RACIBORZ FLOOD RESERVOIR

Resettlement Action Plan

Summary

March 2005
This report, and information or advice which it contains, is provided by JacobsGIBB Ltd solely for internal use and reliance by its Client in performance of JacobsGIBB Ltd's duties and liabilities under its contract with the Client. Any advice, opinions, or recommendations within this report should be read and relied upon only in the context of the report as a whole. The advice and opinions in this report are based upon the information made available to JacobsGIBB Ltd at the date of this report and on current UK standards, codes, technology and construction practices as at the date of this report. Following final delivery of this report to the Client, JacobsGIBB Ltd will have no further obligations or duty to advise the Client on any matters, including development affecting the information or advice provided in this report. This report has been prepared by JacobsGIBB Ltd in their professional capacity as Consulting Engineers. The contents of the report do not, in any way, purport to include any manner of legal advice or opinion. This report is prepared in accordance with the terms and conditions of JacobsGIBB Ltd's contract with the Client. Regard should be had to those terms and conditions when considering and/or placing any reliance on this report. Should the Client wish to release this report to a Third Party for that party's reliance, JacobsGIBB Ltd may, at its discretion, agree to such release provided that:

(a) JacobsGIBB Ltd's written agreement is obtained prior to such release, and
(b) By release of the report to the Third Party, that Third Party does not acquire any rights, contractual or otherwise, whatsoever against JacobsGIBB Ltd, and JacobsGIBB Ltd accordingly assume no duties, liabilities or obligations to that Third Party, and
(c) JacobsGIBB Ltd accepts no responsibility for any loss or damage incurred by the Client or for any conflict of JacobsGIBB Ltd's interests arising out of the Client's release of this report to the Third Party.
Authors

The Report „Resettlement Action Plan” for Racibórz flood protection reservoir project has been prepared by consortium of JacobsGIBB Ltd. and JacobsGIBB Polska.

Following authors contributed to RAP:

- JacobsGIBB Ltd team:
  - Laurence Attewill
  - Paul Devitt
  - Ros Vincent
  - Karina Zachodni

- JacobsGIBB Polska team:
  - Jakub Loch
  - Joanna Tomaszkiewicz
  - Hanna Fiedler-Krukowicz
  - Julia Cichoń
  - Krzysztof Czechowski

- property surveyors team:
  - Ryszard Szymkiewicz
  - Leszek Krawczyk
  - Monika Burghart

- lawyers team:
  - Anna Szczurek
  - Paweł Kamiński

- sociologists team:
  - Katarzyna Puchalska
  - Paweł Kuczyński

- computer systems and data bases team:
  - Bartosz Czyżkowski
  - Aleksandra Paterek
  - Michał Juda
Contents

1 General Information about Raciborz Project 1-1
1.1 Background 1-1
1.2 Project description 1-1
1.3 Social Impact 1-1
1.4 Minimising resettlement 1-2
1.5 Present situation 1-2
2 Sociology 2-1
2.1 Data 2-1
2.2 Demography 2-1
2.3 Socio economy 2-1
2.4 Land use 2-2
2.5 Built assets and agriculture 2-2
2.6 People affected and land ownership 2-3
2.7 Public consultations 2-3
2.8 Conclusions 2-4
3 Legal Framework 3-1
3.1 Polish law applicable to resettlement 3-1
3.2 World Bank policies 3-1
3.3 Gaps between local laws and World Bank policies 3-1
3.4 Compensation 3-1
3.5 Compensation entitlements 3-2
4 Implementation 4-1
4.1 House purchase 4-1
4.2 Expropriation 4-1
4.3 Land acquisition 4-1
4.4 Resettlement village 4-2
4.5 RZGW responsibilities 4-2
4.6 Voivodship responsibilities 4-3
4.7 Starosty (Poviat) responsibilities 4-3
4.8 Gmina responsibilities 4-3
4.9 Agriculture Real Property Agency (ARPA) 4-3
4.10 Coordination and management 4-3

5 Resettlement village 5-1
5.1 Introduction 5-1
5.2 Recommended layout 5-1

6 Cost estimates 6-1
6.1 General 6-1
6.2 Summary 6-1
6.3 Cash flow 6-1
6.4 RAP Implementation schedule 6-2

7 Participation and consultation 7-1
7.1 Communication 7-1
7.2 Participation in design of resettlement village 7-1

8 Grievance redress 8-1
8.1 Grievance procedure according to Polish regulations 8-1
8.2 Appeals to international bodies 8-1

