

Report on Public Consultations

11/05 – 11/26/2020
11/27/2020 (5.00 pm -
7.00 pm) - webinar



Project/Contract: *Odra-Vistula Flood Management Project (hereinafter referred to as OVFMP) / Works Contract 3A.2/3 – Flood Protection in Serafa Valley – Malinówka 3 Reservoir*

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.
Barbara Chammas – Project Manager, AECOM Polska Sp. z o.o.

Due to the fact of co-funding implementation of the *Works Contract 3A.2/3 – Flood Protection in Serafa Valley – Malinówka 3 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 (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 **November 5, 2020**, 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.2/3.

As indicated in the announcement (quote): (...)DUE TO THE EPIDEMIC STATE IN POLAND AND CARE FOR THE PAPS' HEALTH SECURITY NO OPENING MEETING WILL BE TAKEN IN THE FORM OF PUBLIC DEBATE. TO ENSURE YOU THE OPPORTUNITY TO GET ACQUAINTED WITH DRAFT OF LA&RAP AND POSSIBILITY OF MAKING PROPOSALS AND COMMENTS, THE CONSULTATIONS IN QUESTION 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/>,
- City Office of Cracow at – <https://www.bip.krakow.pl/>,
- City and Commune Office of Wieliczka at – <https://bip.malopolska.pl/umigwieliczka>,
- District Starosty in Wieliczka at - <https://www.powiatwielicki.pl/aktualnosci>,

- 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 11/05/2020 to 11/26/2020**, 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, District Starosty Office in Wieliczka, and City and Commune Office of Wieliczka (on notice boards – unfortunately the Offices were closed for applicants then),
- published at websites of the institutions indicated above,
- displayed at the Secesja Estate in Wieliczka and placed at performance sites. Additionally, except for announcements displayed at performance sites, posters informing about the Works Contract 3A.2/3 were also displayed.

Simultaneously, every owner of properties subject to permanent acquisition or permanent restrictions and temporary restrictions in the use was provided – place of residence / correspondence 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).

Simultaneously, every owner of apartment located at the Secesja Estate was provided – through administrators of 4 homeowners associations operating within that estate – with e-mail containing the announcement (it is a common way of contact between association administrators and residents of the estate), except for the letter notification.

Regardless of the webinar, a dedicated meeting was prepared and held for residents of the Secesja Estate on 11/12/2020 – on-line teleconference regarding discussion on mitigation measures implemented to the construction design, which remained an effect of establishments made with the PAPs in 2018.

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 **November 5, 2020**, was completed after 21 days on **November 26, 2020**.

As indicated above, due to huge controversies on the side of Secesja Estate's residents in reference to investment plans, and for the purpose of presenting detailed information on implemented mitigation measures – referring to technical solutions applied in the construction design in order to secure safety for the estate, as well as to additional compensation measures for the local society, e.g. development of a playground for children – to the widest possible group of residents, the Investor – PGW Polish Waters RZGW in Cracow – decided to organize an additional on-line information meeting for the local society. For that purpose a **teleconference** was organized **on 11/12/2020**, and all residents of the Secesja Estate were invited through individual e-mails submitted to every household by 4 association administrators. The meeting was held using an interactive application – MS Teams – and was referring to mitigation measures for the Works Contract 3A.2/3 dedicated to the society living at the Secesja Estate:

- Preparation of the area, where – on the Investor's cost – a professionally furnished playground for children shall be developed;
- Securing the passage to the other side of the Malinówka Stream for the residents;
- Securing the access to the reservoir's bowl, which would also provide a recreational function – ordered green areas;
- Protection of the estate against traffic of vehicles to the dam;
- Securing the slope using a retaining wall with a drainage, which would protect a part of the estate adjacent to the reservoir against filtration of flood waters, and assure ground stabilization;
- Development of proper conditions for the discharge of rainfall water from the estate using two outlets to the Malinówka Stream (discharge of rainfall water from the estate downstream of the dam);
- Flood protection in the area of Malinówka 3 Reservoir's "backwater".

23 people attended the meeting.

