RACIBORZ FLOOD RESERVOIR

Resettlement Action Plan

DRAFT

March 2005
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General Information about Raciborz Project

1.1 Project Description

1.1.1 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 750km² was inundated in the three Voivodships of Słaskie, Opolskie and Dolnosłaskie 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.

1.1.2 The existing flood protection scheme

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 Racibórz 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.

1.1.3 The planned reservoir

The following stages of Raciborz reservoir construction have been planned:

I. Buków Polder – already completed
II. Racibórz Dolny reservoir – operated as dry flood protection reservoir – that was subject of the Feasibility Study completed in 2003 and RZGW Gliwice pursues now its construction

The Raciborz Dolny Flood Reservoir (hereafter referred to as Raciborz reservoir) with a flood storage volume of 185Mm³ 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 proposed as 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.

In addition to the embankment, which will be constructed entirely of materials excavated from within the reservoir area, the project involves the following ancillary structures:
- Outlet works and other appurtenant structures
- Raciborz town outlet
- Psina river diversion
- Drainage system
1.1.4 Objective

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, as 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.

1.1.5 Social Impact

The first stage of the whole development, Polder Bukow, has been built, which led to the resettlement of some 70 families. The proposed second stage – Raciborz Dolny reservoir will occupy about 2,600 ha of mainly agricultural and residential land, and the resettlement of two villages: Ligota Tworkowska and Nieboczowy containing some 240 families.

In this stage of the development 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.

1.2 Project area

1.2.1 Total reservoir footprint

According to the location decision document, the total area required for the Raciborz Dolny reservoir is 2626 ha, distributed in 4 gminas as presented in Table 1.1.

<table>
<thead>
<tr>
<th>commune (gmina)/city</th>
<th>Land area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ha</td>
</tr>
<tr>
<td>Lubomia</td>
<td>1065</td>
</tr>
<tr>
<td>Raciborz</td>
<td>612</td>
</tr>
<tr>
<td>Kornowac</td>
<td>37</td>
</tr>
<tr>
<td>Krzyzanowice</td>
<td>912</td>
</tr>
<tr>
<td>Total</td>
<td>2626</td>
</tr>
</tbody>
</table>
1.2.2 Area required for reservoir construction

The area of land required for construction of the reservoir structures totals approx. 960ha, or 37% of the total footprint (rough estimation of Hydroprojekt-Warszawa that is preparing the building design). This area comprises:

- The footprint of the embankment, width varying between 40m and 120m according to the height of the embankment above ground level
- Necessary access track along the downstream toe, 3m to 5m wide
- A 100m wide cordon upstream of the upstream toe (150m along the main dam)
- A strip of land, situated upstream of the cordon which is designated as borrow area to supply the earthfill for construction, up to 500ha of total area
- An area for the contractors offices and construction yard, 3 sites of total area 10ha
- Site haul roads, which will generally be accommodated within the cordon and upstream reserve.

This area must be acquired by the RZGW with high priority. The only plot with residents within this area is that of ARKA hostel (2ha).

1.2.3 Areas of buildings within the reservoir

The area of plots with buildings in Nieboczowy and Ligota Tworkowska villages is 185.6 ha (see Table 6.1).

The inhabitants cannot stay within the reservoir and all the buildings and other structures have to be removed (demolished) therefore this area must also be acquired with high priority.

1.2.4 Other areas within the reservoir

The difference between the reservoir footprint and the area required for construction and areas of buildings lies within the reservoir and although it will be subject to increased frequency and severity of flooding, this land can continue to be farmed or used for gravel extraction.

1.3 Minimising resettlement

1.3.1 Alternative embankment alignment

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 principal characteristics of the alternative and the base case alignment are summarised in Table 1.2 below:
Table 1.2. Comparison of base case and alternative alignment

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Base case alignment</th>
<th>Alternative alignment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Length of embankment (km)</td>
<td>22.35</td>
<td>27.25</td>
</tr>
<tr>
<td>Surface area of flood storage (km²)</td>
<td>76</td>
<td>23</td>
</tr>
<tr>
<td>Embankment volume (Mm³)</td>
<td>7.4</td>
<td>11.8</td>
</tr>
<tr>
<td>Flood storage volume (Mm³)</td>
<td>185</td>
<td>150</td>
</tr>
<tr>
<td>Population to be resettled</td>
<td>704</td>
<td>172</td>
</tr>
<tr>
<td>Total cost (PLN million)</td>
<td>646</td>
<td>645</td>
</tr>
<tr>
<td>% decrease in benefits</td>
<td>-</td>
<td>-8.2%</td>
</tr>
</tbody>
</table>

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

1.3.2 Other alternatives

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 as discussed in section 1.3.4 below.

1.3.3 Reservoir area not required for construction

In order to minimise the social impact of the reservoir, the purchase of those areas inside the reservoir perimeter not required for construction and without buildings can be deferred to the end of construction of the reservoir in 2012 and then leased back to their previous owners for agricultural use. The lease back would be on preferential terms which recognised the increase probability and severity of flooding.

1.3.4 Summary

On the basis of the findings of the Feasibility Study, it is has been concluded that:
- Dry flood protection reservoir shall go ahead
- The original (base) alignment should be retained
- That all the land within the footprint should be acquired by RZGW

1.4 Decisions already taken

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 the 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.

Following the decision RZGW have commissioned Hydropriek Warszawa to prepare the detailed design of the reservoir, again based on the original alignment.

The location decision was subject to appeal and when Minister of Infrastructure upheld the decision, a complaint was lodged to the Administrative Court, a response to which is pending. However this complaint does not stop the execution of the decision. The execution could be stopped in whole or in part only by relevant
decision of the court and such a decision was not issued. Therefore the Investor can proceed with implementation of the Project including all activities related to property and land acquisition and resettlement of affected people.
2 Socio economy

2.1 Socioeconomic data

The electronic data files form the basis for the socioeconomic analysis and are presented in Appendix A. These files were constructed by compilation of data collected during 1998-2004. The sources of information are quoted in the text.

Currently there is no possibility for conducting a new questionnaire survey. However such a survey is necessary as the most recent surveys that took place in 2002 were boycotted by residents with encouragement of the Defence Committee.

Appendix A covers the following data sets:

- **A1** Real estates in Nieboczowy and Ligota Tworkowska (1998) covered by the stocktaking process – each real estate (occupied in the past and/or currently occupied) located at one single address is called “the household”;
- **A2** Results of quantitative questionnaire surveys – Nieboczowy and Ligota Tworkowska inhabitants opinion poll (1998 and 2002);
- **A3** Socio-demographic data concerning inhabitants of the two affected villages based on
  - the opinion polls from 1998 and 2004
  - population register – PESEL data base (national ID number database), obtained from Gmina Lubomia,
  - information obtained from the Lubomia Gmina Office (3rd Quarter of 2004);
- **A4** Results of fragmentary survey of households already purchased by the RZGW (2004);
- **A5** Cadastral data (land register) concerning land plots found within Project area (whole plot or its part within the reservoir footprint). Data was prepared from the register obtained from Geodetic Departament of Raciborz Starosty, Wodzislaw Sl. Starosty and Raciborz City Office and dated January- March 2004 (documentation prepared by GEO-ROL Geodetic Services in Rybnik);
- **A6** Results of analysis of the secondary sources of information (2004) – e.g. data concerning 43 households that did not appeal against location permit to the Ministry of Infrastructure.

2.1.1 The villages and their past

(a) Nieboczowy

In 2004 there were 564 residents of Nieboczowy (Source: PESEL base, 2004). The history of both villages, Ligota Tworkowska and Nieboczowy is long and rich. The earliest historical account mentions Nieboczowy as a hamlet of loggers who cut the oak forest and floated the logs on Odra River. Prince Przemysław donated the oak forest in the Odra River valley to Raciborz residents in 1290 as recognition of their bravery. The name of the hamlet refers to “hamlet out of the way” or “hamlet at the river valley-side”. In 1603 the village was sold to Waclaw Reiswic, while in 1730 its ownership was passed to count Franciszek Lichnowski. In 1840 the first school in
Nieboczowy was founded. In 2004 Nieboczowy primary school had only classes 1–3. Older pupils commute to school outside the village.

(b) Ligota Tworkowska

In 2004 there were 125 residents in Ligota Tworkowska (Source: PESEL base, 2004). This village is located in the Odra River valley, neighboring to Nieboczowy village and is much smaller than Nieboczowy. Mention of this village dates back to 1428, i.e. to times of king Władysław Jagiełło when name of the village was “Lhota”. For a long time it used to be connected with Tworkowo village as an estate. In 16th and 17th centuries its owners were often changing. The village is vulnerable to frequent floods in: 1881, 1854, 1880, 1903, including the 1997 “flood of the century”.

2.1.2 Population and 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 Wodzisław Poviat (County). 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>
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</table>

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

Table 2.2. Inhabited and uninhabited houses in the reservoir area.

<table>
<thead>
<tr>
<th>Village</th>
<th>Inhabited property</th>
<th>Uninhabited property (still existing)</th>
<th>Demolished property *</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td>132</td>
<td>4</td>
<td>0</td>
<td>136</td>
</tr>
<tr>
<td>Ligota Tworkowska</td>
<td>29</td>
<td>2</td>
<td>11</td>
<td>42</td>
</tr>
<tr>
<td>Total</td>
<td>161</td>
<td>6</td>
<td>11</td>
<td>178</td>
</tr>
</tbody>
</table>

* purchased and demolished by RZGW

2-2
Source: Consultants estimate (January 2005) based on opinion poll from 2002 and 2004 survey.

2.1.3 Economy and employment

Silesian Province, to which Wodzislaw Poviat belongs, is a strong labour market. It is still a large coal-mining region, and an area of more than 100 years of intensive industrialization. Starting from 2003 there was an upturn in the mining (mineral coal) and steel industry which means another chance for the Silesian economy. This is the province with the highest population density in Poland. 4,847,600 people living in Silesia occupy 12,294 sq. km, a population density of 394 people per sq. km.

The population of Wodzislaw Poviat (as for 31.12.2003) is 155,389 people and population density of 541 people per sq.km is the highest of all poviat in Silesian voivodship.

Table 2.3. Wodzislaw, Raciborz and voivodship population

<table>
<thead>
<tr>
<th>POVIAT</th>
<th>Total</th>
<th>Men</th>
<th>Women</th>
<th>Age breakdown</th>
<th>% of total population</th>
<th>per km²</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Under 19 years</td>
<td>19-60 years</td>
<td>Beyond 61 years</td>
</tr>
<tr>
<td>Silesian voivodship</td>
<td>4731533</td>
<td>2289801</td>
<td>2441732</td>
<td>21.0</td>
<td>64.2</td>
<td>14.8</td>
</tr>
<tr>
<td>Raciborz</td>
<td>113866</td>
<td>55031</td>
<td>58835</td>
<td>22.4</td>
<td>62.8</td>
<td>14.8</td>
</tr>
<tr>
<td>Wodzislaw</td>
<td>155389</td>
<td>75342</td>
<td>80047</td>
<td>22.9</td>
<td>62.6</td>
<td>14.5</td>
</tr>
</tbody>
</table>

Source: Wodzislaw Starosty (as of 31.12.2003.)

Figure 2.1. Birth rate and migration


The higher percentage of people working in industry (56.2%) than the voivodship average (45.8%) is the main feature of Wodzislaw poviat labour market. And on the
contrary employment in commercial services (e.g. trade, services, transport, property market) is rather low (19.8%) in comparison to Silesian Voivodship average (30%).

The rising demand for energy resources impacts on mining profitability and therefore increases the demand for qualified mining workers. A new technical mining school has been opened in Wodzislaw Poviat (with guarantee of employment for its graduates) and a field department of Mining and Steel Academy (AGH) from Kraków.

In October 2004 the registered unemployment rate in Wodzislaw Poviat was 17.1%. The majority of unemployed (58%) are women. With respect to age breakdown young people between the age of 18 and 24 form the most numerous group, with 36.1% of all unemployed.

Table 2.4. Unemployment in Wodzislaw, Raciborz and voivodship

<table>
<thead>
<tr>
<th>POVIAT</th>
<th>Total</th>
<th>Registered unemployment of that</th>
<th>Unemployment rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Women</td>
<td>Long unemployment*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Silesian voivodship</td>
<td>307991</td>
<td>56.1</td>
<td>50.8</td>
</tr>
<tr>
<td>Raciborz</td>
<td>4541</td>
<td>60.9</td>
<td>46.1</td>
</tr>
<tr>
<td>Wodzislaw</td>
<td>8626</td>
<td>57.9</td>
<td>45.0</td>
</tr>
</tbody>
</table>

Notes: * as for 30.09.2004.

Source: Wodzislaw Starosty (as for 31.10.2004.)

There are a number of small businesses in the project area. Most are dependent mainly on customers from Nieboczowy and Ligota Tworkowska. An attempt was made to survey small businesses in the reservoir area, but the proprietors were unwilling to participate. It is therefore necessary to base our conclusions on observations, secondary data and estimated values.
Table 2.5 Affected businesses

<table>
<thead>
<tr>
<th></th>
<th>Nieboczowy</th>
<th>Ligota Tworkowska</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>1 Pig farm</td>
<td>1 Chicken farm</td>
</tr>
<tr>
<td></td>
<td>1 Chicken slaughterhouse</td>
<td></td>
</tr>
<tr>
<td>Light Industry and services</td>
<td>3 Mechanical workshops</td>
<td>1 Electroplating works</td>
</tr>
<tr>
<td></td>
<td>1 Bakery</td>
<td>1 Workshop</td>
</tr>
<tr>
<td></td>
<td>1 Refuse collection</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3 Gravel mines</td>
<td></td>
</tr>
<tr>
<td>Shops, cafes, hotels</td>
<td>1 Tourist resort and leisure centre</td>
<td>1 Shop</td>
</tr>
<tr>
<td></td>
<td>1 Tourist resort now defunct</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 Shop</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 Restaurant</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2 Bars</td>
<td></td>
</tr>
</tbody>
</table>

Source: Property surveyors report (Appendix C) and RZGW data.

