

Report on Public Consultations

03/17 – 04/07/2021
04/08/2021 (5.00 pm -
7.00 pm) - webinar



Project/Contract:	<i>Odra-Vistula Flood Management Project (hereinafter referred to as OVFMP) / Works Contract 3A.5 – Development of a flood gate at the left flood embankment in the area of water intakes for the Sendzimira Steel Mill in Cracow</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, digital
Speaker:	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. Dariusz Balonek – Designing Engineer in the Consultant-Engineer's Team, AECOM Polska Sp. z o.o.		

Due to the fact of co-funding implementation of the *Works Contract 3A.5 – Development of a flood gate at the left flood embankment in the area of water intakes for the Sendzimira Steel Mill in Cracow*, 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 (OP 4.12) – to allow for acknowledging contents of that document by natural persons, institutions, and all other interested parties, as well as to secure the possibility of filing potential remarks, claims, enquiries, and motions referring to its contents.

PROCESS OF PUBLIC CONSULTATIONS

The publication of the Draft Land Acquisition and Resettlement Action Plan was commenced on **March 17, 2021**, at publication of an announcement in Dziennik Polski and in internet issues of Dziennik Polski and 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 3A.5.

As indicated in the announcement (quote): (...) DUE TO THE EPIDEMIC STATE IN POLAND AND CARE FOR YOUR HEALTH, THERE SHALL BE NO CONSULTATION MEETING IN A FORM OF PUBLIC DEBATE; HOWEVER, FOR THE PURPOSE OF PROVIDING YOU WITH A POSSIBILITY OF REVIEWING THE LA&RAP AND A POSSIBILITY OF FILING REQUESTS AND REMARKS, IT WAS DECIDED THAT 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 – <https://krakow.wody.gov.pl/aktualnosci/konsultacje>,
- City Office of Cracow at – <https://www.bip.krakow.pl/>,
- Odra-Vistula Flood Management Project Coordination Unit at – <http://odrapcu2019.odrapcu.pl/ogloszenia/>.

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,
- in a digital form to the following e-mail address: jrp.krakow@wody.gov.pl,
- and by phone at the following numbers: **505 028 137, 601 824 298** (on working days from 9:00 am to 5:00 pm);

on working days **from 03/17/2021 to 04/07/2021**, inclusive (21 days). An institution responsible for consideration of remarks and motions was PGW WP RZGW in Cracow.

Except for publication in the press (Dziennik Polski and internet issues of Dziennik Polski and Gazeta Krakowska – local newspapers), as indicated above, the announcement has been:

- placed on notice boards of PGW WP RZGW in Cracow (on entry doors), City Office of Cracow (on notice boards – unfortunately the Offices were closed for applicants then),
- published at websites of the institutions indicated above,
- except for announcements displayed at performance sites, posters informing about the Works Contract 3A.5 were also displayed.

Every owner of properties subject to permanent restrictions in the use was provided – place of residence / correspondence address or address given in the register of land and buildings – by 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 to be permanently restricted in the use for the purpose of Task implementation, as well as at clarifying potential doubts related to contents of the LA&RAP.

None of the PAPs (mailed persons) 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 **March 17, 2021**, was completed after 21 days on **April 7, 2021**.

A webinar was held on **April 8, 2021, from 5.00 pm to 7.00 pm**, within the framework of public consultations for the draft LA&RAP, during which Representative of the Consultant – Mrs. Marta Rak at support of the Designer, Mr. Dariusz Balonek – displayed a multimedia presentation. The presentation especially included the following information:

1. The objective and funding for the OVFMP were discussed briefly.
2. It was clarified why the draft LA&RAP was developed, and how did its publication procedure look like.
3. The issue of changing the investor was discussed, i.e. liquidation of Małopolski Board of Amelioration and Water Structures in Cracow on 12/31/2017 and creation of a new unit on 01/01/2018 – State Water Holding Polish Waters, which took rights and liabilities of the liquidated unit over.
4. Information on the Works Contract 3A.5 were presented (technical scope associated with restriction in the use of properties, and actions that shall not require land acquisition).
5. Number of properties to be permanently restricted in the use – in division into ownership categories – was informed.
6. Legal bases for the development of LA&RAP were indicated.
7. Mitigation measures were discussed, with special consideration of the issue of purchasing – based upon the owner's request – of the properties subject to permanent restrictions in the use (PR).
8. Most attention was paid to legal regulations referring to the procedure of issuing IPIP decisions, payment of compensation for PR, submission of appeals, and the grievance redress mechanism.
9. Information on temporary acquisition was presented.

After completion of the presentation the webinar's lecturer answered questions, which were submitted within the publication period for the Draft LA&RAP.

7 people attended the webinar.

QUESTIONS AND ANSWERS

During the consultations, in telephone talks and in letters provided by Polish Post, remarks were raised or clarifications were requested. As an answer information were provided, in accordance with a summary given below.

I. Telephone talks with the PAPs:

1. **One of the PAPs applied in a telephone talk for submission of the presentation in a digital form and as a hard copy in a very legible form.**

Answer: The Consultant submitted the presentation as a PDF to the indicated e-mail address and as a hard copy to the correspondence address.

2. **The PAP requested in a telephone talk for clarifying, if the name of the Contract given in the correspondence is the same Contract referred to by the designers contacting the PAP, as there are some differences in the name.**

Answer: The Consultant informed that this investment task was prepared under a different

name than the final one for the Works Contract 3A.5 – Development of a flood gate at the left flood embankment in the area of water intakes for the Sendzimira Steel Mill in Cracow. The previous name of the Contract was “Development of a flood gate at the Kujawy Port’s channel at the left Vistula flood embankment, at river chainage km 90+575”.