During the meeting the residents were invited to jointly plan the furnishing, which would be assembled at the playground, as well as the residents notified about an additional initiative associated with planting of the parking lot's slope with shrubs on the planned flood storage reservoir's side. Discussions on details referring to both of those issues are in progress.

Notwithstanding the above, during the public consultations residents of Bieżanów (part of a district of the City of Cracow located in the upstream reach of the River Serafa, where one of the reservoirs has already been developed) became active – it is a society, which is affected by Serafa flooding in the most severe way; thus, it is interested in the soonest possible development of the entire complex of 5 flood storage reservoirs, including Malinówka 3 Reservoir. Within 21 days of consultations the Investor received over 25 e-mails supporting the development of Malinówka 3 Reservoir, the Consultant was contacted by 12 people supporting the investment by phone. The Consultant has also conduct some discussions with Alderwoman Elżbieta Matykiewicz, who has indicated that already in 2018 or in 2019 the residents of Bieżanów provided the Polish Waters with a petition supporting development of the reservoirs –

it was signed by over 500 people living in that area.

A webinar was held on **November 27, 2020, 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 – displayed a multimedia presentation:

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.2/3 were presented (technical scope associated with permanent acquisition of properties, and actions that shall not require land acquisition).
5. Number of properties to be permanently acquired and 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 remnants' purchase, notifying the ARMA about reduction of the farming area, and about the possibility of receiving additional 5% of compensation.
8. Legal regulations referring to the issuance procedure for IPIP decision, payment of compensation and its establishment procedure, submission of appeal, and claim and grievance submission mechanism were discussed with the highest attention.
9. Attendees of the meeting were provided with information on the possibility of applying for undisputable portion of compensation and – in case the compensation amount would not be established on the stage of negotiations with the Investor – payment of 70% of compensation from the amount given in the estimate study.
10. Information on temporary acquisition was presented.
11. Information on mitigation measures corresponding with remarks notified by the residents of Secesja Estate were presented.

After completion of the presentation the webinar's lecturer answered questions, which were submitted within the publication period for the Draft LA&RAP, and questions asked during telephone discussions with the PAPs.

25 people attended the webinar (the most of them attended anonymously).

QUESTIONS AND ANSWERS

During the consultations, in telephone talks and in question forms submitted by e-mail or by Polish Post, questions/groups of questions were asked or clarifications were requested, and the following answers were provided:

1. **The Consultant conducted 12 telephone talks with residents of Bieżanów.** The residents called to support the planned development of 4 dry flood storage reservoirs, including the Malinówka 3 Reservoir. 25 people provided their support by e-mail.
2. **The PAP (natural person owning a plot subject to permanent acquisition) notified**

also about a necessity of purchasing a PAP's share in a road remaining an access road to the property to be expropriated.

Answer: The Consultant informed about a possibility of applying for the purchase of shares in the road plot in question – the case shall be legally analyzed.

- 3. The PAPs asked about parts of their plots to be permanently acquired and for which investment elements/objects shall they be used.**

Answer: The Consultant informed about areas of acquisition and referred to source documents, i.e. Appendix 2 and Appendix 10 of the Draft LA&RAP, and it also informed about the specificity of use/development for properties owned by the PAPs to be acquired on behalf of the State Treasury.

- 4. The PAPs were also informing about changing their address data and expressed will to provide telephone contact.** In such cases the Consultant was updating address and telephone data of the PAPs on an ongoing basis.

Except for supporting e-mails received during the publication period for the Draft LA&RAP, a message with questions was received from one of the owners of plots located in vicinity of the investment, which would not be acquired due to implementation of the investment:

E-mail dated 11/27/2020

- 1. Does the design include technical facilities running through my property? If yes, please provide PDF with designed location by e-mail?**

Answer 1

Plots indicated in the *Question Form* are two plots located at Modrzewiowa Street, up to the estate's parking lot – located within the estate between multi-family housing complexes **in the neighborhood** of the planned investment, i.e. construction of the dry flood storage reservoir Malinówka 3.

Within the frameworks of the investment there shall be no performance on the properties in question, no networks shall run there, and no elements of facilities associated with the reservoir shall be developed there. As it was clarified, the plot shall not be subject to any acquisition due to the implemented investment.