9 Monitoring and evaluation 9-1
9.1 Monitoring 9-1
9.2 Methodology 9-1
9.3 Independent evaluation 9-1
1 General Information about Raciborz Project

1.1 Background

Large floods on the Odra and its tributaries are frequent: four floods were recorded in the 19th century and twelve in the 20th, that of July 1997 being the largest ever recorded. It was caused by extremely heavy rain, with some meteorological stations recording as much as 400mm over a four day period: the total July rainfall was four times that of the long term average. As a result an area of some 750km^2 was inundated in the three Voivodships of Slaskie, Opolskie and Dolnoslaskie damaging 37,000 buildings, 866 bridges and over 2,000 km of roads. The intangible damages comprising the costs of rescue, stress, loss of production etc were also considerable.

The existing flood prevention system of the Upper and Middle Odra River was completed in its main outline in the 1930's following the flood of 1903. Subsequently the system, which comprises reservoirs, polders, relief channels and dykes has been extended and modernised. Although the Raciborz Reservoir was first conceived in the 19th century the project was not implemented so far.

The magnitude of the 1997 flood substantially surpassed the capacity of the flood defence system, resulting in overtopping and breaching of the flood protection dikes.

1.2 Project description

The Raciborz Flood Reservoir with a flood storage volume of 185Mm^3 will be created in an area situated on either side of the river between the town of Raciborz and the Czech Republic border. The alignment finally selected, after a technical and economic consideration of alternatives performed within Feasibility Study, is that originally according to the base option. The plan of the reservoir is shown in Figure 1.1 at the end of this section. The reservoir will be formed by an earth embankment with a maximum height of 10.5 m and some 22 km length.

The prime role of the project is to reduce the frequency and severity of flooding in the upper Odra. This will be achieved in two ways:

i) the reservoir will provide flood storage so that the flow rate downstream of the reservoir will be greatly reduced, so that the effectiveness of the existing flood defence system in containing the flows will be improved.

ii) Secondly the reservoir will delay the timing of the flood peak at the confluence of the Nysa Klodzka with the Odra so that the adverse combination of the two floods that was so damaging in 1997 is very much less likely.

1.3 Social Impact

The reservoir will occupy about 2,600 ha of mainly agricultural and residential land, and resettlement of two villages: Ligota Tworkowska and Nieboczowy containing some 240 families will be necessary.

The reservoir will remain dry except at peak flood periods, when it would be inundated for periods of a few days to a few weeks. Under these conditions farming,
but not residential occupation, could continue, with the risk that crops could be lost during inundation.

Each of the two villages gives the overall impression of relative prosperity, stability and high standards of maintenance. Some of this is due to renovation work undertaken since the floods of 1997, but much is due to more enduring social influences. Many of the inhabitants have, or did have, jobs in one of the neighbouring towns, or on the coal mines, and also have small farms. The income from these sources has been invested substantially in improvements to the land and buildings as well as in new buildings. The previous survey results show high levels of residential stability, sometimes over several generations. These factors contribute to the reluctance of the residents to leave.

1.4 Minimising resettlement

An alternative alignment of the right bank dike was considered during the course of the feasibility study. This alternative alignment, which was based on a proposal made by the Nieboczowy Defence Committee, protected the village from flooding.

The alternative alignment was ultimately rejected because:

- Sustainability: the additional problems of surface water drainage and the negative impact of the dike on property prices in the village
- Concerns of the increased risk to the inhabitants
- It gives a considerably lower economic internal rate of return

Other alternatives, discussed during the course of the World Bank mission in March, 2004, were studied in outline and were rejected on the grounds of impracticability and because of RZGW’s decision to proceed with the original alignment.

1.5 Present situation

RZGW have applied to the Gmina authorities for a Location Permit for the reservoir on the original embankment alignment. Because the Wojt (Chief Administrator) of the Lubomia Gmina has refused to give a required decision the Wojewoda Śląski (the Voivode) was the competent authority to give this decision, and the permit was granted on the 5th July 2004 with the clause of immediate execution. The decision was subject to appeal and when Minister of Infrastructure has kept it in force, a complaint has been lodged to the Administrative Court. Furthermore, RZGW have commissioned Hydroprojekt Warszawa to prepare the detailed design of the reservoir, again based on the original alignment.
2 Sociology

2.1 Data

Reliable current data is limited and incomplete because a substantial portion of the affected population, who generally oppose the reservoir, have not been willing to cooperate with recent surveys. Thus the RAP has been based on the results of the 1998 and 2002 surveys supplemented by municipal cadastral and other data.