A few owners have already sold their business to the Investor (RZGW). They have been allowed to continue their business activity in the old location until they re-establish their business somewhere else. It is favourable solution for them and their employees as they will not suffer from the loss of income.

The main external labour market for residents of Nieboczowy and Ligota Tworkowska are neighbouring coal mines.

According to archival data of the 1997 questionnaire survey, presented in the table below, 25 adults out of 16 properties purchased by November 2004 by the RZGW households were in employment, with more than a half (52%) of them employed in Wodzislaw Poviat, 32% in Racibórz Poviat and 16% elsewhere.

Table 2.6. Employment outside the two villages (16 households sample)

<table>
<thead>
<tr>
<th>Location of employment</th>
<th>Number of people</th>
</tr>
</thead>
<tbody>
<tr>
<td>Racibórz</td>
<td>7</td>
</tr>
<tr>
<td>Lubomia</td>
<td>6</td>
</tr>
<tr>
<td>Krzyżanowice</td>
<td>1</td>
</tr>
<tr>
<td>Nieboczowy</td>
<td>2</td>
</tr>
<tr>
<td>Pszów</td>
<td>5</td>
</tr>
<tr>
<td>Other</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total number of people</strong></td>
<td><strong>25</strong></td>
</tr>
</tbody>
</table>

Source: Own estimation based on residents opinion poll from 1998 and survey of households purchased by RZGW (November 2004).

An important factor that affects sources of revenue of the people of Racibórz County used to be and still is the seasonal employment in Germany. The residents also often seek employment in Holland, in trade business, and sometimes decide to emigrate (Germany in the first place). Of 31 owners who sold their real estates to the RZGW three are now domiciled in Germany.
Table 2.7 Non-agricultural sources of income (31 households)

<table>
<thead>
<tr>
<th>Village</th>
<th>Permanent or casual work *</th>
<th>Own business **</th>
<th>Old-age pension/ disability pension (as the sole livelihood)</th>
<th>Owners do not live at the household ***</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td>6</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>9</td>
</tr>
<tr>
<td>Ligota</td>
<td>11</td>
<td>0</td>
<td>4</td>
<td>7</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>16 (51.6%)</td>
<td>1 (3.2%)</td>
<td>6 (19.4%)</td>
<td>7 (22.6%)</td>
<td>31 (100%)</td>
</tr>
</tbody>
</table>

Notes: * with 3 of them getting their livelihood in addition from agriculture, and one - from horticulture
** car repair
*** owners live with families in another place in Poland (4) or in Germany (3)

Source: Own estimation based on data from 31 households purchased by RZGW (November 2004).

The above summary is of a relatively small sample: 31 surveyed households cannot be seen as a representative sample of all the households found in the two locations.

2.1.4 Land use and agriculture

In spite of the very high industrialization that characterizes the Silesian Province the arable lands still account for more than a half (50.5%) of its total area. (Source: Ministry of Agriculture and Rural Area Development)

Agriculture of Wodzislaw Poviat is technically above the low all-Poland average. But still this area is not much different from others in Poland in terms of land ownership and size of farmsteads. As in the rest of the country small farms of only a few hectares dominate.

Figure 2.2. Percentage of employment in different sectors in chosen poviats

Source: Wodzisław Starosty 2004
Based on the 2002 opinion poll it is estimated that in Nieboczowy and Ligota Tworkowska some 20% of the residents generate some part of their income from farming activities. This estimation is however subject to a substantial margin of error because the percentage of missing data reported in the 2002 questionnaire study conducted in a highly negative public atmosphere was close to 40%.

Table 2.8. Percentage of farming households

<table>
<thead>
<tr>
<th>Village</th>
<th>Farming</th>
<th>No farming</th>
<th>No data</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td>9.3%</td>
<td>44.4%</td>
<td>46.4%</td>
<td>100%</td>
</tr>
<tr>
<td>Ligota Tworkowska</td>
<td>15.2%</td>
<td>50.0%</td>
<td>34.8%</td>
<td>100%</td>
</tr>
<tr>
<td>Total</td>
<td>10.7%</td>
<td>45.7%</td>
<td>43.7%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: Own estimation based on residents opinion poll from 2002.

The current uses of land where the reservoir is planned are presented in Table 2.9.

Table 2.9. Land use of planned reservoir area.

<table>
<thead>
<tr>
<th>Kind of land use</th>
<th>Recorded area (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural lands</td>
<td>1853.58</td>
</tr>
<tr>
<td>Forests</td>
<td>147.51</td>
</tr>
<tr>
<td>Coppices</td>
<td>14</td>
</tr>
<tr>
<td>Waters</td>
<td>184.56</td>
</tr>
<tr>
<td>of that:</td>
<td></td>
</tr>
<tr>
<td>stagnant waters (ponds, lakes)</td>
<td>124.99</td>
</tr>
<tr>
<td>flowing waters (rivers)</td>
<td>59.57</td>
</tr>
<tr>
<td>Ditches</td>
<td>24.84</td>
</tr>
<tr>
<td>Mineral/aggregate excavations</td>
<td>16.74</td>
</tr>
<tr>
<td>Transport areas</td>
<td>53.39</td>
</tr>
<tr>
<td>Residential areas</td>
<td>39.98</td>
</tr>
<tr>
<td>of that:</td>
<td></td>
</tr>
<tr>
<td>built-up areas</td>
<td>28.86</td>
</tr>
<tr>
<td>unbuilt areas</td>
<td>0.16</td>
</tr>
<tr>
<td>green lands</td>
<td>10.96</td>
</tr>
<tr>
<td>various lands</td>
<td>3.98</td>
</tr>
<tr>
<td>Waste lands</td>
<td>292.3</td>
</tr>
<tr>
<td>Total</td>
<td>2626.9</td>
</tr>
</tbody>
</table>

Source: Property surveyors elaboration (Appendix C)

2.1.5 Infrastructure

Both Ligota Tworkowska and Nieboczowy have water supply, power and terrestrial telephone networks.
(a) Water-supply and sewerage systems

The two villages are served by a local water treatment plant drawing from groundwater. Nearly all the houses have piped water from this supply. There is no central sewage system. Each dwelling has its own septic tank or shares with neighbours.

Table 2.10. Summary of water supply band sanitation (N=197).

<table>
<thead>
<tr>
<th>Village</th>
<th>Running own cesspit</th>
<th>Flushed water from W.C. in building</th>
<th>Bathroom with tub or shower</th>
<th>Own cesspit connected to house system</th>
<th>Other solutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td>83.4%</td>
<td>72.8%</td>
<td>81.5%</td>
<td>78.8%</td>
<td>9.9%</td>
</tr>
<tr>
<td>Ligota</td>
<td>82.6%</td>
<td>60.9%</td>
<td>71.7%</td>
<td>69.6%</td>
<td>2.2%</td>
</tr>
<tr>
<td>Tworkowska</td>
<td>83.2%</td>
<td>70.1%</td>
<td>79.2%</td>
<td>76.6%</td>
<td>8.1%</td>
</tr>
<tr>
<td>Total</td>
<td>83.2%</td>
<td>70.1%</td>
<td>79.2%</td>
<td>76.6%</td>
<td>8.1%</td>
</tr>
</tbody>
</table>

Source: Own estimation based on residents opinion poll from 2002.

(b) Waste management

This is undertaken on the basis of individual households' arrangements with a local contractor who takes the refuse to a collection centre outside the reservoir area.

(c) Power systems

All houses are connected to the mains power supply.

Table 2.11. Summary of household heating and power supply (N=197).

<table>
<thead>
<tr>
<th>Village</th>
<th>Central heating system with coal-fired furnace</th>
<th>Central heating system with gas-fired furnace</th>
<th>Connection of three-phase power supply</th>
<th>Other solutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td>80.8%</td>
<td>0.7%</td>
<td>72.8%</td>
<td>1.3%</td>
</tr>
<tr>
<td>Ligota</td>
<td>65.2%</td>
<td>6.5%</td>
<td>67.4%</td>
<td>2.2%</td>
</tr>
<tr>
<td>Tworkowska</td>
<td>77.2%</td>
<td>2.0%</td>
<td>71.6%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Total</td>
<td>77.2%</td>
<td>2.0%</td>
<td>71.6%</td>
<td>1.5%</td>
</tr>
</tbody>
</table>

Source: Own estimation based on residents opinion poll from 2002.

(d) Access to stationary telephone network

A telephone service is available, but less than a half of the houses in Nieboczowy and Ligota Tworkowska are connected.
Table 2.12. Percentage of households with telephone (N=197).

<table>
<thead>
<tr>
<th>Village</th>
<th>Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td>41.7%</td>
</tr>
<tr>
<td>Ligota</td>
<td>39.1%</td>
</tr>
<tr>
<td>Tworkowska</td>
<td>39.1%</td>
</tr>
<tr>
<td>Total</td>
<td>41.1%</td>
</tr>
</tbody>
</table>

Source: Own estimation based on residents opinion poll from 2002.

2.1.6 Access and transport

The road network of Wodzislaw Powiat is rather well-developed. The total length of Powiat administered roads is 226.1 km. (Source: Wodzislaw Starosty 2005) The municipal and local roads density is similar to voivodship average and is close to 0.9 km of road per 1 sq. km. In western part of Silesian voivodship it is the third value and lower than in Jastrzebie and Rybnik Powiats.

The Wodzislaw Starosty plans assume further extension of transport network, including construction of A1 motorway, construction of by-passes around the cities, construction of Pszczyna – Racibórz through road, that will provide good internal and external connections.

The planned A1 motorway construction from Sośnica junction to the state border in Gorzyczki will have an important impact on the employment structure of the region. The motorway will take some part of heavy traffic from the existing overloaded roads. On the Czech side the A1 motorway will be extended with Ostrawa – Brno motorway (D 47) leading to the south of Europe. The construction of motorway will result in other investments such as construction of new fuel stations, bars, parkings, motels etc. creating jobs for people from Wodzislaw Powiat and a revival of border trade (Source: Local Development Plan for Wodzislaw Powiat 2005-2013. Wodzislaw Starosty 2005).

The reservoir area contains no vehicle crossings over the Odra, but a bridge over the Kanal Ulgi (the by-pass canal) carries a secondary road connecting Nieboczowy with the eastern suburbs of Raciborz.

The two villages are served by well-maintained tarred roads connecting them to Lubornia, Raciborz and several other villages in the vicinity. Gravelled tracks give access to arable lands and other parts of the basin.

Total length of roads found within the reservoir bowl, facilitating internal traffic and offering ways to surroundings of the villages, including local roads is 52.5 km.

During construction the journey to work may be longer for some of the residents. During this period the road to the south of the bridge will be cut by the embankment and the spillway and outlet structures. It is intended that the roads and tracks should remain after resettlement as they will carry construction traffic, and allow access for farming and gravel extraction.
2.1.7 Communal Facilities

As usual in Polish villages the public buildings in both Nieboczowy and Ligota Tworkowska contain the fire station as well as a community hall and library. These are important facilities for the communities, contributing significantly, not only to safety but also to social cohesion and the quality of life.

2.1.8 Education and healthcare

One of the four kindergartens found in Lubomia Gmina (Source: Lubomia Gmina) is located in Nieboczowy, but there is no complete primary school (classes 1-6) in spite of the fact that 564 residents live in relevant administration area headed by village council. The school building in Nieboczowy accommodates kindergarten and a partial (3-class) primary school.

There is no school in the smaller village of Ligota Tworkowska either. Children of school age in this village go to one of the primary or secondary level schools in Lubomia (2 schools) or Syrynia (2 schools). The suprasecondary teaching facilities are offered in Wodzislaw or Raciborz.

There are no health service centres or pharmacies in Nieboczowy and Ligota Tworkowska. These facilities are found in Lubomia and Syrynia, both of which have one of each (Source: Lubomia Gmina)

2.1.9 Church and cemetery

Nieboczowy brick church of Saint Josef the Worker was erected during 1929-1931 according to design of Jan Affa. During 1957 – 1959 it was rebuilt and its interior was re-furnished.

The small chapel in Ligota Tworkowska – some 116m² – was build in 1902. Most probably this chapel will be given to Grabówka which, as Ligota, is a small administration area headed by the village council (207 residents) and has no church of its own. The transfer of chapel from Ligota to Grabówka will be possible only after the last residents of Ligota leave their places of residence. Transfer of the chapel to Grabówka will mean not only a rescue for the 100-year old building but also will preserve memories of those who were married there, or baptized their children, or said requiem masses to commemorate their close ones.

The parish cemetery serves Nieboczowy, while the dead of Ligota Tworkowska are buried in other cemeteries, including Bukow. After the location decision is final and binding the curia will close the cemetery and no new burials will be allowed. In 2004 there were 370 graves at the cemetery. Most of them illustrate the relative wealth of the residents found in that region: 270 are made from terrazzo or stone.

In the future the cemetery will have to be relocated to an agreed site outside the reservoir area. The human remains will have to be exhumed and re-interred and the gravestones and tombs moved from the present site to the new one. A new site has not yet been identified but the new cemetery in Lubomia has room for expansion. An object of a high symbolic value is the cemetery chapel that should be relocated together with the rest of the cemetery

2.1.10 Historical and cultural features

The two villages posses symbols of the material culture of special importance. They can be called the common good – an element of heritage of the communities that live there. Objects like those (apart from church, chapel and cemetery) are wayside...
shrines and crosses. 3 wayside shrines (all of them in Nieboczowy) and 6 stone crosses plus 1 made of wood are recorded.

The cultural value is the feature of not only of the sacred objects but also that of the ordinary ones that serve the everyday life. Amongst those there are two voluntary fire brigade stations, recreation room with library in Ligota, and the Nieboczowy Sports Club with its football ground. The House of Bread run by Salvatorian priests in Nieboczowy should also be noted.