- 2. In what distance from my plot and in what distance from the reservoir shall the retaining walls be located?**

Answer 2

The retaining wall shall be located in a distance of 16 m from the boundary of the plot located closest to the reservoir, i.e. plot with register number XXX; and in a distance of 17.5 m from the reservoir, counting from the elevation of water-table at maximum damming in the reservoir. However, please remember that it is a dry reservoir; thus, at "everyday" exploitation – beyond the period of flood flows – it shall be a green area.

- 3. Is it planned to acquire my plot temporarily?**

Answer 3

No temporary acquisition is expected within the area of your plots. The Contract shall not be able to locate site facilities or store materials on the Secesja Estate's side in order to avoid

nuisance – associated with traffic of heavy vehicles – to the local society.

4. Will it be possible to discharge rainfall water from the plot?

Answer 4

Currently the area is not sealed and canalized, and land elevations cause that rainfall water discharges naturally toward the Malinówka Stream and reaches a flat area of the parking lot with a counter-slope; thus, it is collected by the parking lot's storm drainage system. Ultimately it shall be possible to develop storm drainage with discharge to the Malinówka 3 Reservoir, but it will be necessary to pass through the reservoir's retaining wall with a piping; thus, one shall apply for consent for passing through the wall and for developing the drainage, including establishing of conditions for its development, to the State Water Holding Polish Waters.

Questions asked during the webinar of 11/27/2020 and answers provided after completion of presentation referring to the Draft LA&RAP.

1. Shall a pedestrian-vehicle bridge allow for passing with a car from Horbaczewskiego Street to the estate at Modrzewiowa Street?

Answer 1. No, the pedestrian-vehicle bridge shall allow for passing over the reservoir's damming structure, but only to the U-turn yard, which shall allow for turning back and returning with the same way. Such a solution has been designed e.g. upon a request of the local society of the Secesja Estate to protect the area against traffic of heavy vehicles associated with development and maintenance of the reservoir. A basic function of the bridge is to allow services of the PGW WP RZGW in Cracow to operate the reservoir.

2. Please provide e-mail address for the appeal document.

Answer 2. I kindly request for precising the question. E-mail address for information about the Works Contract has been displayed during the presentation on the penultimate slide, full contact data are given in the Draft LA&RAP available at websites of PGW WP RZGW in Cracow, where a link to the on-line meeting was published.

3. I own areas at the Malinówka 3 Reservoir and I am not able to learn with whom shall I discuss protesting against that development. If I would only have a chance, I will clarify my objections with pleasure.

Answer 3. I invite to direct contact and discussion with the Project Office at 1. Pokoju Alley. Simultaneously, as it has already been mentioned during the presentation, please take into account the public objective of that investment, which – as a complex of 5 dry flood storage reservoirs – is to protect inhabitants of Serafa and Malinówka river-basins against floods.

4. When do you expect to receive the IPIP decision, as it is now delayed in comparison to the presented schedule?

Answer 4. We expect to obtain the IPIP decision for this Task in the first quarter of 2021.

5. When do you expect to have the contractor on site?

Answer 5. We assume that the Contractor will be able to commence the works in the 2nd quarter

of 2021.

6. Will the contractor enter the site before the IPIP decision is issued?

Answer 6. No, it is not possible to have the contractor on the construction site prior to obtaining the IPIP decision. The IPIP decision is a basic administrative decision, which allows for commencing and performing the construction works in accordance with the construction design approved with that decision.

7. I beg your pardon, but your statement is false, and you have not successfully reached all of the owners!

Answer 7. As I clarified during the presentation, information packets referring to public consultations for the Draft LA&RAP have been submitted to all owners of the properties subject to permanent acquisition or to permanent and temporary restriction resulting from implementation of this Task. The address base applied for the submission was obtained from the register of land and buildings, so if there is anyone who did not receive such a parcel, it may result from invalid address in the cadaster. As owners, you have a possibility of updating such data, and we encourage you to do that, as the Governor shall contact you using the same address while issuing the IPIP decision. Regardless of that, I am happy that we were able to inform you successfully about the consultation, and that you attended the on-line meeting today. While supplementing information given earlier, I would like to indicate that informing the public was also done through announcements in the press and at websites of offices, as well as through posters and announcement displayed at performance sites, e.g. at the Secesja Estate.