3. The PAP asked in a telephone talk about particular plots of a unit he represents, which shall be subject to permanent restriction, and about facilities that will be developed there.

Answer: The Consultant informed that 2 parts of properties – numbers XX and XY – shall be subject to permanent restriction, and the permanent restriction is associated with the development of a power line.

II. Questions/motions provided by mail (Polish Post)

1. In accordance with Appendix 2 – Summary of Properties, Owners, and Impact – the subject of permanent restrictions in the use of properties under perpetual usufruct by Joint Stock Companies is plot no. AA, area Y, register unit of Nowa Huta. However, registers of properties to be under permanent restriction, as obtained from AECOM Polska Sp. z o.o. in 2018, inform that the permanent restriction in the use shall also be applied for plots no.: BB, CC, DD. As a consequence, I request for clarifying, if the aforementioned plots shall be subject to permanent restrictions in the use under the present contract or any other contract? If yes, who shall submit those motions to the court?

Answer: Within the framework of this Works Contract 3A.5 - Development of a flood gate at the left flood embankment in the area of water intakes for the Sendzimira Steel Mill in Cracow, for the purpose of impact minimizing the permanent restrictions in the use of properties have been limited, and finally Contract 3A.5 covers one property indicated by the company only.

Simultaneously, except for information provided during the public consultations, which were related to issues referring to the properties associated with the Works Contract 3A.5, acquisition of properties under other Works Contracts to be implemented by PGW WP RZGW in Cracow was analyzed, and 3 properties indicated in the letter are subject – partially – to the permanent restriction under Works Contract 3A.1, about which the PAP has already been informed (a written answer to the PAP described the area and specificity of those restrictions in detail).

2. Is the permanent restriction in the use associated with entering land easement or transfer easement on behalf of the Investor to mortgage registers kept for the plots under that easement? If yes, who shall submit those applications to the court?

Answer: Yes, the permanent restriction shall be associated with entering the easement to the Mortgage Register kept for particular property, the use of which shall be restricted. The easement shall be established on behalf of the network owner/consignee, as imposed restrictions in the use are connected with development/redevelopment of the network. Technical solutions for those issues shall be regulated in conformity with arrangement/agreements with network consignees. At the moment the discussions are in progress and details referring to regulating the easement issue cannot be given. However, it may be univocally indicated that a basis for any actions shall be provisions of an issued decision on the investment project implementation permit, which shall inform restrictions and liabilities associated with those restrictions in the use.

3. Shall compensation for permanent restrictions in the use of properties be paid

based upon an agreement between the parties or upon an administrative decision?

Answer: It was planned that – as a priority – establishments on the compensation amount for permanent restrictions in the use of properties shall define its amount based upon an agreement of the parties, and a basis for establishing the compensation amount shall be an estimate developed by an independent assessor acting as bespoke by the Investor and on its cost. If establishing that amount would fail, an administrative proceeding ended with issuance of a decision shall be applied, and the authorities responsible for such a procedure shall be the Małopolski Governor, who shall also issue a decision on the investment project implementation permit (IPIP).

4. Shall the compensation for permanent restrictions in the use of properties be treated analogously to remuneration for easement in the view of the Act on VAT?

Answer: During the webinar and the panel the Consultant indicated that in reference to questions asked within 21 days of Draft LA&RAP disclosure it did not manage to gather sufficient knowledge to answer that question. Legal experts of the Consultant are analyzing the case and after obtaining the information the answer shall be submitted to the PAP by post.

Answer submitted to the PAP: Yes, the compensation granted (cash compensation) in reality remains remuneration for a service provided by the Owner, as it gives distinct and direct benefits to the payer in the form of possible application of the Property. Regardless of the terminology applied, the granted compensation in reality remains remuneration for the service provided.

Therefore, the Owner – while providing services, as ordered by the public authorities, based upon a decision allowing another unit for application of the Property due to permanent foundation of transfer facilities within its area – provides services within the framework of activities discussed under Article 15 (2) of the Act as a taxpayer, defined in Article 15 (1) of the Act, which due to their payable specificity are subject – based upon Article 5 (1) due to Article 8 (1) item 3 of the Act – to VAT taxation as payable provision of services.

5. There is an outlet of sewerage drainage from our company's ash storage site in location of the gate designed at plot no. CC, area Y, register unit Nowa Huta – the outlet is named as WND-3. That outlet remains an important element for our company in terms of water management for sludge settling tank located within the aforementioned plot, and it needs to be left there. Therefore I request for informing if the design for the gate assumes leaving that outlet in the previous location, or is it going to be moved. If yes, I request for indication of a detailed place of that relocation, and informing if it would be reconstructed under the Works Contracts 3A.5.

Answer: The Designer informed in an answer to the question asked that there shall be no interference to the drainage collector or to the discharge of that water to the receiver under the Works Contract 3A.5. The outlet shall not be a subject of redevelopment, and only a slope around the outlet in question shall be reinforced to secure its stability and protection against potential washing-out.

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

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

- 5 telephone discussions were held;
- 1 letter with questions was provided;
- interest in the documents was also noted; downloads of files from websites given in the announcement were observed.

Remarks and motions provided during the debate have been analyzed in terms of necessary corrections 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.5, authors of the document concluded that its contents require implementation of modifications/corrections resulting from the publication procedure. The Consultant developed and submitted a written answer to questions asked.

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 consultations, as submitted to the PAPs.
4. PAP's letter.
5. Answer on PAP's letter.