2.2 Demography

The villages Nieboczowy and Ligota Tworkowska belong to the Lubomia Gmina (commune), which consists of six administration areas, each headed by a village council. The total population of the Gmina is about 8000. The population of the other villages in the Gmina in December 2004 were (information provided by Lubomia):
- Lubomia – 3776;
- Syrynia – 3074;
- Buków – 341;
- Grabówka – 207

Lubomia Gmina is a part of the Wodzislaw Poviat (County). The Nieboczowy and Ligota Tworkowska residents are only about 8.5% of the total gmina population.

According to our calculations there are 260 families residing in the two villages – 161 households in total. Total number of residents does not exceed 700 people.

Table 2.1 Number of families in Ligota Tworkowska and Nieboczowy.

<table>
<thead>
<tr>
<th>Village</th>
<th>Number of Inhabitants</th>
<th>Number of families</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td>564</td>
<td>210</td>
</tr>
<tr>
<td>Ligota Tworkowska</td>
<td>125</td>
<td>50</td>
</tr>
<tr>
<td>Total</td>
<td>689</td>
<td>260</td>
</tr>
</tbody>
</table>

Source: Own estimation (January 2005) based on opinion poll from 2002 and 2004 PESEL base.

2.3 Socio economy

The businesses based within the reservoir area comprise:
- 3 commercial farms
- 10 light industrial and services, the chief of which are 3 gravel extraction businesses
- 6 shops and cafes

The main sources of income of the affected people are:
- Employment outside the reservoir area
- Employment inside reservoir area
- Agriculture
- Old age or disability pensions
It is estimated that up to 20% of the population derive all or part of their income from farming, and 15% of the population are entirely dependent on pensions. The remainder are in employment, the majority in businesses located outside the reservoir area.

### 2.4 Land use

<table>
<thead>
<tr>
<th>Kind of land use</th>
<th>Recorded area (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural lands</td>
<td>1853</td>
</tr>
<tr>
<td>woodland</td>
<td>162</td>
</tr>
<tr>
<td>River, ponds and ditches</td>
<td>210</td>
</tr>
<tr>
<td>Mineral/aggregate excavations</td>
<td>17</td>
</tr>
<tr>
<td>Roads</td>
<td>53</td>
</tr>
<tr>
<td>Residential areas</td>
<td>40</td>
</tr>
<tr>
<td>Waste lands</td>
<td>292</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2627</strong></td>
</tr>
</tbody>
</table>

The woodland includes the Tworkowski Forest, the most valuable area for nature conservation in the Raciborz reservoir. Its importance is as one of the few forest complexes in the Upper Odra with a relatively well preserved forest community structure which supports a number of legally protected and endangered species of flora and fauna. The forest is expected to survive as a ‘very valuable’ habitat.

It is estimated that around a 100 million m$^3$ of gravel would be potentially available for extraction from the Raciborz reservoir area. Gravel workings are largely dependent on the demand for gravel at any time and this is closely linked to general economic development. If the demand for gravel in the Raciborz hinterland is about 2-2.5 million m$^3$ per year the extraction activity would continue for 40-50 years after the completion of the reservoir.

### 2.5 Built assets and agriculture

The built assets within the reservoir area comprise:
- 178 residential buildings most of which are more than 50 years old
- Farm buildings
- 16 Commercial buildings
- 9 Community buildings

All residential buildings are connected to mains electricity, telecommunications and water supply. Most houses are heated with coal fired central heating.

Waste water is generally disposed of in individual cesspits. Solid waste is collected by arrangement with a private contractor.

There is one junior school in Niebocowy, but no health care facilities in either village. Both villages have a church and there is one cemetery.
2.6 People affected and land ownership

Project-affected persons comprise:

a. People who live in the reservoir area
b. People who own land in the reservoir area
c. People who own or are employed by businesses located within the reservoir area
d. Residents of the Gmina living outside the reservoir area
e. People associated with the church and the hostel

All the persons directly affected by the project have been informed in a letter that the administrative procedure for granting location decision had been instituted. All of them have also received a copy of the location decision and those who have appealed received a copy of decision of the Minister of Infrastructure that upheld the reservoir location decision.