2.2 Built assets

2.2.1 General

The tables presented below and summarizing information on built assets within planned reservoir area are based on archival data (1998, 2002) and on the property surveyors report, prepared in October 2004 and attached in Appendix C. Some data is only estimated. Full and up-to-date information will be available from amended data base (new field inventory is required). Built-up real estates that are affected by the investment can be broken down into the following categories:
- Residential buildings
- Farm- and other ancillary buildings
- Commercial buildings
- Community assets

2.2.2 Residential buildings

According to the available data there were 178 residential buildings in the villages of Ligota Tworkowska and Nieboczowy. It should be stressed that the number of houses is not equal to the number of households; in some households there are two residential buildings on the same plot. The number of houses changes with time. The buildings in households already purchased by RZGW are demolished and removed to avoid squatters living there (see Table 2.2).

There were 40 inhabited houses in Ligota Tworkowska, including 27 farms. There were 136 inhabited houses in Nieboczowy, including 98 farms.

The total usable area of residential buildings has been estimated at 25,454 m². A half of these buildings is older than 50 years.

Table 2.13 Age of residential buildings (N=178).

<table>
<thead>
<tr>
<th>Erection year of residential building</th>
<th>Number and percentage of buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-1991</td>
<td>5</td>
</tr>
<tr>
<td>1990-1981</td>
<td>11</td>
</tr>
<tr>
<td>1980-1971</td>
<td>13</td>
</tr>
<tr>
<td>1970-1961</td>
<td>28</td>
</tr>
<tr>
<td>1960-1951</td>
<td>32</td>
</tr>
</tbody>
</table>
### 2.2.3 Farm- and other ancillary buildings

Some ancillary buildings are located on farms and residential plots. No inventory of these buildings is available. Some estimates have been made based on questionnaire study (without distinction between two villages).

Total usable area of the multi-function farm buildings is 32,370m² approx. and an average usable area of a farm building is 195m².

Only five farms practice specialized stock farming. The total area of livestock buildings designed for this purpose is 6900m².

Existence of a garage was declared by 83 (46.4%) of the questioned owners, although the brick free-standing garage that constitutes a separate object is seen in 41 households.

The average usable area of a free-standing garage is 38m².

### 2.2.4 Commercial buildings

There are 14 commercial units in the affected area.

#### Table 2.14. Commercial buildings in Nieboczowy and Ligota Tworkowska

<table>
<thead>
<tr>
<th>Kind</th>
<th>Ligota Tworkowska</th>
<th>Nieboczowy</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Quantity of units (buildings)</td>
<td>Area [m²]</td>
</tr>
<tr>
<td>Craft workshop</td>
<td>2</td>
<td>112</td>
</tr>
<tr>
<td>Grocery</td>
<td>1</td>
<td>480</td>
</tr>
<tr>
<td>Bakery</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Bar</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Cafe</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Recreational centre</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Gravel pit</td>
<td>0</td>
<td>1 (3)</td>
</tr>
</tbody>
</table>

*Source: Own elaboration based on property surveyors elaboration (October 2004)*

### 2.2.5 Community assets

There are 22 community assets in the affected area.
Table 2.15. Community assets in Nieboczowy and Ligota Tworkowska

<table>
<thead>
<tr>
<th>Description</th>
<th>Ligota Tworkowska</th>
<th>Nieboczowy</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Quantity</td>
<td>Area [m²]</td>
</tr>
<tr>
<td>Church</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Chapel</td>
<td>1</td>
<td>350</td>
</tr>
<tr>
<td>Cemetery</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Fire brigade building</td>
<td>1</td>
<td>310</td>
</tr>
<tr>
<td>Kindergarten</td>
<td>0</td>
<td>1750</td>
</tr>
<tr>
<td>School</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>House of Bread**</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Village recreation room</td>
<td>1</td>
<td>1350</td>
</tr>
<tr>
<td>Sport club</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Wayside shrines</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Crosses</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

Notes: * In 2004 there were 370 graves on local cemetery. ** This is a religious house for people in need

Source: Own elaboration based on property surveyors elaboration (October 2004)

2.3 Natural assets

2.3.1 Woodland habitats

Within the Odra river valley a considerable extent of transformation of habitats under pressure from agriculture, urbanisation and mineral extraction is noted. Remaining habitats are characterised as being fragmented with only a fraction of important wetland habitats such as riverside carr (wet forest).

The most valuable area for nature conservation in the Raciborz reservoir area is Tworkowski Forest. Its importance is as one of the few forest complexes in the Upper Odra with a relatively well preserved forest community structure. In addition, it supports a number of legally protected and endangered species of flora and fauna, including species listed in Annexes in the EU Birds and Habitats directives. A pair of nesting white tailed eagles is particularly noteworthy. The forest's value is also enhanced by the presence of surrounding habitats: wet meadows, ox bow lakes and sedge communities. The forest has specific importance for the continuity the Odra river ecological corridor as the only fully developed forest complex in the area north of the Brama Morawska (Moravian gateway). The forest is included within the proposed 'ecological lands' protected area¹.

The forest is located within the proposed reservoir area and was affected by previous flooding events. It has been noted that after prolonged flooding of over a month in 1997 some damage to certain groups of tree species was noted, otherwise the forest appears to have recovered well. After construction of the reservoir periodic damage to Tworkowski forest during flood events is also expected which will impact on the composition species and habitats of the forest - effect will depend

¹ source: Silesian Voivodship Environmental Protection Department
on frequency and duration of flooding inside the reservoir — and therefore the operating rules for the reservoir. The forest is expected to survive as a very valuable habitat.

2.3.2 Gravel excavation

Information on mineral resources within the reservoir area is based on detailed geological surveys assessing the depth of gravel and location of useable soil materials for construction and for exploitation. It was estimated in the Feasibility Study 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.

The current trends in land use in the reservoir area are likely to continue. These trends include the continuation of the very gradual expansion of gravel extraction works in the reservoir area, resulting in gradual increase in wetland habitats formed by extraction. There should be environmental benefits as gravel pits replace agricultural land and valuable habitats can be created. A similar process has been observed within Bukow polder area that was largely a product of mineral extraction and change in land use following bund construction. In particular the area was found to support a complex of wetland habitats and a range of valuable and protected flora and fauna particularly amphibians.

Excessive mineral excavation could cause risks to Tworkowski woodland complex — either directly or from changes to ground water level.

The continued exploitation of gravel and the way it is planned and controlled is likely to have a significant influence on the environment within the reservoir area. Coordination will be required between those responsible for the approval and letting of concessions for mineral exploitation and those responsible for reservoir project development. This is necessary to ensure that project design requirements and recommendations for environmental /social mitigation are fully taken in to account in all relevant planning decisions and resource exploitation conditions.

2.3.3 Tourism opportunities

The reservoir area with small ponds will provide some potential for local recreation activities and habitat creation. The area presents planners with an opportunity to coordinate activities to make the most of opportunities, for example this would involve ensuring that important features such as the Tworkowski forest, associated meadows and river channels are protected and paths through the wetland complex are formed. Types of activities that could be suitable include formal and informal recreation such as fishing, walking, cycling, bird watching. It could also become a useful resource for nature conservation education, which could be used by local schools and colleges. This option could allow a diversity of uses as well as creating a valuable nature conservation area.

Investment in facilities will still be required and these will be constrained within the reservoir bowl by the relatively frequent filling of the reservoir.

2.4 Categories of impacts and people affected

All persons directly affected by the project, ie. owners of houses, other structures and of land within reservoir area have been informed in a letter that the
administrative procedure for granting location decision had been instituted. Then all of them received a copy of a location decision and those who have appealed received a copy of decision of Minister of Infrastructure that upheld the reservoir location decision.

There are two different approaches to describe residents of the two villages:

- By identifying persons - PAP - Project-Affected Persons
- By identifying households - PAF - Project-Affected Families

Project-affected persons comprise:

- People who live in the reservoir area
- People who own land in the reservoir area
- People who own or are employed by businesses located within the reservoir area
- Residents of the Gmina living outside the reservoir area
- People associated with the church and the hostel

The impacts on these people is described in sections 2.4.1 to 2.4.7 below

2.4.1 Resident Project-Affected Persons

Construction of the reservoir will directly affect residents of Villages Nieboczowy and Ligota Tworkowska. Both house owners and all other persons registered as the inhabitants are included under the category 'house owners'.

The number of PAPs is slightly below 700. The most recent PESEL database consists of 689 persons registered in the two villages (Appendix A). Some percentage (3-4%) of inhabitants did not inform the Gmina about changing their place of residence (some of them moved to Germany). Some people did not register their address with the Gmina - so they are not recognized by PESEL data base of Gmina Lubomia, which was used as a basis for this study.

**Table 2.16. Residents' age breakdown**

<table>
<thead>
<tr>
<th>Village</th>
<th>Children under 18</th>
<th>19-60</th>
<th>61 and more</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td>119</td>
<td>313</td>
<td>132</td>
<td>564</td>
</tr>
<tr>
<td></td>
<td>21.1%</td>
<td>55.5%</td>
<td>23.4%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Ligota Tworkowska</td>
<td>27</td>
<td>80</td>
<td>18</td>
<td>125</td>
</tr>
<tr>
<td></td>
<td>21.6%</td>
<td>64.0%</td>
<td>14.4%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>146</td>
<td>393</td>
<td>150</td>
<td>689</td>
</tr>
</tbody>
</table>

**Source:** Own elaboration based on PESEL data base (2004)

(a) People between the age of 19 and 60

There are almost 400 people between the age of 19 and 60, including:

- bread-winners
- students
- unemployed

This is the biggest group of inhabitants. The “economic balance” of the families depends on bread-winners, as they either live from farming or small business in the
village or are employed by some factory or other company in the city of Raciborz. According to the 1998 data we estimate that in the half of the households (85) there are persons permanently employed.

It appears that resettlement will not have a negative impact on non-farmers, provided they will remain within the gmina. The important matter for this particular group will be the access to work. Construction of the Raciborz reservoir, need of new service infrastructure, will offer a chance of temporary employment for the people in the area.

Many of the villages' residents own small farms which provide an additional source of income. Weighted average of the farm area in this region is 3.2 ha. As even 5-ha farm is not profitable, most of those farmers will not buy the new farm after resettling to the new location.

Farmers with no other source of income are relatively small group in the two villages (13 farms constituting a sole source of income and 12 farms with farming revenues supplemented by employment or old-age pension.) Finding new farming land will be difficult in these cases and time consuming. There is also the matter of emotional attachment to the heritage of those people.

The important factor here is the availability of the arable land in vicinity, offered for a reasonable price. The leading role is to be played by authorities of Commune Lubomia, by making certain provisions for such land in the spatial development plan. The Investor will conduct negotiations with Agency of Agriculture Property in order to provide the required amount of arable land.

Some households will irreparably lose their income generated from lease. Most probably a part of the current landowners will not buy the new land.

Number of farming households:
- in Nieboczowy - 14
- in Ligota - 7
- Total - 21

Number of households with livestock:
- in Nieboczowy - 15
- in Ligota - 8
- Total - 23

(b) People over the age of 61 years

There are 150 inhabitants that are over the age of 61 years. Their farming, if any, meets only their own needs. In moving to a new place they are unlikely to continue farming.

The new place of residence not necessarily within the gmina, will not have any negative impact on the income of those people, as they receive disability pension or old-age pension.

According to the 1998 data some 40% of the households depend fully or partly on income generated by pensions and allowances.

(c) People under the age of 19 years

This group constitutes of 146 persons. The eldest ones will have a choice of studying or finding a job. The education of this group is not going to be affected, as
the only place of education is the 3-class primary school in Nieboczowy. Children of 10 or more have to commute daily to primary, pre-secondary or secondary school. The parents of children of schooling age see moving into new place as a benefit—they would choose the new place of residence in vicinity of schools. Some parents will establish a fund for their children (for future studies etc.) from the money left after buying the new property in another location.

(d) People who need assistance

It is difficult to estimate size of this group because local statistic data fail to cover it. This group covers:

- Old persons who live alone and have no close family
- Persons suffering from chronic diseases and the disabled living in family of an income that is below the social minimum
- Numerous families of low income
- Lease-holders or tenants with no permanent source of income

Based on residents opinion poll from 2002 it is estimated the size of this particular group is not more than 5% - 6% of the total number or residents, and thus there are 35-40 persons like this. Closer examination of this issue will need assistance of residents of the two villages, and collaboration with the Department of Social Welfare of Lubomia Gmina.

Based on the PESEL data base there are 19 single-man farms in Nieboczowy and 10 in Ligota. One should not assume however that all of those 29 single-man farms belong to one of the above-mentioned categories.

2.4.2 Resident Project-Affected Families

The main type of the household found in Nieboczowy is the single-family or two-family one. The latter type includes in general parents who live with children, who have their own families.

In Ligota most of the households are the single-family ones (75%).

Table 2.17. Number of families living together in a household.

<table>
<thead>
<tr>
<th>Village</th>
<th>Number of families living together in a household *</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 family</td>
</tr>
<tr>
<td>Nieboczowy</td>
<td>58</td>
</tr>
<tr>
<td></td>
<td>42.6%</td>
</tr>
<tr>
<td>Ligota Tworkowska</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>75%</td>
</tr>
<tr>
<td>Total</td>
<td>88</td>
</tr>
<tr>
<td></td>
<td>50%</td>
</tr>
</tbody>
</table>

*As for beginning of 2004

Source: Own estimation based on opinion poll from 2002 and 2004 survey.

In Nieboczowy there are more households of 5 or more people than in Ligota, they are three-generation families.
Table 2.18. Number of people in a single household.

<table>
<thead>
<tr>
<th>Village</th>
<th>1 person</th>
<th>2 persons</th>
<th>3 persons</th>
<th>4 persons</th>
<th>5 persons or more</th>
<th>No data</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td>12.6%</td>
<td>14.6%</td>
<td>14.6%</td>
<td>8.6%</td>
<td>42.4%</td>
<td>7.3%</td>
<td>100%</td>
</tr>
<tr>
<td>Ligota Tworkowska</td>
<td>21.7%</td>
<td>23.9%</td>
<td>15.2%</td>
<td>8.7%</td>
<td>30.4%</td>
<td>0.0%</td>
<td>100%</td>
</tr>
<tr>
<td>Total</td>
<td>14.7%</td>
<td>16.8%</td>
<td>14.7%</td>
<td>8.6%</td>
<td>39.6%</td>
<td>5.6%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: Own estimation based on opinion poll from 2002

In multi-family households there can be an interest in separation of families. As confirmed in 1998 survey this will be the case in Nieboczowy village.