8. Today I heard about the entire investment, and I am an owner of a plot at the Malinówka Reservoir. Could you please inform the telephone number, where I may hear the details and whether the investment refers to my plot?

Answer 8. Certainly, if you have anything to write at hand I will inform my telephone number – I am the Consultant's representative, I held today's meeting for you, and I will try to help in clarifying any doubts. My telephone number is 601 824 298.

9. Yes, I will precise my remarks in writing by e-mail.

Answer 9. Please contact us in any form you prefer.

10. I beg your pardon, but the needs of some cannot be satisfied at the expense of the others.

Answer 10. As I have already mentioned, there is a huge group of people – residents of Biezanów, who impatiently wait for implementation of this investment. However, no voice will be left without undertaking an attempt to solve the notified issue. Please contact us directly as the Technical Assistance Consultant for implementation of the investment.

11. Shall the planned playground be available to everyone? Will it be a lockable playground?

Answer 11. The planned playground shall be widely available to the local society.

12. When will the estimate studies be ready and with a status for which day?

Answer 12. Estimate studies shall be developed by an independent assessor immediately after issuing the IPIP decision, as in accordance with provisions of the Special Flood Act the compensation amount shall be established in conformity with the status of properties on the day of issuing the decision on investment project implementation permit, and according to the value of that property on the day, when the compensation amount is established.

2 people – owners/co-owners of properties covered by permanent acquisition – contacted the Consultant directly after the webinar.

PAP1 – co-owner of a construction plot covered by permanent acquisition with area of 30 m² – after the telephone talk the PAP was provided with information on the planned acquisition, method of using that part for protection of the reservoir's slope, and with a splitting map. A fact that the PAP did not receive information packet was clarified – co-owners sold an apartment, address of which was given in the cadaster, and they did not reveal their place of living. The PAPs informed that they requested the apartment's buyers to hand them over the post, but they earlier received signals that the new owners do not respect that request. The PAP provided valid address data and simultaneously declared that he shall also update the data in the cadaster. After submission of materials the PAP did not notify any remarks and did not ask further questions.

PAP2 – co-owners of undeveloped property (according to EGiB: use land RIVb and ŁIV, and current management method for an abandoned meadow) with possibility of developing (partially) single-family houses within that plot (according to LSDP), which is acquired for the investment purpose in about 42%. The PAP informed about his investment plans and applied for limitation of the acquisition area. The Consultant invited that PAP to a meeting in the Project Office – the meeting was held on 12/04/2020. The designer initially analyzed the possibility of amending the design solution, and simultaneously the PAP indicated that he has a construction design for construction of residential houses (oral declaration). Another meeting – held in attendance of lawyers representing the PAP – was held on 12/11/2020. The Consultant indicated that after analyzing the solutions, it does not see a possibility of limiting the acquisition for that property. A lawyer representing the PAP discussed during the meeting the PAP's investment plans and declared that he has technical documentation, which shall be submitted to the Consultant representing PGW WP RZGW in Cracow, along with a claim referring to the expected compensation. However, no documents of formal letters were submitted until 01/11/2021. The case shall be further analyzed based upon presented documents or filed claims. As of the day of developing the final version of the LA&RAP there are no documents that would allow for implementing an additional compensation packet for that PAP.

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 PAPs kept by the PIO/Consultant.

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

- 22 telephone discussions were held;
- 2 enquiries/motions were provided via e-mail;
- interest in the documents was 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.2/3, authors of the document concluded that its contents require implementation of modifications/corrections resulting from the publication procedure. The final version of the LA&RAP was updated with e.g. details of the investment scope/elements (acquisition of properties), mitigation measures, and compensation packets. In all of the cases where changes in acquisition of private persons' plots were implemented, the Consultant developed and submitted relevant correspondence containing information on acquisition and change in the acquisition area.

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.