The distribution of landownership in the Project area (see explanation at the beginning of section 2.4.3) is summarized in the following Table:

<table>
<thead>
<tr>
<th>Ownership</th>
<th>No of plots</th>
<th>% of total number</th>
<th>Area (ha)</th>
<th>% of total area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private individuals*</td>
<td>2442</td>
<td>52.1</td>
<td>1056</td>
<td>31.5</td>
</tr>
<tr>
<td>Private firms</td>
<td>175</td>
<td>3.7</td>
<td>190</td>
<td>5.7</td>
</tr>
<tr>
<td>Organisations</td>
<td>41</td>
<td>0.9</td>
<td>69</td>
<td>2.0</td>
</tr>
<tr>
<td>Municipal offices</td>
<td>1137</td>
<td>24.2</td>
<td>479</td>
<td>14.3</td>
</tr>
<tr>
<td>State**</td>
<td>897</td>
<td>19.1</td>
<td>1557</td>
<td>46.5</td>
</tr>
<tr>
<td>TOTAL</td>
<td>4692</td>
<td>100</td>
<td>3350</td>
<td>100</td>
</tr>
</tbody>
</table>

Notes: * number of owners is less than 1300, own person usually has several plots
** Including Agricultural Real Property Agency lands that are leased mainly to private farmers.

Source: Own elaboration based on 2004 land register

Based on land records data the percentage of plots of different size has been calculated. The majority of plots (73.3%) are very small with an area not exceeding ½ ha. However the average acreage of separate farms cannot be estimated from this data because one farm is usually composed of several plots. Moreover leasing of arable land is very popular in the area both from private owners and Agriculture Real Property Agency.

The largest plots (more than 10 ha) cover about 33% of reservoir area and belong only to institutions (mainly state-owned). There is no private person owning one of larger plots.

2.7 Public consultations

The Investor's interest focused on the people living in the reservoir area who would have to leave their villages. Between 1998 and 2005 three teams of sociologists, in the name of Investor, held formal and informal discussions and consultations with those people and their representatives including well-attended public presentations of the project.

There was, however, a strong and organised resistance to resettlement in Nieboczowy, the larger of the two villages affected. One of its manifestations - orchestrated by the Defence Committee - is an unwillingness to collaborate with the Investor and the study team in formulating a resettlement plan. It has also resulted in a refusal by many local families to provide any information about themselves or their attitudes.
2.8 Conclusions

The Conclusions of the socio economic studies are:

- The method of gradual, voluntary buy-outs, as applied by the RZGW during the last 2 years in 2003-2004, has been successful especially in view of the limited funds available and of the difficult social conditions.

- The approach taken by RZGW should be maintained in the future. With the support of international funding, the buy-out programme can be accelerated.

- In order to maintain the present or an accelerated rate of buy-outs it will be necessary to establish effective communication with the PAP's.

- It is important to commence the process of purchase of land which belongs to people living outside the reservoir area and that is required for construction of the embankments.

- It is important to maintain effective cooperation with the gminas, especially Lubomia.
3 Legal Framework

3.1 Polish law applicable to resettlement

In Polish law one may distinguish situations, when rights to the properties are acquired subject to the civil law agreement, which method for the purpose of this Report is further referred to as voluntary resettlement. On the other hand expropriation may be carried out subject to the administrative decision. This procedure is referred to as involuntary resettlement. In involuntary resettlement the level of compensation is determined by the competent administration authority, which in most cases will be the head of the Poviat (starosta). Both these categories are regarded as involuntary resettlement by World Bank policies in that in neither case does the affected party have the option of not resettling.

Legal procedures governing land tenure, resettlement and land and asset evaluation are covered by the Act of Management of Real Properties (MoRPA).

3.2 World Bank policies

The objectives of the World Bank policy on resettlement are:

a) Involuntary resettlement should be avoided where possible. If it is unavoidable, resettlement should be minimised by exploring all viable alternatives.

b) Resettlement activities should be conceived and executed as sustainable development programs

c) Displaced persons should be consulted and should have the opportunity to participate in the planning and implementation of the resettlement program

d) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living, or to restore them in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of the project implementation, whichever is the higher.

3.3 Gaps between local laws and World Bank policies

It appears that there are no significant gaps between Polish law and World Bank policies in respect of either eligibility or the level of compensation.

3.4 Compensation

The following compensation is due:

For residential property:

- Money equal to the market value of the asset, including an allowance for removal and disturbance costs, or
- Alternative accommodation and land of equivalent area and assets of the old property, or
- A combination of money and land equal in value to the market value of the old property, including allowances for removal and disturbance costs
Money equal to the market value of the land to be acquired

By the end of December 2004, 30 properties in Ligota Tworkowska and Nieboczowy had voluntarily been sold to the investor through a process of free negotiation. Independent checks indicate:

- The process paid by the investor adequately cover the market value of the properties
- The vendors consider themselves to have been fairly dealt with
- Acting in accordance to Polish regulations, the investor fulfils all the standards of World Bank.