2.4.3 Land owners

Cadastral data (according to 2004 land register) are given in Appendix A.5. The files comprise data on all plots wholly or partially within the reservoir area plus some plots outside the reservoir footprint that may be required for construction of ancillary structures (land drainage pumping stations, Psina diversion). The detailed design is not completed yet and there maybe some changes in the borders of the Project area. It is also possible that some large plots of which only small part lies within the footprint can be divided and acquired partially. The preliminary statistics presented in this section include all the potentially affected plots and therefore the total area is bigger than the reservoir area.

Non resident project-affected persons comprise landowners who belong to the following categories:

(a) Private owners

Private owners (persons) can be householders or only owners of land within reservoir area. The residents of Nieboczowy and Ligota Tworkowska are included in the first category. Inhabitants of many neighbouring villages, who will stay in their houses after reservoir completion, are included in the second.

Based on land records data the total number of private owners in the reservoir area is estimated to be below 1300. One private owner can have several plots, he can be also one of co-owners eg. spouse. In that case there are two or more owners of the same plot.

(b) Private firms

Ten private firms have been found among land owners and property users within reservoir area, for example: "Utex-Terra" Ltd. in Roszków, Henkel Polska SA, Jastrzębska Spółka Węglowa, RSP in Pietrowice Wielkie, RSP -Grunty Wkładowe, Saksosko-Śląska Unia Betonowa Ltd. in Katowice, Spółka Jawna Przedsiębiorstwo Wielobranżowe El-Plast.

Two aspects have to be stressed when listing institutional land owners. First, there are many bodies on the list that exist no more as a result of organization and (sometimes) ownership changes. Second, the information presented below needs up-dating to be sure that all interested institutions have been informed (actual name and address).
(c) Organizations and associations

The following associations and organizations have been found within reservoir area: Caritas Archidiocese of Katowice, Okręg Polskiego Związku Wędkarskiego w Katowicach (Polish Fishing Association in Katowice), Wodne Ochotnicze Pogotowie Ratunkowe (Association of Voluntary Water Lifeguards), Towarzystwo Boskiego Zbawiciela Prowincja Polska w Krakowie (Association of Divine Saviour – Polish Province in Cracow). Catholic Presbytery is also included into this category.

(d) Communal / Municipal Offices

In land records some self-government administration units are listed as owners or rather leaseholders or administrators of State Treasury property. Following offices are listed: Lubomia Gmina Office, Krzyzanowice Gmina Office, Raciborz City Mayor, Raciborz Poviat Starosta, Wodzislaw Poviat Starosta.

(e) State Treasury / State-owned firms

More than 45% of the land within the reservoir area is owned by the State Treasury. Most of the 45 largest plots (more than 10 ha) are state-owned and administered by different institutions. Following bodies are listed, inter alia: Agricultural Real Property Agency, State Forests-Forest Inspectorate Rybnik, Polish State Railways, Light and Mineral Aggregates Production Enterprise in Katowice, RZGW in Gliwice.

There are still many institutions that do not exist for years and the area is now administered by other units (eg. Public Roads District, Water Ways District, ODGW). The land that used to be administered by Provincial Board of Agricultural Investments (WZIR) in Katowice is now under control of RZGW.

(f) Ownership of land plots

The distribution of landownership in the Project area (see explanation at the beginning of section 2.4.3) is summarized in Table 2.19

Table 2.19 Distribution of land ownership

<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, one 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

Private owners possess about 50% of plots covering about 30% of the area and remaining area belongs to institutions and organizations, mainly state-owned. Less than 6% of the area belong to private firms.

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.

The detailed statistics of plots and land owners can be prepared when all data from land records has been verified and connected with the interactive map.

Table 2.20 Percentage of plots in reservoir area with respect to size

<table>
<thead>
<tr>
<th>Plot area [ha]</th>
<th>% of the area</th>
<th>% of number</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 0.5</td>
<td>18.1%</td>
<td>73.3%</td>
</tr>
<tr>
<td>0.5 to 1.0</td>
<td>14.3%</td>
<td>14.9%</td>
</tr>
<tr>
<td>1.0 to 5.0</td>
<td>26.4%</td>
<td>10.1%</td>
</tr>
<tr>
<td>5.0 to 10.0</td>
<td>7.9%</td>
<td>0.8%</td>
</tr>
<tr>
<td>More than 10</td>
<td>33.2%</td>
<td>0.9%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

*Source: Own elaboration based on land records (2004).*

In land record limits Sudoł, Pogrzebień, Ligota Tworkowska and Nieboczowy more land plots belong to private persons than to the institutional ones.

Table 2.21. Percentage of private and institutional owned plots distributed to land records limits.

<table>
<thead>
<tr>
<th>Gmina/Land record limits</th>
<th>Private persons</th>
<th>Remaining</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lubomia</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lubomia</td>
<td>47.1%</td>
<td>52.9%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Buków</td>
<td>31.7%</td>
<td>68.3%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Ligota Tworkowska</td>
<td>54.5%</td>
<td>45.5%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Nieboczowy</td>
<td>51.0%</td>
<td>49.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Krzyżanowice</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Krzyżanowice</td>
<td>13.9%</td>
<td>86.1%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Bieńkowice</td>
<td>29.1%</td>
<td>70.9%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Tworków</td>
<td>32.5%</td>
<td>67.5%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Racibórz</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brzezie</td>
<td>25.2%</td>
<td>74.8%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Płonia</td>
<td>34.8%</td>
<td>65.2%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Studzienna</td>
<td>38.1%</td>
<td>61.9%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Sudoł</td>
<td>79.7%</td>
<td>20.3%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Kornowac</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pogrzebień</td>
<td>67.5%</td>
<td>32.5%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

*Source: Own elaboration based on land records (2004).*
(g) Appeals against location decision

150 appeals against the Racibórz flood protection reservoir location decision (issued by Silesian Voivode on 5.07.2004) have been submitted to the Ministry of Infrastructure. The majority of appeals were from Nieboczowy residents who felt themselves injured by the project.

Among aggrieved parties there are also some people living in other villages than Nieboczowy and Ligota Tworkowska who are owners of the land within reservoir area. Many of them are living in Bieńkowice. They have the largest number of plots and moreover their plots are of medium (5 ha) or even quite large (9.5 ha) size.

Table 2.22. Farmers (excluding Nieboczowy and Ligota Tworkowska) who appealed against location decision.

<table>
<thead>
<tr>
<th>Residence</th>
<th>Number of appeals</th>
<th>Number of households</th>
<th>Number of plots</th>
<th>Area [ha]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bieńkowice</td>
<td>23</td>
<td>15</td>
<td>82</td>
<td>114.3182</td>
</tr>
<tr>
<td>Racibórz</td>
<td>3</td>
<td>2</td>
<td>7</td>
<td>7.424</td>
</tr>
<tr>
<td>Lubomia</td>
<td>2</td>
<td>1</td>
<td>23</td>
<td>6.1763</td>
</tr>
<tr>
<td>Borucin</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>1.4003</td>
</tr>
<tr>
<td>Total</td>
<td>30</td>
<td>19</td>
<td>114</td>
<td>129.3188</td>
</tr>
</tbody>
</table>

Source: Consultants estimation based on land records (2004.)

Table 2.23. Location and area of plots (land owners who appealed).

<table>
<thead>
<tr>
<th>Land record limit*</th>
<th>Number of plots</th>
<th>Area [ha]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bieńkowice</td>
<td>85</td>
<td>121.9557</td>
</tr>
<tr>
<td>Nieboczowy</td>
<td>23</td>
<td>5.9365</td>
</tr>
<tr>
<td>Plonia/ Studzienna</td>
<td>5</td>
<td>0.9343</td>
</tr>
<tr>
<td>Pogrzebien</td>
<td>1</td>
<td>0.4923</td>
</tr>
<tr>
<td>Total</td>
<td>114</td>
<td>129.3188</td>
</tr>
</tbody>
</table>

* Where the plot is located

Source: Own estimation based on land records (2004.)

2.4.4 Businesses

There are a number of small businesses in the project area. Most are dependent mainly on customers from Nieboczowy and Ligota Tworkowska.

Businesses in this area will not be relocated rapidly, but even now examples can be found of businessmen who found new location and, with the new site ready, decided to sell. Recent examples – horticulture company from Ligota Tworkowska and garage from Nieboczowy – show that signing by their owners of the notarial deeds in 2004, providing for delayed real estate vacating date, is the solution that is accepted.

2.4.5 Lubomia Gmina

Those residents of the gmina, who will not be relocated, will benefit from construction of the reservoir in.
• Reduction of the flood hazard to a minimum
• New jobs related to the Project, and later to maintenance of the reservoir
• Development of the accompanying infrastructure – agri tourism, recreational centers
• Demand for building plots and arable land – probable growth of prices
• Increase rank and prestige of the region that „offers safety” to others

Gmina’s administration declare their readiness to adopt a new attitude in reference to the spatial development plan that has not been passed so far due to the conflict of interests and pressure exerted by the Defence Committee. The plan is to be ready in the first quarter of 2005 but it is not sure that the deadline will be met.

2.4.6 The church

Questionnaire studies revealed that the most important objects for the residents are the sacred ones; they are the objects the residents would like to save and move to a new place. A third of the residents of Nieboczowy (33%) and even more residents of Ligota (38%) opted in 2002 for transfer of the Nieboczowy church to a new location. Church authorities declare that the church will serve ‘till the last resident’ and then all the equipment and sacred objects will be relocated to other churches in the vicinity.
Roughly a tenth of the residents demanded (2002) to relocate the cemetery.

The chapel in Ligota is more important for residents of Ligota (40%) than for those of Nieboczowy (4%). There is a possibility of its relocation to Grabowka where there is no church.

2.4.7 ARKA Hostel for the Homeless

The hostel is situated in the north-west corner of the proposed reservoir, directly under the line of the embankment. It will therefore have to be acquired, the inhabitants relocated and the buildings demolished before construction of the embankment can begin in this area.

The hostel, the associated outbuildings and barns and the nearly two hectares of land on which they stand, are owned by the Raciborz Municipality. The residence consists of a four storey building on a site of just under two hectares. It accommodates 60 people who would otherwise be homeless; only three of these are women. Most of the residents stay for some two years, in which time those who are in need of rehabilitation due to drug or alcohol abuse are treated, and those who can learn a trade are trained in carpentry and other skills.

The hostel is leased to TECZA (Rainbow), a voluntary organisation known as the Association of Friends of the People, who are contracted by the Raciborz Municipality Social Services Department to manage the hostel and to help its inmates to re-integrate into society. The hostel has five employees and a variable number of volunteer helpers.

Horses and other livestock are kept on the land. TECZA tries to be a good neighbour to the residents of the neighbouring villages, who are encouraged to ride the horses, without charge. There is also a playground for the children.

TECZA’s contract with the Municipality expires in 2005 and the lease and management of the centre will again be put out to tender. TECZA is hopeful their
contract will be renewed and following initial meetings with RZGW’s representative are already engaged in discussions with their client on a new site for ARKAN. They have identified a two hectare site to the west of the railway, outside the proposed embankment, a few hundred metres from the present site. They have outline plans for the construction of the new centre, with improved facilities, there. It is expected that the sum paid in compensation for the present centre, will be invested in the new one, and that it will be ready for occupation before the old one has to be vacated.

The present indications are that all the necessary steps have been and are being taken by TECZA, RZGW and the Municipality to ensure the smooth transition of ARKA from the old to the new site.

2.5 Public consultations

2.5.1 Background

After the great flood of 1997, the Investor started activities aimed at construction of flood protection reservoir Racibórz Dolny and at the same time when work on pre-feasibility study began, the large scale information action, public consultations and meetings launched.

The action, initiated and moved forward by RZGW Gliwice, has been addressed to:

- Inhabitants of two villages located within planned reservoir area: Nieboczowy and Ligota Tworkowska.
- Association for the Defence of the Village Nieboczowy against Displacement.
- Inhabitants of surrounding villages (including owners of arable land within reservoir area)
- Inhabitants of Raciborz and other cities and villages adjacent to Odra river that will be protected against flooding by the reservoir
- Gmina, poviat, voivodship authorities
- Church authorities
- Central institutions (Ministry of Environment, Office of Natural Disasters Recovery, Government Plenipotentiary on Odra 2006 Programme)

The reservoir project that will constitute one of crucial elements of upper and middle Odra flood protection system is widely accepted and supported not only by national and regional authorities but also by communities of many Odra riverside cities, villages and gminas (see documentation – Appendix D).

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 (for details see below sections 2.5.3 and 2.5.4). 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.
2.5.2 Residents opinion poll

In 1998, the year following the great flood, the Social Research Centre in Katowice carried out a questionnaire survey of all the residents of the reservoir basin. At the same time an inventory of land and fixed assets was drawn up. The results of this survey contributed to the economic analysis of the proposed flood control measures and provided information on the socio-economic and demographic characteristics of the population to be affected, its land and property holdings, and the attitudes of the households to resettlement. It was stated that construction of the reservoir will directly influence 178 farms in the villages of Ligota Tworkowska and Nieboczowy. Relatively complete interviews from 168 owners of real estates were acquired at that time.

The household survey carried out in 1998 encountered hostility from the residents. The elected head of Nieboczowy village refused to answer the questionnaire on the grounds that it included questions not discussed at a village meeting held earlier in the year. In all, ten households (6%) in Nieboczowy refused to respond to the questionnaire. However, as much as 91.9% of surveyed inhabitants formally accepted the displacement.

