3A.2 Flood protection in Serafa Valley encompassing the implementation of 2 Works Contracts:</i>		
	<i>- 3A.2/1 – Flood protection in Serafa Valley – Malinówka 1 reservoir</i> <i>- 3A.2/2 – Flood protection in Serafa Valley – Malinówka 2 reservoir</i>		
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, electronic
Meeting led by:	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 the implementation of the *Contract 3A.2 Flood protection in Serafa Valley encompassing the implementation of 2 Works Contracts:*

- 3A.2/1 – Flood protection in Serafa Valley – Malinówka 1 reservoir
- 3A.2/2 – Flood protection in Serafa Valley – Malinówka 2 reservoir, 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 publication of the Draft Land Acquisition and Resettlement Action Plan was commenced on **July 22, 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 Contract 3A.2 including Works Contracts 3A.2/1 and 3A.2/2.

As informed in the announcement (quote): (...) **DUE TO THE STATE OF EPIDEMIC THREAT IN POLAND AND CARE FOR YOUR HEALTH, A FORMULA FOR CONDUCTING PUBLIC CONSULTATIONS OF THE DRAFT LA&RAP DOCUMENT IS CHANGED, NO OPEN MEETING WILL BE HELD FOR ALL INTERESTED PARTIES, BUT THE CONSULTATIONS IN QUESTION SHALL BE CONDUCTED BY POST, USING AVAILABLE (SAFE) COMMUNICATION CHANNELS (...)**

The draft LA&RAP is made available on the following websites:

- SWH Polish Waters RZGW in Cracow at <https://krakow.wody.gov.pl/aktualnosci/>,
- City Office of Cracow at – <https://www.bip.krakow.pl/>,
- City and Municipal Office of Wieliczka at – <https://bip.malopolska.pl/umigwieliczka>,
- Powiat Starosty in Wieliczka at - <https://www.powiatwielicki.pl/>,
- Odra-Vistula Flood Management Project Coordination Unit at – <http://odrapcu2019.odrapcu.pl/ogloszenia/>.

Each interested party may submit remarks and motions referring to the DRAFT LAND ACQUISITION AND RESETTLEMENT ACTION PLAN in writing (i.e. by post) to the address of the PIU in Cracow:

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

or in electronic form by mail to:

jrp.krakow@wody.gov.pl

and by phone at numbers:

505 028 137, 601 824 298 (on working days from 9:00 a.m. to 5:00 p.m.)

from **22.07.2020 to 12.08.2020** inclusive (21 days).

The institution competent to examine the comments and motions was the SWH POLISH WATERS RZGW in Cracow:

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:

- SWH POLISH WATERS RZGW in Cracow,
- City Office of Cracow,
- City and Municipal Office of Wieliczka,

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

Posters informing about the Works Contracts 3A.2/1 and 3A.2/2 were additionally placed – except for the announcement – at performance sites.

Simultaneously, every owner of properties subject to acquisitions was provided – at the 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).

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 **on July 22, 2020**, was completed after 21 days on **August 12, 2020**.

A webinar was held on **August 13, 2020 from 5.00 p.m. to 7.00 p.m.**, during which Mrs. Marta Rak

gave a multimedia presentation:

1. The purpose and funding for the OVFMP was briefly discussed.
2. It was explained why the draft LA&RAP was developed and what the procedure for making it public was.
3. The issue of changing the investor was discussed, i.e. liquidation as of 31.12.2017, the Małopolskie Board of Amelioration and Water Structures in Cracow and appointing on 01.01.2018 a new entity - State Water Holding Polish Waters, which entered into the rights and obligations of the liquidated entity.
4. Information on Works Contracts 3A.2/1 and 3A.2/2 (physical scope, area protected from flooding due to the execution of the Contract in question) was presented.
5. Information was provided on the number of properties subject to permanent occupation and restrictions on use by property category.
6. Legal basis for implementation of the LA&RAP was indicated.
7. Minimizing measures were discussed, with particular emphasis on the issue of purchasing the remnants, EU subsidies and informing the ARMA, the payment of 5% bonus.
8. Most attention was paid to legal regulations concerning the procedure of issuing the IPIP decision, payment of compensations, compensation agreement procedures, submission of appeals and conc. redress and grievance mechanism.
9. The participants of the meeting were informed about the possibility of receiving an indisputable part of the compensation despite a possible appeal against the Governor's decision determining the amount of compensation or payment of 70% of the compensation.
10. Information on temporary acquisition was presented.

After the end of the presentation, the webinar leader answered questions that were received during the period of publication of the draft LA&RAP, and then the questions submitted during the webinar.

The webinar was attended by 10 people (some of them participated anonymously).

During the publication process for the Draft Land Acquisitions and Resettlement Action Plan:

- 18 phone calls were received/held;
- 6 questions/applications were received via e-mail or Polish Post;
- interest in the document was also noted; downloads of files from websites given in the announcement was observed.

During the consultation, in telephone conversations and question forms sent via e-mail or Polish Post, questions/groups of questions were asked or clarified and the following answers 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 Investment Project Implementation Permit (IPIP) 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. A large group of PAPs also asked about the possibility of purchasing the remaining part of the property, so-called "remnant"?

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. SWH Polish Waters. The Consultant

declared support in preparing such an application.