This process, which has been found to be entirely satisfactory, should be continued.

### 3.5 Compensation entitlements

Compensation entitlements are summarised as follows:

<table>
<thead>
<tr>
<th>Project Impacts</th>
<th>Category of PAP's Entitlement</th>
<th>Other measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss of settlements</td>
<td>Resident house and land owners in Nieboczowy and Ligota Tworkowska</td>
<td>Market value of house + land + Allowance to cover removal costs OR Replacement house of equivalent of similar standard and value OR A combination of money and land</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Provisions for temporary housing until new house ready</td>
</tr>
<tr>
<td></td>
<td>Tenants</td>
<td>Removal and displacement costs (through tenancy agreement)</td>
</tr>
<tr>
<td></td>
<td>Vulnerable groups</td>
<td>as above – according to ownership or tenancy entitlements</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Early identification and support from welfare department, church, and NGOs</td>
</tr>
<tr>
<td>Loss of land</td>
<td>Land owners</td>
<td>Market value of the land to be purchased + value of fixed equipment + value of loss of crops + removal costs OR Exchange agriculture land from Agriculture Real Property Agency</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Possibility to lease the land and continue farming of land not required for construction</td>
</tr>
<tr>
<td></td>
<td>Tenants</td>
<td>Removal and displacement costs (through tenancy agreement)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Assistance in conducting exchange</td>
</tr>
<tr>
<td>Loss of enterprises</td>
<td>Business owners</td>
<td>Market value of the premises to be purchased + value of fixed equipment + removal and set-up costs + loss of earnings</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Provision for continuance of operation if possible</td>
</tr>
<tr>
<td>Category</td>
<td>Employees</td>
<td>Loss of Church and religious residents</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>----------------------------------------------------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Removal and displacement costs OR Employment termination costs</td>
<td>Relocation to chosen location OR Replacement cost compensation</td>
</tr>
</tbody>
</table>
4 Implementation

4.1 House purchase

The present procedure for voluntary house purchase is as follows:

- House owners voluntarily approach the RZGW stating a willingness to sell. At present 15 property owners have declared such an interest in addition to the 34 owners who have already sold.
- An initial meeting between the Owner and the RZGW representative to confirm that the approach is serious and that the owner understands the purchase procedure.
- The property is valued by an independent property surveyor appointed by RZGW.
- The RZGW makes a formal offer to the Owner on the basis of the evaluation.
- The two parties, the RZGW and the Owner meet to negotiate terms.
- Once the price is agreed, an Agreement is drawn up by RZGW and is duly signed.
- The purchase price is paid by RZGW.
- The Owner is allowed to remain in the property for a period stipulated in the Agreement.
- Once the property is vacated, the buildings are demolished by RZGW.

4.2 Expropriation

If negotiations do not result in purchase agreement and property owner does not agree for voluntary resettlement to planned resettlement village (see section 7.1.4 below) institution of expropriation procedure will be necessary:

- RZGW requests the Starosta to institute the expropriation procedure and attaches full documentation of negotiations already conducted.
- Starosta offers the person that is to be expropriated an additional two-month term for execution of the property sale agreement.
- When agreement does not signed within extra two month – the starosta sends a notice informing on institution of expropriation procedure and sets the date of administrative hearing.
- Starosta asks property surveyor to define value of the property.
- Starosta offers the person that is to be expropriated a replacement property option in line of compensation.
- Starosta issues expropriation decision including determination of the Mount of compensation.
- The decision can be subject to appeal to the voivode and if upheld by the voivode – the second appeal to the administrative court.
- Payment of compensation takes place within 14 days of the day when the expropriation decision becomes final.