A similar survey was conducted in the same population in July 2002 by the Feasibility Study's Team of Sociologists. The 2002 survey was preceded by a campaign launched by the Committee for the Defense of Nieboczowy against Resettlement to persuade people not to co-operate with RZGW in its investigations. The interviewers this time encountered almost 30% of residents who were unwilling to respond.

In 2002 the inventory of property was not repeated as there were known to have been few changes in the intervening period. Comparison of the results shows, however, that substantial changes in attitude had occurred. Factors affecting the changes include the formation of an articulate opposition to resettlement, and the passage of five years since the occurrence of the great flood.

In July 2002, data were collected on 70% households and some of questionnaires were filled partially. An express consent for displacement was declared by minority of them, i.e. 42.2%, and 8.9% did not have any opinion. On the other hand, 29.4% of all respondents directly refused to resettle.

2.5.3 Public meetings with Nieboczowy and Ligota Tworkowska residents

In May 2002 a meeting with representatives from the community, the Lubomia Gmina, the team of sociologists, appointed by the consultant preparing the Feasibility Study, and the RZGW was held in the gmina offices. The inhabitants demanded to give serious consideration to the alternative alignment for the embankment, proposed by the Committee which would exclude Nieboczowy from the reservoir basin.

This proposal had been submitted earlier to the Voivodship in Katowice and had received a detailed reply from RZGW, explaining why it was not feasible. The community representatives nevertheless felt that their case had not been seriously considered and that they were not being adequately informed and consulted on the project. It was therefore proposed that further analysis should be done and a public presentation and consultation on the project arranged.
Two separate meetings were held in Nieboczowy and Ligota Tworkowska on 20 July 2002. The meeting in Nieboczowy was held in the fire station and was attended by 210 inhabitants, whereas the one in Ligota Tworkowska, was held in the common room and was attended only by 46 persons due to much smaller size of the village as well as less interest and emotions towards potential resettlement.

Both meetings were organised in liaison with the Lubomia commune’s authorities (president and vice-president attended the meetings) and village administrators. In the course of the meetings individual experts gave a full presentation of all the aspects concerning construction of the reservoir and invited the inhabitants to join the discussion. As a result of the cooperation, a visual and engineering analysis of the Nieboczowy alternative with the alignment separating the village from the reservoir bowl was presented with description of its advantages and drawbacks. The inhabitants alternative (Nieboczowy Alignment) however, has been proved to be not feasible (see chapter 1.3.1).

The meeting in Nieboczowy was actively participated in by the representatives of the Defence Committee of Nieboczowy village. From the beginning, the meeting was characterised by antagonism towards the project. During the break, emotions also slightly subsided, for the inhabitants could talk individually with experts attending the meeting.

The meeting in Ligota Tworkowska was much calmer. Emotions, which appeared among inhabitants, were caused mainly by uncertainty whether the proposed methods of compensating losses would allow restoration of the lost style and standard of life. In case of Ligota Tworkowska, inhabitants clearly reconciled themselves with the planned situation. The only expected field of negotiations include economic matters and dates of real estates’ purchase.

After the location decision granted by the Silesian Voivode, the meeting was held in Lubomia gmina on 13 July 2004 to present a study on the resettlement village for Nieboczowy and Ligota Tworkowska residents prepared by AGO - Projekt and ordered by RZGW Gliwice (details see section 5). The inhabitants of Ligota Tworkowska (15 people) showed their interest in the presented options of new village. However, the only person from Nieboczowy who attended meeting, the President of Defence Committee, declared that the inhabitants of his village would not enter into any discussion on this topic.

2.5.4 Defence Committee

At the beginning of 2000, some residents have created a Committee for the Defence of Nieboczowy and Ligota Tworkowska. The Committee was stating its position to the Investor, i.e. RZGW Gliwice and various administrative institutions. It contributed to the adoption of the Resolutions by the Lubomia Commune’s Council on 19.04.2000 and 20.11 2000 on the projects against subjective treatment of inhabitants and not entering the investment project to the Commune’s Spatial Development Plan.

Formally the Committee for the Defence of Nieboczowy was constituted in March 2002 as an Ordinary Association for the Defence of The Village Nieboczowy against displacement. The association was actively agitating public opinion, nevertheless it limited the members to the Nieboczowy village inhabitants.
The Committee, apart from commencing the protest, intended to present a constructive position, which was based on an assumption that neither Committee nor the inhabitants themselves put into question the necessity of building the planned reservoir. The main contentious issue is displacement of the villages. As a consequence, it was proposed to modify the alignment of the embankments in such a way as to take account of protection of Nieboczowy against flooding by the reservoir’s water. No technical possibilities of preserving Ligota Tworkowska were proposed.

The Association’s arguments were subject to an in-depth analysis by Racibórz-Dolny Reservoir feasibility study team. The results of this analysis were presented from different engineering-technical and socio-economical standpoint (details see above in section 2.5.3).

The frequency of meetings with participation of the Defence Committee in 2004 indicates a tenacious and consistent search of the new solutions by the Defence Committee. It should be emphasized that none of them shows acceptance by the Committee to any form of the reservoir construction in the chosen area, even though the Voivode issued the relevant location permit on July 5, 2004.

The Defence Committee holds to its position in the face of reality:

- the location permit, which decides on embarking preparations for construction of the Raciborz Reservoir.
- the progressive sale of lands and buildings by farmers of Ligota Tworkowska and Nieboczowy (34 farms, with 8 of them in Nieboczowy). The process is well advanced in the former village while in the latter one it is in its starting phase.
- appeals against location permit. There were as many as 159 of them lodged at the Ministry of Infrastructure, though only 18 appeals were lodged at the Administrative Court in Warsaw.

The investor’s representatives held two meetings with the Defence Committee in October – November 2004. The first one, held with participation of 6 people – 3 people from each side – was reduced to repeated presentation of positions and thus failed to bring in anything new. Representatives of the Committee were reported to say: "Let all those inhabitants who want to leave Nieboczowy, leave. We are to stay even if 10 houses are left". The second meeting, held in November 2004, was organized of the initiative of the Committee and dealt with another „solution" proposed by the Committee. This solution concerned the so-called “Kotlarnia", i.e. location of the reservoir within the gravel pits. RZGW informed Committee that this option was not feasible as the pit could be filled with just the ground waters while its capacity – 2 million cubic meters -- was far too small for reduction of the flood wave.

The last 2004 meeting with the Defence Committee was organized to request of the World Bank staff. It was held at the fire brigade station in Nieboczowy, on December 10, 2004. 5 leaders of the Committee and 5 consultants participated.

The arguments were similar to those given as well as during public meetings with participation of residents, and in small meetings with participation of just two sides – Committee and Investor. First of all members of the leading group repeat their argument that they represent „all" (or at least 90% of the residents). They refuse to take cognizance of the fact that those they claim to defend include also quite a few people who think otherwise, or those who eventually will prove to be victims of all that commotion. The Committee believes itself to be right in their arguments.
The arguments are as follows:
- Construction of the reservoir is a swindle, financial fraud, another corruption affair, because better locations can be found for the Project; the Committee does not oppose the reservoir – it simply fights against its location in the Nieboczowy area.
- The Committee accepts other possible locations (e.g. option „Kotlarnia”), and addresses correspondence concerning this matter to the authorities, though the correspondence is one-sided only. Nobody wants to respond to their letters – and this (in opinion of the activists) confirms their being right.
- RZGW is for the Committee “the visible enemy” responsible for errors, incompetent, not able to proceed with consultations with the harmed residents.
- The Committee does not have elaborations drawn by independent experts it might refer to in defence of its location concept of the reservoir; activists ponder on contracting such experts.

Opinions of the Committee members:
- Concerning farmers who sell farms: they sell ruins, vacant houses, they are not true residents of Nieboczowy.
- Concerning the location permit of July 5, 2004: we will appeal.
- Concerning the future of the voluntary resettlements: minimum 50 farms will remain and refuse to relocate.
- Concerning advisability of the continued obstinacy: what shall we tell people we represent?

During the last meeting with participation of complete management board of the Committee (5 people) the so-called “Nieboczowy alternative” (see chapter 1.3.1), was not revived. This option, found not feasible by experts, was replaced by determining other, low-feasibility locations for the reservoir, such as the Kotlarnia. This can be recognized at one side as a step backwards to negation of the Project according to the rule “reservoir yes, but not here”. At the other side this position can be seen as an admission of failure because the Committee appears to accept rejection of the option it was emotionally attached to. The current stage can be called as a nervous seeking by the Committee for a new solution, i.e. the new location of the reservoir. This phase can be described as search for a credible option.

2.5.5 Land owners

In 2004 several meetings were organized with land owners who lived outside the reservoir area. RZGW representative took part in consultation at public meetings in Raciborz, Lubomia Gmina Office, Krzyżanowice Gmina Office, and in villages of Tworków and Bieńkowice.

The opinions collected by RZGW indicate that there is a group of farmers who will be interested in exchange of land. The estimation of their number can be only rough. At the meetings in Raciborz with Sudół district inhabitants (5.07.2004 – 30 people and 10.07.2004 – 35 people) an area of about 40 ha was declared for exchange. Some persons were interested to acquire land in Bojanów, administered by Agriculture Property Agency (ANR). The farmers asked for conditions to continue leasing of land within reservoir area and for future plans concerning Agromax farm that leases land from ANR in Opole. The inhabitants of Bieńkowice who had compact acreage of arable land were also interested in exchange and during the meeting on 7.07.2004 (about 50 people) they declared about 130 ha to be exchanged. However people having smaller pieces of land wanted to sell them.
At a meeting in Tworków (7.07.2004 – 15 people) the readiness to sell land was observed by RZGW representatives. The main reason for this attitude is no doubt the fragmentation of land belonging to private owners. The farmers declared they could sell their land as soon as possible.

An additional opinion survey has been done among chosen owners of farms in March 2005 – with aim to identify impact of the project on their income and to provide data on their individual expectations and preferred form of compensation.

The group of landowners is not homogenous and can be divided into three categories:
- small households – below 1 ha, where agriculture is not the main source of income and the owners want to sell their land if the compensation is satisfactory
- medium size farms, a dozen or so hectares, most of them aiming to continue farming and interested in land exchange. However some of them plan to sell the land and start other business
- large farms, looking for development and interested in increase of cultivated area. These people will be interested in land exchange or leasing land within reservoir area. They want to create a committee to have a formal representation in negotiation with the Investor.

All the owners are in need of information about the project and of specific proposals for exchange or purchase of land.

2.5.6 Individual consultations with owners of sold property

Individual consultations with residents were held by JacobsGIBB in the two field sessions, in November and December 2004. They were conducted at 5 households with those of residents who:
- (a) sold their property and moved to a new house (family from Ligota, residing in Syrynia)
- (b) sold their property but still live there and are to remain there for a period from one to three years (3 families – 1 from Nieboczowy and 2 from Ligota)
- (c) reside at the sold property as tenants (1 person from Ligota)

Both in the case of those farmers who moved out and those who still live in the houses they sold, the finding of the new house or at least finding of a building plot might prove to be a matter of critical importance. Each owner who decided to sell has some picture of his or her future, including first of all the picture of the new place he or she is to live at. In this context an important element is the matter of offering of a proper place to live and develop for their children and grandchildren.

The case of the first sold farm (three-generation family of Ligota) confirms this rule. The family left Ligota when they found new house in Syrynia. Money received from an old property were spent on buying new house. An important motive of their decision was the future of their grandchildren and children who grow up and require stable environment.

The second sold farm is in Nieboczowy. The elderly couple of will stay there till the end of 2005, when they will move to the newly built house in the adjacent village. Some of the Nieboczowy neighbours reacted with hostility towards this couple. Their decision about selling the house was difficult mainly for sentimental reasons: the family had lived there for 18 years, all the trees had been planted by themselves and they will regret they can't take them into the new place.
Both in case of the multi-generation family of Ligota and the elderly family from Nieboczowy we deal with former members of the village councils of their villages. Such prompt decision-making definitely was a result of their independence and their will to decide their lives by themselves. Others will be influenced by their decisions, as it usually is in case of giving example by people with high social status.

The third farm (in Ligota) is still inhabited. Its owner is a professional gardener and generates his total income from agricultural production. He has his regular customers. Knowing that the reservoir will finally be constructed, he bought himself land in another location and is building the new house there. He plans to reestablish his agricultural production in the new place without any loss to his income. He is timing his move very carefully as he doesn't want to loose any of his clients due to the break in production. He decided to have 2 gardens for a short period in both places and slowly transfer all the production to the new localization. Understanding for a long time that the reservoir will have to be constructed the gardener has been building new house in another location for 15 years, to become finally inhabited in a few next years.

The fourth farm with a family of two children differs from the others, as the house was relatively new. It was built in 1997 and renovated just after the flood. The decision was more difficult as the family built the house by their own hands. The terms of the purchase-sale agreement, gave the family the right to stay in the house for some 2 years, which enables them to seek for a new home without rush. Parents accentuate that they think about the future of their children. They plan to use the funds from selling the property in Ligota not only for buying the new house, but also for the future education of their children. The sole source of livelihood for the family will be the salary received by the father of the family from his current employment at big factory in Raciborz. He is aware that currently the factory is facing, similarly to other plants financial difficulties and is downsizing the number of its employees.

The last visited sold farm (in Ligota) was different than the others as the occupant was not the owner but a tenant who lives in the house. The tenant lives in poverty and knows little about what he is to expect in the future. It was difficult for him to answer any questions asked. He does not know where he is to be in a year's time, he didn't start seeking for a new home so far: "It would be nice to have a flat". The tenant appeared to be a completely helpless person, doomed to depend on others. Such cases (they should be expected in both the villages) will require assistance from the Social Welfare Department and participation of the local NGOs, such as the Association for Homeless ,,Tęcza".

### 2.5.7 Other consultations (local institutions)

JacobsGIBB Consultants held meetings also with authorities of the Lubomia Gmina, where the reservoir is to be constructed.