3. One of the PAPs in a telephone conversation asked for information on the possibility of obtaining compensation in the form of "land for land". This person also submitted a formal application for such a form of compensation (Appendix no. 4 to the Consultation Report).

Answer: The Consultant, having agreed with the Investor and recognized the possibility of acquiring a replacement property in the Department of Property Management of the State Treasury, prepared a written response to the PAP's request (the response was attached to the Consultation Report as Appendix no. 5).

4. PAPs also asked when it was planned to start construction works, will works start in 2020?

Answer: The Consultant informed that according to the current schedule, the planned commencement of construction works is probably in the first quarter of 2021, but this date may still change. The exact date of commencement will be communicated to PAPs by the Contractor.

5. When/at what stage can I apply for a remnant purchase?

Answer: A "remnant" is created if part of the property is expropriated. Expropriation/acquisition of part of the property for the benefit of the State Treasury takes place on the day on which the decision of the Małopolski Province Governor on the implementation permit becomes final. So this is the right time to make such a request to the Investor.

6. Will there be a map/drawing of what part of my land is to be expropriated for investments in the notification of issuing the decision?

Answer: The notification of issuing the decision will not contain any map attachments showing the division of plots. Such information can be obtained from the Project Office (1 Pokoju Alley, 31-548 Kraków, tel.: +48 12 340 93 30).

7. If I release the property within 30 days of receipt of the notification, can I possibly appeal against the decision determining the amount of compensation?

Answer: The release of the property guarantees the receipt of a bonus in the form of an additional 5% of the compensation amount, but has no impact on the possibility of appeal against the amount of compensation that will be offered to the property owner.

8. When will negotiations on the amount of compensation continue?

Answer: Pursuant to Article 20 paragraph 2 of the Act of 8 July 2010 on special rules of preparation for the implementation of investments in flood protection structures (consolidated text in Journal of Laws of 2019, item 933, as amended), such negotiations are provided for a period of 2 months from the date on which the decision on permission to implement the investment became final. On the other hand, the Investor plans to accelerate these activities and, acting on behalf of SWH Polish Waters RZGW in Cracow, the Consultant will prepare the appraisal reports after the decision is issued and will then contact you in order to start agreeing on the amount of compensation even before the final decision is made.

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

The following questions arose during the webinar:

1. Notification on contact data to the PAPs (2 persons).
2. When does the decision become final?
3. Are the projects of plot division final?

4. Is it still possible to change the land division project?

Answer re. 2 The decision will in principle become final if it has been duly served to the parties, and the period for lodging an appeal has expired and the parties indicated in the decision have not appealed. According to Art. 10 sec. 1 of the Special Flood Act, the Governor serves the IPIP decision to the applicant and notifies the other parties about its issuance by way of announcements in the Governor office and in the offices of communes competent for the location of the investment, on the websites of these communes, as well as in the local press. According to Art. 49 § 2 of the Code of Administrative Procedure, the notification is deemed to have been made after fourteen days from the date on which the public announcement, other public announcement or publication of the journal was made in the Public Information Bulletin. Due to the greater number of entities involved in making announcements, a date should be set from which the deadline for appeal will be calculated.

Therefore, the period for appeal for IPIP will start running after 14 days from the date of the latest announcement, including announcement in the local press.

The Consultant called on the parties, given that this is a public purpose investment to protect people's lives and assets from flooding not to appeal against the IPIP decision. However, they remembered that they were entitled to an appeal procedure regarding the amount of compensation, which was described in detail in the LA&RAP.

Answer re. 3 The projects of division of properties are part of the project documentation submitted with the request for the IPIP decision. They are approved by the relevant cadaster, but the divisions themselves do not acquire the value of finality, this value is granted by an IPIP decision which approves the division of the property and the taking over of part of it for the benefit of the State Treasury.

Answer re. 4 The divisions of properties were indicated by the designers taking into account the principle of minimizing the occupancy of the land. The indicated area for acquisition is the area necessary for the construction of the both flood protection reservoirs, but it should be remembered that the owner of the property has the possibility to apply for the purchase of the "remnant".

After the Consultant and the Employer answered all of the questions, this Report was developed. Detailed data on the discussions and questions asked are given in files of particular PAPs kept by the PIU/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 3A.2, including Works Contracts 3A.2/1 and 3A.2/2, the authors of the document concluded that its contents require minor modifications resulting from the publication procedure, mainly in the scope of possibility of paying 70% of compensation. These changes were introduced.

Due to the ongoing analysis of geodetic materials, at the stage of approving the division maps of properties by the Geodetic Center, there have been changes in the area of permanent occupation of 14 properties, including 7 properties owned by natural persons and 7 properties owned by the State Treasury. Changes in the occupied area of 13 properties were insignificant, from 1 to 17 m² (mainly a decrease), in the case of one property owned by a natural person, the change was significant i.e. 475 m² - however, this is a positive change for PAP, the permanent occupation of plot was reduced (it was possible to minimize the impact on PAP). Information letters were sent to everyone affected by these changes in the permanent occupation of their property. These changes were introduced to Appendix 2 to the LA&RAP and the figures in the LA&RAP document itself were corrected. After supplementing 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 sent to the PAPs.
4. Letter of the PAP for meeting compensation in the form of "land for land"
5. Answer to the PAP's letter given in appendix 4.