4.3 Land acquisition

The procedure for land acquisition will be as follows:

- Establish a list of the names and addresses of landowners and the plots they own, from existing cadastral and census data.
• Contact each landowner in writing stating the plot numbers required to be purchased and outlining the following procedure.
• Arrange for all plots to be visited by a chartered property surveyor appointed by RZGW. The value of each plot to be evaluated.
• Offer to purchase plots belonging to each owner on the basis of the evaluation made by a property surveyor
• Negotiations as necessary
• Preparation and signing of purchase agreements

4.4 Resettlement village

The procedure for the development of the resettlement village(s) is as follows
• Distribution of a letter to all residents of Nieboczowy and Ligota outlining the resettlement to the new village option and requesting their preliminary views
• Lubomia Gmina grants location permit (according to their declaration – expected at the end of February) or includes the new village in the local development plan
• Interview with each family that did not respond negatively to the resettlement village option
• Confirmation by RZGW of commitment to resettlement village
• Development of a dialogue between the interested families, RZGW and the Gmina representatives to determine the village layouts and functions that takes account, as far as possible, of villagers views and wishes.
• Appointment of architects to prepare layout plans
• Preparation and signing commitment agreements between each family and the RZGW
• Acquisition of land and procurement of building company
• Construction of resettlement village(s)

4.5 RZGW responsibilities

RZGW have prime responsibility for implementing the RAP, following the following broad principles:
• The level of compensation should be reasonable, as it has been so far
• Payment should be made promptly
• Affected people should continue to be allowed to remain in their houses after house purchase for a reasonable period until they are ready to leave

The main specific RZGW (Investor) tasks are as follows:
• Negotiations of terms of voluntary property purchase
• Arrange finance for property purchase and replacement land
• Application to ARPA with a motion to let land necessary for reservoir construction and to indicate the plots for land exchange
• Information and advice for affected people
• Role of investor for replacement village
• Arrange removal to replacement village
• Restoration of area within former villages
• Provide access to the land within reservoir area that can be used for agricultural purposes
• Leasing agreements with interested parties for lands within reservoir area
4.6 Voivodship responsibilities

Voivodship authorities competences are as follows:
- Formal administrative decisions concerning whole project:
- Approval concerning the relocation of structures recorded in the register of historical monuments

4.7 Starosty (Poviat) responsibilities

Poviat authorities (Starost) competences are as follows:
- Conduct expropriation proceedings
- Building consent for demolition of purchase houses and structures
- Building consent for individual houses and resettlement village
- Building consent for reconstruction of commercial buildings (shops, cafes, workshops, bakery) and infrastructure

4.8 Gmina responsibilities

Gmina competences are as follows:
- Land development decisions
- Approval for cutting trees in construction area
- Provide infrastructure
- Provide access to education (school, kindergarten, common room) and basic health service
- Support for poor and homeless people (welfare department)

4.9 Agriculture Real Property Agency (ARPA)

ARPA shall be responsible for:
- Letting lands to be administered by RZGW that belong to Resources of Real Property of State Treasury and are required for reservoir construction or situated within the future reservoir area
- Indication of replacement property for those landowners in reservoir area which are interested in such exchange and exchange agreement.

4.10 Coordination and management

Resettlement Action Plan is one of the tasks of Racibórz reservoir project. Body responsible for implementation of the whole project is RZGW in Gliwice.

At least two independent international financing sources for the whole Raciborz project are assumed, therefore the whole project management shall meet requirements of the financing organizations. In particular the responsibilities of PIU established within the organisational structure of RZGW shall cover all the requirements of managing, coordinating and financing bodies.

The decision concerning way of reservoir construction implementation and financing shall be taken at the national level as the project is an essential element of Odra 2006 Programme. Only when decision taken the coordination and management structure as well as procedures concerning the financial management and control of the implementation of the project can be proposed.
5 Resettlement village

5.1 Introduction

Three sites for replacement villages have been identified and the RZGW had, at the end of 2004, applied to the Gmina of Lubomia for a Location Permit for construction of resettlement villages at all three sites. This application for Location Permits is likely to be considered by the Gmina in March 2005. Depending on demand of the inhabitants for resettlement, RZGW will then proceed to purchase sufficient land and the preparation of village plans.

All three sites are situated close to Lubomia village, which provides the following services:
- Church
- cemetery
- communal administration
- primary and pre-secondary school
- shops and bars meeting needs of Lubomia residents.

South of Lubomia there are stores of building stock that can supply materials, tools and building equipment during construction of the housing estate.

The location of the three sites, listed below, are shown in Figure 5.1

5.2 Recommended layout

Until the number of displaced people who wish to move to a resettlement village is precisely known it will not be possible to decide which of the three sites should be developed. However, on the basis of the response to the 2002 questionnaire, which showed that 40% of the population might wish to move to a new village, it can be assumed that approximately 50 houses will be required plus a small number of farms. On this basis it would seem likely that the entire demand for plots in a resettlement village – residential and farming – can be met in any of the three sites.

It is not possible or appropriate to recommend a village layout until the people who wish to move to the village have been consulted.
Cost estimates

6.1 General

All costs are net values (VAT exclusive) and are given in 2004 prices.