According to the deputy head of Gmina Lubomia the authority is representing the whole society - 8 thousands inhabitants of the Gmina, not only the villages affected by the resettlement (altogether 700 people), although Gmina's role is to protect it's inhabitants and the inhabitants of Nieboczowy and Ligota Tworkowska require such protection. The head of the Gmina is not denying that he has signed the complaint concerning location decision of 05.07.2004, and lodged it at the Administrative Court. Nevertheless it does not change the execution of the higher instance decisions.
For two years the Gmina has been preparing a local spatial development plan including the area designated for the reservoir plus the location of the potential resettlement village site. Gmina Council (15 councilors) is obliged to examine the request lodged by RZGW to determine possible locations of plots to be offered to the resettled people. In order to proceed with the location permit the geodesic survey should be conducted. The most difficult problem here are not determining the plots for individual properties or the housing estate for the resettled people, but the arable lands for farmers, as farmers are expected to show interest in such land in the future.

The situation on the real estate market changes as demand for houses and building plots is growing in the Gmina. This is an opportunity that Gmina authorities should not overlook, if they are really interested in cooperation in project implementation.

2.6 Conclusions

The Conclusions of the socio economic studies are:

1. 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.

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

3. 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.

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

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

3.1 Introduction

This chapter aims to provide a summary of Polish law pertaining to resettlement, a summary of World Bank Operational Policies, the gaps between Polish law and these policies, an outline of the proposed entitlement policy and the method of evaluation. The full text of the reports on legal and evaluation aspects are presented in Appendices B and C respectively.

3.2 Polish law applicable to resettlement

3.2.1 Definitions

Polish law regulations pertaining to resettlement refer to expropriation in general and this term is used in Appendix B. However, in this chapter, if the context does not require otherwise, the term resettlement is actually used to be coherent with all other chapters of the report.

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.

3.2.2 Legislation

Legal procedures governing land tenure, resettlement and land and asset evaluation are covered by the Act of Management of Real Properties (MoRPA). Other relevant legislation is listed in Section 1 of Appendix B.

3.2.3 Voluntary resettlement

(a) Eligibility

Voluntary resettlement is reached by agreement being effected in negotiations between the eligible party and competent public authority dealing with resettlement. Compensation may not be offered to any entity other than the landowner or those holding rights to the property. Tenants may be compensated through their tenancy agreement.

Occumers without legal title or effective claim to the property they occupy are in principle not covered by MoRPA.

(b) Compensation

MoRPA does not stipulate any limitations regarding the negotiations. Compensation may be agreed between the parties in various forms, as follows:
Monetary compensation
Alternative property
Monetary compensation and alternative property

If an agreement cannot be reached the competent public authority establishes a two month period for the landowner to execute an agreement on the conditions submitted during the negotiations.

3.2.4 Involuntary resettlement

(a) General

Involuntary resettlement is only allowed for public purposes if:
- The public purposes cannot be achieved otherwise than by taking over or limiting rights to the property
- The local masterplan shows that the property is located in an area designated for public purposes
- It has not been possible to acquire the property on the basis of a voluntary civil agreement with the affected party

(b) Eligibility

As for voluntary resettlement, the entities entitled to receive compensation for expropriated property are:
- Landowners
- Entities holding perpetual usufruct or limited proprietary rights

Tenants are not eligible for compensation except from their landlords through their tenancy agreement

(c) Appeals

Upon receiving the decision on expropriation of starosta, the affected party may lodge an appeal to the voivode. The appeal should be lodged within 14 days, commencing from the date of receiving the decision. If the decision is upheld the affected party is entitled to appeal to the Province Administration Court (PcoA). Such an appeal does not stop the execution of the expropriation. The judgement of the PcoA can be referred to the Supreme Administration Court, whose award is binding.

(d) Compensation

The amount of compensation is determined by the appropriate authority (starosta), based on the market value of the property (MoRPA, article 134) which is determined by a qualified property surveyor appointed by the starosta.

3.3 World Bank policies

3.3.1 Objectives

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.

3.3.2 Eligibility

Displaced persons are classified as follows:

a) those with formal rights to land, which is defined broadly and covers also structures erected on the land.

b) those who do not have a formal legal right to land but have a claim to land or assets, which claim is recognised under the domestic law.

c) those who have no recognisable legal right or claim to the land they occupy.

3.3.3 Compensation

Persons in categories a) and b) in section 3.3.2 above are entitled to receive the following forms of assistance:

i) information on their options and rights.

ii) consultations on offered choices and resettlement alternatives.

iii) prompt and effective compensation at full replacement cost (which cost is precisely defined in the policies) for losses of assets directly attributable to the project.

iv) compensation of removal costs.

v) support after displacement, for a transitional period, to improve or at least to restore their livelihood.

Persons in category c) are entitled to receive resettlement assistance in lieu of compensation for the land they occupy and for the loss of assets other than land.

3.4 Gaps between local laws and World Bank policies

3.4.1 Eligibility

Under Polish law, only those with formal legal rights are entitled to compensation. Tenants may only be compensated by their landlord according to the terms of their tenancy agreements.

Under the World Bank policies compensation is also due to those with no legal rights.

It appears therefore, that with the possible exception of occupiers without legal title, there is no difference of substance between the provisions of Polish law and the policies of the World Bank in respect of eligibility. At the time of preparation of the RAP there are no know illegal occupiers.

3.4.2 Compensation

If a displaced person chooses to be compensated in money there are no significant gaps between the compensation entitlements due under Polish voluntary resettlement and those required by the World Bank. The value of the offered alternative real property may exceed the value of the expropriated real property.
Under Polish practice the affected person will be required to pay the difference between the cost of the alternative property and the value of the expropriated property, in case the value of the alternative property exceeds the value of expropriated one.

3.4.3 Adoption of World Bank Policies

Where there is a difference between World Bank Policies and the provisions of Polish Law, World Bank regulations can be adopted if relevant entitlement regulations are referred to in the Loan Agreement between the World Bank and the Polish government.

3.5 Proposed entitlement policy

3.5.1 Eligibility

Parties who have formal ownership rights to the property entitling to compensation subject to applicable Polish law regulations are entitled to compensation.

Tenants may have a right to compensation from their landlords, depending on the terms of their tenancy agreement.

Under some conditions occupiers without legal title could be entitled to compensation from the Investor.

3.5.2 Compensation

The following compensation is due:

(a) 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 production potential and assets of the property to be acquired, or
- A combination of money and land equal in value to the market value of the property to be acquired, including allowances for removal and disturbance costs

(b) Non residential property

- Money equal to the market value of the property to be acquired

3.6 Method of evaluation

3.6.1 Legal aspects

The law relevant to the expropriation for public projects is covered by Article 21 of the Constitution and the Real Estate Management Act (1997). Supplementary legislation is listed in Appendix C.

Property evaluation can only be carried out by licensed surveyors.
3.6.2 Method

The preferred method of property evaluation, to be adopted wherever possible, is the determination of the value of the real estate by comparison to the prices that are currently being paid for similar real estates in the open market. The volume of trading of real estate in the Raciborz area is of sufficient volume that market values can be reasonably determined.

If it is not possible to determine a market value, because there is insufficient trading in similar types of the real estate, then the compensation shall be based on replacement cost.

3.6.3 Houses already purchased

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.

3.7 Compensation entitlements

3.7.1 Residents

(a) Money

Money compensation, or the agreed purchase of a house by the RZGW from the owner, is the simplest and in many cases the most satisfactory form of compensation, provided that:

- The agreed price is sufficient for the vendor to purchase an equivalent house in an equivalent location in the neighbourhood
- The compensation package includes sufficient allowance for purchase legal and agents fees, removal costs, temporary loss of earnings and emotional distress
- Payment is made reasonably promptly – that is within 30 days of the signing of the purchase agreement
- The vendor is allowed to remain in the house for a reasonable period – 6 months minimum – after the purchase agreement is signed, to provide adequate time to select and purchase a replacement house.

The present RZGW approach of negotiating the purchase of houses with individual house owners is satisfactory and meets these conditions. At the end of December 34 houses have been purchased with 15 more owners having expressed interest in selling. As is explained in section 3.6.2 above, the negotiated price is based on an evaluation of the market price prepared by chartered surveyors. The negotiations themselves are directly between the owner and the RZGW's representative subject to final endorsement of the property surveyor. It is evident that the prices negotiated are fair and will enable the vendors to buy an equivalent property elsewhere with sufficient margin to cover the costs of the purchase and the subsequent move.
This approach is likely to appeal to the younger and more confident house owner. To date there was no possibility to offer any alternative option of compensation: this will be available only after local development plan of Lubomia gmina has been accepted (see section 4.1.2 below). In future provision must be made to the effect of a gradually diminishing village population, especially towards the end of the process. These provisions could comprise either:

- A commitment to maintain all services (utilities, transport, services) until the last person leaves
- A planned abandonment of the village when the population reaches a minimum level (critical mass)

(b) Replacement houses

As an alternative to money compensation, subject to approval of the Local Development Plan by the Gmina, residents who have not previously sold their houses can be offered resettlement in a resettlement village planned in the Gmina of Lubomia. This option will be offered by means of a letter to be distributed to all residents, followed by individual interviews. Residents who express interest in resettlement will be encouraged to participate in the planning, layout and design of the resettlement village. Depending on the site selected, the village will be provided with community facilities including a village hall, a church and possibly a school.

Each householder will be entitled to a replacement house of similar standard and value as their existing house. Each householder will be given the option to upgrade to a house of higher value, provided the householder pays the difference in construction cost between the equivalent replacement house and the upgraded house.

Removal costs will be paid by the Investor.

(c) Money and land

As an alternative to either money compensation and resettlement, displaced persons may choose to be compensated by a combination of a plot of land in the resettlement village plus money. In this case the money payable shall not exceed the due compensation.

3.7.2 Land owners

All land owners will be offered the cash payment for the land required for the project, at unit rates to be determined by an independent property surveyor. Where the land is not required for construction, RZGW can grant the previous owner the right to continue to use the land for agricultural purposes, subject to a rental agreement.

The land intended for gravel excavation will be leased to entities interested in such activities.

As some farmers are interested in exchange of land the investor could apply to the Agriculture Real Property Agency to indicate the equivalent plots for exchange. If such plots are available in acceptable location the exchange of land will be the alternative option for compensation.
3.7.3 Other PAP's

Tenants of land which is purchased by RZGW will be compensated under the terms of their tenancy agreement.

Owners of commercial property and facilities will receive money compensation based on the market or replacement value of their premises. Employees of businesses and services which close as a result of acquisition by RZGW will be entitled to termination or dislocation payments according to the terms of their employment contracts.

Illegal users of land will be assisted through the Social Services.

3.7.4 Religious property

The religious property will be relocated to a new location outside the reservoir area (cemetery, chapel, crosses, church movables) or relevant compensation will be paid (church building).

3.7.5 Summary

Compensation entitlements are summarised in Table 3.1
Table 3.1 Summary of compensation entitlements

<table>
<thead>
<tr>
<th>Project Impacts</th>
<th>Category of PAP’s</th>
<th>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</td>
<td>Market value of house + land allowance to cover removal costs OR replacement</td>
<td>Provisions for uninterrupted temporary housing in existing residence until new</td>
</tr>
<tr>
<td></td>
<td>Tworkowska</td>
<td>house of equivalent of similar standard and value OR a combination of money and land</td>
<td>house ready</td>
</tr>
<tr>
<td></td>
<td>Tenants</td>
<td>Removal and displacement costs (through tenancy agreement)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Vulnerable groups</td>
<td>as above – according to ownership or tenancy entitlements</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</td>
<td>Possibility to lease the land and continue farming of land not required for</td>
</tr>
<tr>
<td></td>
<td></td>
<td>of loss of crops + removal costs OR exchange agriculture land from</td>
<td>construction</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Agriculture Real Property Agency</td>
<td>Assistance in conducting exchange</td>
</tr>
<tr>
<td></td>
<td>Tenants</td>
<td>Removal and displacement costs (through tenancy agreement)</td>
<td></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 +</td>
<td>Provision for continuance of operation if possible</td>
</tr>
<tr>
<td></td>
<td></td>
<td>removal and set-up costs + loss of earnings</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Employees</td>
<td>Removal and displacement costs OR employment termination costs + loss of</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>earnings (either through employment contract)</td>
<td></td>
</tr>
<tr>
<td>Loss of religious property</td>
<td>Church and residents</td>
<td>Relocation to chosen location OR replacement cost compensation</td>
<td>Provision for the pastoral service till the last resident</td>
</tr>
<tr>
<td></td>
<td>Illegal occupiers (not foreseen)</td>
<td>Not applicable</td>
<td>Support from Social services</td>
</tr>
</tbody>
</table>
4 Implementation

4.1 House purchase

4.1.1 Voluntary house purchase

The present procedure for 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 and owners rights.
- 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.

To date, the process from initial approach by the Owner to the signing of the Agreement takes about 3 months. 34 plots including 29 residential have been purchased since September 2003, at an average rate of 2 purchases per month. However this rate is constrained by the rate of availability of funds.

When funds necessary for purchase available RZGW can invite all remaining owners to negotiation of conditions of property purchase according to the procedure described above.

4.1.2 Involuntary house purchase

If negotiations do not result in purchase agreement and property owner does not agree for voluntary resettlement to planned resettlement village (see section 4.3 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 amount of compensation.
- The decision (compensation level) 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.

4.1.3 Illegal tenants

There is no evidence of any illegal ownership of houses. Should such a case come to light during the RAP implementation, the Social Services will be called in to handle vulnerable people.

Assets will be compensated for whether or not they have building permits.

4.2 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.

The process of non-residential land acquisition, which has not yet begun, should commence with the purchase of land required for the construction of the dikes.

If an agreement on land purchase or exchange cannot be reached during negotiations the expropriation procedure will be necessary. The procedure is the same as for residential property as described above (p 4.1.2).

Procedures for taking over the land owned by State Treasury and administered by different institutional bodies are described in Appendix B.

4.3 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 option of resettlement to the new village 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 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.
4.4 Allocation of responsibilities

This section summarizes responsibilities of authorities and organizations involved in RAP preparation and implementation. Some of these activities are already started.