Two options have been evaluated:
Option 1: all 178 house owners sell their houses and there is no resettlement village
Option 2: 128 house owners sell their houses and 50 choose to be compensated in the form of a replacement house.

6.2 Summary

The best estimate of the resettlement cost is
Option 1: PLN 176 million
Option 2: PLN 183 million

These costs are made up as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Option I (without village) (PLN million)</th>
<th>Option II (PLN million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property already purchased</td>
<td>9.4</td>
<td>9.4</td>
</tr>
<tr>
<td>Residential property to be purchased</td>
<td>47.9</td>
<td>30.4</td>
</tr>
<tr>
<td>Public buildings</td>
<td>4.8</td>
<td>4.8</td>
</tr>
<tr>
<td>Religious property</td>
<td>2.5</td>
<td>2.5</td>
</tr>
<tr>
<td>Commercial property</td>
<td>2.3</td>
<td>2.3</td>
</tr>
<tr>
<td>Infrastructure decommissioning and buildings demolition</td>
<td>2.0</td>
<td>2.0</td>
</tr>
<tr>
<td>Land</td>
<td>65</td>
<td>65</td>
</tr>
<tr>
<td>Infrastructure compensation</td>
<td>18.5</td>
<td>10.2*</td>
</tr>
<tr>
<td>Village for 50 families</td>
<td>0.0</td>
<td>32.0</td>
</tr>
<tr>
<td>Subtotal</td>
<td>152.4</td>
<td>158.6</td>
</tr>
<tr>
<td>Legal, evaluation and administration @5%</td>
<td>7.6</td>
<td>7.9</td>
</tr>
<tr>
<td>Contingency 10%</td>
<td>16</td>
<td>16.6</td>
</tr>
<tr>
<td>TOTAL</td>
<td>176.0</td>
<td>183.1</td>
</tr>
</tbody>
</table>

This estimate is comparable with that prepared for the Feasibility Study, excluding implementation costs, of PLN 215 million (in 2003 prices).

6.3 Cash flow

The projected cash flow for the RAP has been prepared for two options: the possible earliest completion of resettlement and the latest completion, just before commissioning of the reservoir. Both options are shown in Figure 7.1.
Figure 7.1: Cash Flow

6.4 RAP Implementation schedule

The implementation schedule, illustrated in Figure 7.2, shows that the Resettlement Action Plan can be completed by mid 2009 if all the activities will not be obstructed (earliest completion). When resettlement completed by December 2010 (latest completion) the commissioning of the reservoir will not be delayed.

Key milestones are summarized in the following Table:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Target date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>earliest</td>
</tr>
<tr>
<td>Resettlement village</td>
<td></td>
</tr>
<tr>
<td>- Decision in principle on the resettlement village</td>
<td>Jun 05</td>
</tr>
<tr>
<td>- Agree resettlement village layout with affected persons</td>
<td>Dec 05</td>
</tr>
<tr>
<td>- Finalise village design award construction contract</td>
<td>Dec 06</td>
</tr>
<tr>
<td>- Complete village construction</td>
<td>Mar 08</td>
</tr>
<tr>
<td>Nieboczowy and Ligota Tworkowska</td>
<td></td>
</tr>
<tr>
<td>- Complete purchase of residential property</td>
<td>Dec 07</td>
</tr>
<tr>
<td>- Evacuation of all residents completed</td>
<td>Sep 08</td>
</tr>
<tr>
<td>- Infrastructure decommissioned</td>
<td>Jun 09</td>
</tr>
<tr>
<td>- Church demolished</td>
<td>Jun 09</td>
</tr>
<tr>
<td>Land acquisition</td>
<td></td>
</tr>
<tr>
<td>- Main dam</td>
<td>Jun 06</td>
</tr>
<tr>
<td>- Right dike</td>
<td>Jun 06</td>
</tr>
<tr>
<td>- Left dike</td>
<td>Jun 06</td>
</tr>
<tr>
<td>- Remainder</td>
<td>Jun 08</td>
</tr>
</tbody>
</table>
7 Participation and consultation

7.1 Communication

The form of consultation the affected inhabitants used so far should be replaced with another activities that will better fit the new situation.

- Poll survey. There is a need to conduct a new residents opinion poll survey but it will be better to wait till the end of 2005 when the effects of purchase of some houses in Nieboczowy will be apparent.

- Data base updates. The compiled data base (data from 1998-2004) submitted to RZGW with this report as a demo can be used for all the purposes assumed provided that it is completed and systematically updated. The most important are socio-demographic data (number of persons in the household, age, sex, employment etc) and inventory data related to size and equipment of the house. Some of RZGW Raciborz staff can be responsible for such updating, after relevant training. Every visit of RZGW representatives in the individual household will give new information that should be without delay introduced into the data base. It is the good way for investor to have useful and up-to-date information with easy access to it.

- Direct group consultation – mass or public meetings – in existing situation cannot bring anything new but bitterness and rows. The direct marketing methods can be used instead – to send information leaflets to all householders private addresses. Internet can be also a good source of actual information (see 8.1.3 below) and opinion collection way, especially for young people who regularly use Internet.

- Traditional consultation in form of meetings of RZGW and Defence Committee representatives will obviously not stop but nobody can expect much progress. The main goal should be to try to make the Committee aware that they are responsible for the future of those people whom they persuade to continue their resistance.

7.2 Participation in design of resettlement village

People who will choose resettlement as a compensation option are given the chance to express their views on:

- selection of the site
- layout of the site
- location of their plot
- design of the house.
8 Grievance redress

8.1 Grievance procedure according to Polish regulations

The procedure for appeal against any administrative decision is defined by the provisions of the Administrative Procedure Code and provisions of the Procedure before Administrative Courts Act. These provisions are discussed in detail in Appendix B.

Any affected party can appeal against a decision related to its rights. Within 14 days from the day of delivery of the decision the party can refer to the administrative body of higher instance. Lodging an appeal ceases execution of the decision but it does not stop execution of the decision with the clause of immediate execution.

If the decision of the body of higher instance is not satisfying, either, the affected party can within 30 days lodge a complaint against it to the Provincial Administrative Court. A compliant is lodged via the authority relevant to issue a decision that within 30 days transfers the complaint to the court. This complaint does not stop the execution of the decision. However, if there is a risk of causing significant damage or other effects difficult to be removed, the court may, to the motion of the appellant, issue a decision to stop the execution of decision in whole or in part.

The ruling of the Provincial Administrative Court may be within 30 days referred to the Supreme Administrative Court (court of II instance) for cassation. The SACourt's award is decisive and binding.

The above procedure is valid for all kinds of decisions, including starost's decision on expropriation.

If the parties came to agreement as to conditions of expropriation after appeal has been lodged, they may apply for suspension of the administrative proceedings. After conclusion of relevant agreement the proceedings are discontinued.

8.2 Appeals to international bodies

Upon Poland's accession to the European Union the provisions of European Law became applicable in Poland. According to the doctrine of supremacy of European Law, in the event of a discrepancy between these provisions and the regulations of local law, European Law shall prevail. This rule applies to any provisions of the national law, including provisions contained in the Constitution. No discrepancy has been found between Polish and European regulations concerning expropriation. Provided that all domestic legal remedies have been exhausted, within six months from a final judgment of the Supreme Court any natural or legal person may apply to the European Court of Human Rights against a country who has violated his rights protected by the Convention of Human Rights. If the European Court determines that there was a violation of the Convention and that the internal law allows only partial reparation to be made, appropriate satisfaction to the injured party may be adjudicated.
Monitoring and evaluation

9.1 Monitoring

It is necessary to monitor the progress of displaced people to ensure that the key objective of the Resettlement Action Plan, that nobody should be materially worse off as a result of the construction of the Reservoir, is achieved. It is particularly important to monitor vulnerable people – the poor and sick.

9.2 Methodology

It is proposed that RZGW should maintain case notes of each family to be displaced from the time of first contact to three years after the family has moved house. The case notes shall include:

- Personal details of the family members – numbers, age, disabilities if any, source of income
- Details of negotiations
- Correspondence
- Copy of purchase agreement
- Details of new home
- Schedule for removal

The data files presented in Appendix A and the electronic data base proposed can be used for these purposes, provided that it will be created and continuously updated during RAP preparation and implementation.

From these notes the level of monitoring of each family will be determined by RZGW. For many, if not most, families only minimal monitoring will be required. Vulnerable families will be easily identified.

For these families it will be important for RZGW to liaise with local social services, NGO’s and, where appropriate, the Church. A plan of visits and contacts should be prepared to resolve any problems that might arise and to reassure and advise. These will be particularly important during and after the removal from the village to the new home.

9.3 Independent evaluation

The monitoring, and any necessary follow up action, should be monitored by an independent panel of sociologists to be appointed by the World Bank. Monitoring will comprise a twice yearly visit throughout the implementation period.