4.4.1 RZGW

(a) Principles

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

(b) Specific actions

Main RZGW (Investor) tasks are as follows:
- Negotiations of terms of voluntary property purchase based on civil-legal agreement
- Arrange finance for property purchase and replacement land for compensation
- Application to ARPA with a motion to let land necessary for reservoir construction to be administered by RZGW and to indicate the plots for land exchange for persons interested
- Information and advice for affected people
- Role of investor for replacement village (design and construction, consultation with future inhabitants)
- Arrange removal to replacement village
- Restoration of area within former villages (demolition of buildings, structures, infrastructure)
- 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

4.4.2 Voivodship

Voivodship authorities competences are as follows:
- Formal administrative decisions concerning whole project:
  - In case of Wojt refusal - Location decision (preceded with EIA procedure) – granted 5.07.2004
  - Water permit, approval of water management instructions
  - Decision on conditions for construction works within areas of special nature value
  - Building consent for reservoir construction (preceded with EIA procedure)
- Voivodship conservator of historical monuments – permit for relocation of structures recorded in the register of historical monuments (not found) and approval for relocation of the tokens of historical and artistic value from the cemetery area
4.4.3 **Starosty (Poviat)**

Poviat authorities (Starost) competences are as follows:

- Conduct expropriation proceedings
  - Invite for negotiation and set 2-month term for the agreement
  - Decision on commence of expropriation proceedings
  - Designate the property expert to define value of the real estate
  - Administrative hearing
  - Determination of the amount of compensation based on opinion of the property expert
  - Expropriation decision

- 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

4.4.4 **State Poviat Sanitary Inspector**

Sanitary inspector shall be responsible for:

- Opinion on closure of cemetery
- Decision on exhumation of corpses and participation in exhumation
- Approval of design documentation with respect to hygiene and health issues

4.4.5 **Gmina**

Gmina competences are as follows:

- Resolution on local physical development plan, including change of land and forestry area intended use
- Decisions on land development conditions for individual houses and resettlement village
- Decisions on land development conditions for reconstruction of commercial buildings (shops, gastronomy, workshops, bakery)
- Approval for cutting trees in construction area
- Provide infrastructure: roads, electric energy, telephone, water supply and sewage disposal, waste disposal
- Provide access to education (school, kindergarten, common room) and basic health service
- Support for poor and homeless people (welfare department)

4.4.6 **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 who are interested in such exchange and exchange agreement.

4.4.7 **Church authorities (Curia)**

Church authorities competences are as follows
• Provide pastoral service for the resettled inhabitants in former and new place of residence
• Decision on closure of cemetery, approval for new use of the area
• Approval for conditions of relocation or removal of church property and movables (furnishings and accessories)
• Approval for conditions for exhumation of corpses and participation in exhumation

4.4.8 NGO's

Among NGO's PCK (Polish Red Cross) and Caritas should be involved in supporting poor and homeless people.

4.5 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 the details of reservoir implementation and financing shall be taken at the national level as the project is an essential element of Odra 2006 Programme. Only when a decision taken regarding the coordination and management structure as well as procedures concerning the financial management and control of implementation can the project 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. A separate modified resettlement action plan will be prepared and submitted to funding sources for review when the decision is made to proceed with the construction of a village.

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 Description of possible sites

5.2.1 Lubomia – Paprotnik

This site is situated immediately to the north west of Lubomia and is the closest of the three sites to Nieboczowy, which is just 4.2 km west of the site. The land is at an elevation of some 200 m.a.s.l., gently ascending in the south-east direction, i.e. towards the village of Lubomia. It is at present used for farming, with no mid-field trees. The site area is approximately 30 ha.

Lubomia-Paprotnik is located near county road DP 003 -18 that connects Racibórz and Wodzisław Śląski. The National Transport Company bus stop is situated 500 m from the site.

5.2.2 Lubomia-Zagrody

This site is situated immediately to the south of Lubomia and is 5km from Nieboczowy. The land is flat at an elevation of some 193-5 m.a.s.l. It is at present used for farming, with a few mid-field trees. Its southern limit is the Olza-Markowice railway line, while its western section borders of nature reserve „Wielkiąt”. The site area is approximately 30 ha.

Lubomia-Zagrody is located adjacent to the county road DP 003 -18 that connects Racibórz and Wodzisław Śląski. The National Transport Company bus stop is situated close to the site.
5.2.3 Syrynia-Dąbrowa

This site is situated immediately to the east of the hamlet of Syrynia and is the furthest of the three sites from both Ligota and Nieboczowy (approx. 14km). The land is flat at an elevation of some 229 m.a.s.l. It is at present used for farming, with a few mid-field trees. The site area is approximately 20 ha. Its southern side borders on strongly undulating forest lands that rise to some 260 m.a.s.l. There are no mid-field trees or water courses that might hamper construction.

Syrynia-Dąbrowa connects through communal road with provincial road No. 936, Wodzisław Śl.-Chałupki.

Syrynia-Dąbrowa is the only one of the proposed sites that has physical infrastructure. Water supply, power and telephone networks are available. Communal local government authorities of Commune Lubomia are now seeking solutions concerning layout the sewerage network and sewage treatment.

The location is not as good as the other two in terms of basic services, but it is located close to the existing village of Syrynia, and thus it might constitute a kind of a separate building development enclave.

5.3 Village layouts

5.3.1 AGO-Projekt proposals

In a study commissioned by RZGW, AGO-Projekt examined the following development options for each of the three villages:

- three options for residential and service development for Lubomia-Paprotnik
- two options applicable to residential development for Syrynia-Dąbrowa
- one option for farmstead development for Lubomia-Zagrody

The options for the development of Paprotnik and Syrynia are summarised in Table 5.1

Table 5.1 Options for the development of Paprotnik and Syrynia

<table>
<thead>
<tr>
<th>Description</th>
<th>unit</th>
<th>Paprotnik</th>
<th>Syrynia-Dąbrowa</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Single family houses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- number</td>
<td>no</td>
<td>181</td>
<td>130</td>
</tr>
<tr>
<td>- average area/unit</td>
<td>m2</td>
<td>1316</td>
<td>1763</td>
</tr>
<tr>
<td>- total area</td>
<td>ha</td>
<td>23.8</td>
<td>22.93</td>
</tr>
<tr>
<td>Services</td>
<td>ha</td>
<td>0.7</td>
<td>0.93</td>
</tr>
<tr>
<td>Green areas</td>
<td>ha</td>
<td>1.59</td>
<td>1.52</td>
</tr>
<tr>
<td>Carparks</td>
<td>ha</td>
<td>0.14</td>
<td>0.26</td>
</tr>
<tr>
<td>Transport</td>
<td>ha</td>
<td>5.2</td>
<td>3.68</td>
</tr>
<tr>
<td>total</td>
<td>ha</td>
<td>31.46</td>
<td>29.32</td>
</tr>
</tbody>
</table>

Source: AGO Projekt

The proposed development of Lubomia – Zagrody comprises 7 plots, areas ranging from 3.2ha to 4.5ha.
5.3.2 Recommended layout

(a) Sites

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 or how many 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.

(b) Layout

It is not possible or appropriate to recommend a village layout until the people who wish to move to the village have been consulted. It does appear, however, that the final layout will differ from those proposed by AGO-Projekt in that:

- The average plot area proposed (1316 – 1763m²) is considerably less than the average plot area in the existing villages
- The proposed layouts are all characterised by rows of identical plots whereas in the existing villages plot areas and shapes show considerable variety.

5.4 Provision of public services

The following public infrastructure will be installed by RZGW in the selected village:

- Road access
- Surface water drainage
- Piped water supply
- Sewerage*
- Electricity supply
- Telephone lines
- Gas supply

* It should be noted that sewerage is not yet included in the Local Development Plan.

5.5 Cost of houses and infrastructure

All costs of village construction are net values (VAT exclusive).

5.5.1 Land

On the assumption that 50 families will choose to move to the resettlement village and that the average plot size will be 3000m², the cost of land is estimated as PLN 1.75 million, broken down as follows in Table 5.2.
Table 5.2 Cost of land for resettlement village

<table>
<thead>
<tr>
<th>Description</th>
<th>unit</th>
<th>Quantity</th>
<th>rate</th>
<th>Amount PLN million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building land</td>
<td>m²</td>
<td>150,000</td>
<td>10</td>
<td>1.5</td>
</tr>
<tr>
<td>Transport system</td>
<td>m²</td>
<td>25,000</td>
<td>10</td>
<td>0.25</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>1.75</td>
</tr>
</tbody>
</table>

Source: Own estimation based on property surveyors report – Appendix C

5.5.2 Infrastructure

The cost of the provision of infrastructure is estimated as PLN 8.3 million, broken down as follows in Table 5.3.

Table 5.3 Infrastructure cost

<table>
<thead>
<tr>
<th>Description</th>
<th>unit</th>
<th>Quantity</th>
<th>rate</th>
<th>Amount PLN million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roads</td>
<td>m²</td>
<td>25,000</td>
<td>120</td>
<td>3.0</td>
</tr>
<tr>
<td>Street lighting</td>
<td>m</td>
<td>2,500</td>
<td>97</td>
<td>0.24</td>
</tr>
<tr>
<td>Surface water drainage</td>
<td>m</td>
<td>2,500</td>
<td>679</td>
<td>1.7</td>
</tr>
<tr>
<td>Water supply</td>
<td>m</td>
<td>2,500</td>
<td>400</td>
<td>1.0</td>
</tr>
<tr>
<td>Sanitation</td>
<td>m</td>
<td>2,500</td>
<td>679</td>
<td>1.7</td>
</tr>
<tr>
<td>Electricity</td>
<td>Lump sum</td>
<td></td>
<td></td>
<td>0.53</td>
</tr>
<tr>
<td>Telephone lines</td>
<td>m</td>
<td>2,500</td>
<td>50</td>
<td>0.13</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>8.3</td>
</tr>
</tbody>
</table>

Source: Own estimation based on property surveyors report – Appendix C

5.5.3 Buildings

The cost of the provision of buildings is estimated as PLN 19.58 million, broken down as follows in Table 5.4.

Table 5.4. Buildings construction cost

<table>
<thead>
<tr>
<th>Description</th>
<th>unit</th>
<th>Quantity</th>
<th>rate</th>
<th>Amount PLN million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Houses</td>
<td>m²</td>
<td>7,000</td>
<td>2505</td>
<td>17.5</td>
</tr>
<tr>
<td>Garages</td>
<td>m²</td>
<td>1,000</td>
<td>1036</td>
<td>1.04</td>
</tr>
<tr>
<td>Other buildings</td>
<td>m²</td>
<td>1,000</td>
<td>1036</td>
<td>1.04</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>19.58</td>
</tr>
</tbody>
</table>

Source: Own estimation based on property surveyors report – Appendix C

5.5.4 Summary

The total cost of the resettlement village is estimated as PLN 32 million, broken down as follows in Table 5.5.
Table 5.5 Total cost of the resettlement village

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount PLN million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land purchase</td>
<td>1.75</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>8.3</td>
</tr>
<tr>
<td>Buildings</td>
<td>19.58</td>
</tr>
<tr>
<td>subtotal</td>
<td>29.63</td>
</tr>
<tr>
<td>professional fees @ 8%</td>
<td>2.40</td>
</tr>
<tr>
<td>Total</td>
<td>32.0</td>
</tr>
</tbody>
</table>

Source: Own estimation based on property surveyors report – Appendix C
Cost estimates

6.1 General

Details of cost estimates are shown in Appendix C – part 3 Compensations. All costs are net values (VAT exclusive). Estimates are given in 2004 prices.

6.2 Houses and associated property

The estimated cost of purchasing residential property, including houses, associated buildings and gardens are summarised in Table 6.1. The costs for properties already purchased are historic costs while those for properties yet to be sold are based on costs of properties already purchased and compensation estimates. Data on properties already purchased as for 31.12.2004

Option I

It is assumed that of the 178 householders (of which two houses are uninhabited),
- 29 have already sold their property
- 149 will choose to sell their property

In the Table 6.1 below the cost of purchase of all 178 households is summarized plus properties without residential houses already purchased and chicken processing plant.

Table 6.1. Cost of purchase of all residential properties

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity number/m²</th>
<th>Amount (PLN million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Properties already purchased - Ligota</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1 - Properties with houses</td>
<td>21/2620</td>
<td>2.5</td>
</tr>
<tr>
<td>1.2 - associated buildings</td>
<td></td>
<td>1.3</td>
</tr>
<tr>
<td>1.3 - associated land</td>
<td>339 658</td>
<td>1.1</td>
</tr>
<tr>
<td>1.4 - Properties without houses</td>
<td>4/45824</td>
<td>0.1</td>
</tr>
<tr>
<td>1.5 - Chicken processing and grain drying plant</td>
<td>1</td>
<td>2.1</td>
</tr>
<tr>
<td>1 Subtotal (26 properties)</td>
<td>26</td>
<td>7.1</td>
</tr>
<tr>
<td>2 Properties already purchased - Nieboczowy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1 - Properties with houses</td>
<td>8/1164</td>
<td>1.3</td>
</tr>
<tr>
<td>2.2 - associated buildings</td>
<td></td>
<td>0.7</td>
</tr>
<tr>
<td>2.3 - associated land</td>
<td>65 978</td>
<td>0.3</td>
</tr>
<tr>
<td>2 Subtotal (8 properties)</td>
<td>8</td>
<td>2.3</td>
</tr>
<tr>
<td>TOTAL purchased till 31.12.2004</td>
<td>34</td>
<td>9.4</td>
</tr>
<tr>
<td>3 Properties to be purchased - Ligota</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1 - Properties with houses</td>
<td>19/2698</td>
<td>3.4</td>
</tr>
<tr>
<td>3.2 - associated buildings</td>
<td></td>
<td>1.1</td>
</tr>
<tr>
<td>3.3 - associated land</td>
<td>348 859</td>
<td>1.1</td>
</tr>
<tr>
<td>3 Subtotal</td>
<td></td>
<td>5.6</td>
</tr>
<tr>
<td>4 Properties to be purchased - Nieboczowy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.1 - Properties with houses</td>
<td>130/18460</td>
<td>23.6</td>
</tr>
<tr>
<td>4.2 - associated buildings</td>
<td></td>
<td>10.9</td>
</tr>
<tr>
<td>4.3 - associated land</td>
<td>1 097 874</td>
<td>4.3</td>
</tr>
</tbody>
</table>
4.4 - Specialized farm 1 3.5
4 Subtotal 42.3
TOTAL to be purchased 5.6+42.3 47.9
5 Total properties purchased and to be purchased 9.4+47.9= 57.3

* Table based on RZGW data.

Option II
It is assumed that of the 178 householders (of which two houses are uninhabited),
• 29 have already sold their property
• 50 will choose to be rehoused in the resettlement village
• 99 will choose to sell their property

In the Table 6.2 below the cost of purchase of 128 households is summarized and in Table 6.3. the cost of construction of 50 new houses for Nieboczowy inhabitants

Table 6.2. Cost of purchase of 128 residential properties

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Amount (PLN million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Properties already purchased - Ligota</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1 - Properties with houses</td>
<td>21/2620</td>
<td>2.5</td>
</tr>
<tr>
<td>1.2 - associated buildings</td>
<td></td>
<td>1.3</td>
</tr>
<tr>
<td>1.3 - associated land</td>
<td>339 658</td>
<td>1.1</td>
</tr>
<tr>
<td>1.4 - Properties without houses</td>
<td>4/45924</td>
<td>0.1</td>
</tr>
<tr>
<td>1.5 - Chicken processing and grain drying plant</td>
<td>1</td>
<td>2.1</td>
</tr>
<tr>
<td>1 Subtotal (26 properties)</td>
<td></td>
<td>7.1</td>
</tr>
<tr>
<td>2 Properties already purchased - Nieboczowy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1 - Properties with houses</td>
<td>8/1164</td>
<td>1.3</td>
</tr>
<tr>
<td>2.2 - associated buildings</td>
<td></td>
<td>0.7</td>
</tr>
<tr>
<td>2.3 - associated land</td>
<td>65 978</td>
<td>0.3</td>
</tr>
<tr>
<td>2 Subtotal (8 properties)</td>
<td></td>
<td>2.3</td>
</tr>
<tr>
<td>TOTAL purchased till 31.12.2004</td>
<td></td>
<td>9.4</td>
</tr>
<tr>
<td>3 Properties to be purchased - Ligota</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1 - Properties with houses</td>
<td>19/2698</td>
<td>3.4</td>
</tr>
<tr>
<td>3.2 - associated buildings</td>
<td></td>
<td>1.1</td>
</tr>
<tr>
<td>3.3 - associated land</td>
<td>348 859</td>
<td>1.1</td>
</tr>
<tr>
<td>4 Properties to be purchased - Nieboczowy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.1 - Properties with houses</td>
<td>80/11360</td>
<td>14.5</td>
</tr>
<tr>
<td>4.2 - associated buildings</td>
<td></td>
<td>4.9</td>
</tr>
<tr>
<td>4.3 - associated land</td>
<td>464 638</td>
<td>1.9</td>
</tr>
<tr>
<td>4.4 - Specialized farm</td>
<td>1</td>
<td>3.5</td>
</tr>
<tr>
<td>4 Subtotal</td>
<td></td>
<td>24.8</td>
</tr>
<tr>
<td>TOTAL to be purchased</td>
<td></td>
<td>30.4</td>
</tr>
<tr>
<td>5 Total properties purchased and to be purchased</td>
<td></td>
<td>39.8</td>
</tr>
</tbody>
</table>

6.3 Resettlement village
These costs are based on the assumption that 50 families will wish to be resettled in a single village and calculated in section 5.5.
### Table 6.3. Cost of village construction (for 50 families)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (PLN million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land purchase</td>
<td>1.75</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>8.3</td>
</tr>
<tr>
<td>Buildings</td>
<td>19.58</td>
</tr>
<tr>
<td>subtotal</td>
<td>29.63</td>
</tr>
<tr>
<td>professional fees @ 8%</td>
<td>2.40</td>
</tr>
<tr>
<td>Total</td>
<td>32.0</td>
</tr>
</tbody>
</table>

6.4 Other buildings

6.4.1 Public buildings

### Table 6.4 Cost of public buildings

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (PLN million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td></td>
</tr>
<tr>
<td>Primary school and kindergarten</td>
<td>0.6</td>
</tr>
<tr>
<td>Voluntary fire station</td>
<td>1.1</td>
</tr>
<tr>
<td>Bread House</td>
<td>0.3</td>
</tr>
<tr>
<td>Nieboczowy Sports Club</td>
<td>1.0</td>
</tr>
<tr>
<td>subtotal</td>
<td>3.0</td>
</tr>
<tr>
<td>Racibórz</td>
<td></td>
</tr>
<tr>
<td>Rainbow, Topolowa street</td>
<td>1.5</td>
</tr>
<tr>
<td>Ligota Tworkowska</td>
<td></td>
</tr>
<tr>
<td>Voluntary fire station</td>
<td>0.1</td>
</tr>
<tr>
<td>Village recreation room</td>
<td>0.2</td>
</tr>
<tr>
<td>subtotal</td>
<td>0.3</td>
</tr>
<tr>
<td>Total public buildings</td>
<td>4.8</td>
</tr>
</tbody>
</table>

6.4.2 Religious property

### Table 6.5 Religious property compensation

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (PLN million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td></td>
</tr>
<tr>
<td>Church</td>
<td>1.4</td>
</tr>
<tr>
<td>Cemetery</td>
<td>0.9</td>
</tr>
<tr>
<td>Shrines and crosses</td>
<td>0.1</td>
</tr>
<tr>
<td>subtotal</td>
<td>2.4</td>
</tr>
<tr>
<td>Ligota Tworkowska</td>
<td></td>
</tr>
<tr>
<td>Chapel</td>
<td>0.1</td>
</tr>
<tr>
<td>Crosses</td>
<td></td>
</tr>
<tr>
<td>subtotal</td>
<td>0.1</td>
</tr>
<tr>
<td>Total religious property</td>
<td>2.5</td>
</tr>
</tbody>
</table>
6.4.3 Commercial property

Table 6.6 Compensation for commercial property

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (PLN million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieboczowy</td>
<td></td>
</tr>
<tr>
<td>Grocery</td>
<td>0.2</td>
</tr>
<tr>
<td>Café</td>
<td>0.1</td>
</tr>
<tr>
<td>Bakery</td>
<td>0.1</td>
</tr>
<tr>
<td>Craft workshops</td>
<td>0.1</td>
</tr>
<tr>
<td>Gravel pit offices</td>
<td>0.3</td>
</tr>
<tr>
<td>Bars</td>
<td>0.3</td>
</tr>
<tr>
<td>Recreational centres</td>
<td>0.9</td>
</tr>
<tr>
<td>subtotal</td>
<td>2.0</td>
</tr>
<tr>
<td>Ligota Tworkowska</td>
<td></td>
</tr>
<tr>
<td>Grocery</td>
<td>0.2</td>
</tr>
<tr>
<td>Craft workshops</td>
<td>0.1</td>
</tr>
<tr>
<td>subtotal</td>
<td>0.3</td>
</tr>
<tr>
<td>Total commercial property</td>
<td>2.3</td>
</tr>
</tbody>
</table>

6.5 Infrastructure

According to Appendix C.3, compensation cost for infrastructure is:
- Roads and transport areas PLN 11 million
- Electricity network PLN 1.5 million
- Water supply network PLN 6 million
Total compensation cost for infrastructure is PLN 18.5 million.

The cost of decommissioning the existing infrastructure is estimated at PLN 1 million. Cost of demolition of existing residential and associated buildings is also estimated at PLN 1 million. Total cost of decommissioning and demolition is PLN 2.0 million.

6.6 Land

Table 6.7 Land purchase costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Rate (PLN)</th>
<th>Amount (PLN million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural land (ha)</td>
<td>1854</td>
<td>27,000</td>
<td>50.0</td>
</tr>
<tr>
<td>Woodland (ha)</td>
<td>161</td>
<td>27,000</td>
<td>4.4</td>
</tr>
<tr>
<td>Ponds and ditches (ha)</td>
<td>150</td>
<td>27,000</td>
<td>4.0</td>
</tr>
<tr>
<td>Gravel excavations (ha)</td>
<td>17</td>
<td>27,000</td>
<td>0.5</td>
</tr>
<tr>
<td>Waste land (ha)</td>
<td>292</td>
<td>27,000</td>
<td>7.9</td>
</tr>
<tr>
<td>Transport areas (ha)</td>
<td>53</td>
<td>27,000</td>
<td>1.4</td>
</tr>
<tr>
<td>Residential areas (ha)</td>
<td>40</td>
<td>See Appendix C</td>
<td>3.7</td>
</tr>
<tr>
<td>Total, land</td>
<td></td>
<td></td>
<td>71.9</td>
</tr>
<tr>
<td>Land purchased</td>
<td>45</td>
<td></td>
<td>1.5</td>
</tr>
<tr>
<td>Land in both villages</td>
<td>145</td>
<td></td>
<td>5.4</td>
</tr>
<tr>
<td>Total land minus land in both villages</td>
<td></td>
<td></td>
<td>65</td>
</tr>
</tbody>
</table>
6.7 Legal, evaluation and administration

The costs of legal and property evaluation services, the design of the resettlement village and administration are estimated at 5% of the total of all the costs estimated above.

6.8 Summary

The best estimate of the resettlement cost is PLN 176 million (according to compensation estimation based on replacement value). The cost estimation in Table 6.8 below is based on market value of property:

Table 6.8 Total cost of resettlement and land acquisition

<table>
<thead>
<tr>
<th>Description</th>
<th>Option I (without village) (PLN million)</th>
<th>Option II (with village) (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</td>
<td>2.0</td>
<td>2.0</td>
</tr>
<tr>
<td>demolition</td>
<td></td>
<td></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><strong>TOTAL</strong></td>
<td><strong>176.0</strong></td>
<td><strong>183.1</strong></td>
</tr>
</tbody>
</table>

* In case of construction of village including infrastructure that will be transferred to gmina, the compensation has been reduced by PLN 8.3 million PLN (cost of infrastructure in Table 6.3).

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

6.9 Cash flow and schedule

6.9.1 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 6.1.
The implementation schedule, illustrated in Figure 6.2, shows that the Resettlement Action Plan can be completed by mid 2009 if no activities are blocked (earliest completion). If resettlement is completed by December 2010 (latest completion) the commissioning of the reservoir will not be delayed.

Key milestones are summarized in Table 6.9:

**Table 6.9 Dates of milestones**

<table>
<thead>
<tr>
<th>Activity</th>
<th>Target date</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>earliest</strong></td>
<td><strong>latest</strong></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>
<tr>
<td>-------------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>Property purchase</td>
<td></td>
</tr>
<tr>
<td>Negotiation &amp; purchase</td>
<td></td>
</tr>
<tr>
<td>Removal</td>
<td></td>
</tr>
<tr>
<td>Resettlement village</td>
<td></td>
</tr>
<tr>
<td>- consultation</td>
<td></td>
</tr>
<tr>
<td>- decision to proceed</td>
<td></td>
</tr>
<tr>
<td>- land purchase</td>
<td></td>
</tr>
<tr>
<td>- village layout</td>
<td></td>
</tr>
<tr>
<td>- detailed design</td>
<td></td>
</tr>
<tr>
<td>- procurement</td>
<td></td>
</tr>
<tr>
<td>- construction</td>
<td></td>
</tr>
<tr>
<td>- removal</td>
<td></td>
</tr>
<tr>
<td>Religious property</td>
<td></td>
</tr>
<tr>
<td>- consultation</td>
<td></td>
</tr>
<tr>
<td>- removal of cemetery</td>
<td></td>
</tr>
<tr>
<td>- church closure</td>
<td></td>
</tr>
<tr>
<td>- demolition</td>
<td></td>
</tr>
<tr>
<td>Infrastructure decommissioning</td>
<td></td>
</tr>
<tr>
<td>Land acquisition</td>
<td></td>
</tr>
<tr>
<td>- establish data base</td>
<td></td>
</tr>
<tr>
<td>- construction area, east</td>
<td></td>
</tr>
<tr>
<td>- construction area, west</td>
<td></td>
</tr>
<tr>
<td>- construction area, north</td>
<td></td>
</tr>
<tr>
<td>- interior area</td>
<td></td>
</tr>
</tbody>
</table>

earliest completion

Latest completion
Participation and consultation

7.1 Communication

The consultation processes used so far to update affected inhabitants should be replaced with other activities that are more appropriate to the current situation.

- Poll survey. A census and assessment of demand for a resettlement village need to be undertaken. The census will be included in the land/property purchase process and the survey of resettlement preferences will be carried out near the end of 2005 when it is expected that the effects of purchase of some houses in Nieboczowy will be apparent and opposition will decline.

- Data base updates. The compiled data base (data from 1998-2004) submitted to RZGW with this report as a demo can be used for current 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 Racibórz staff can be responsible for such updating, during the purchase process, after relevant training. Every visit of RZGW representatives to individual households will generate new information that should be entered in the database without delay. This will enable the investor to have useful and up-to-date information with easy access to it.

- Direct group consultation – mass or public meetings – it is virtually impossible to conduct productive public meetings in the existing situation. Consequently, RZGW will use direct marketing methods instead – to send information leaflets to all householders private addresses. Internet (see 7.1.3 below) may be also a good source of actual information and collecting opinions especially for young people who regularly use Internet.

- Traditional consultation in form of meetings of RZGW and Defence Committee representatives will continue. The main goal should be to try to keep the Committee aware of current plans and options, with the expectation that the information will be shared by their constituents.

7.1.1 Written communication

The lack of reliable information should be overcome by traditional letters sent by post to each household in Ligota Tworkowska and Nieboczowy. The way how the information is presented is of the same importance as its reliability. The draft text proposed in Appendix E has some persuasion potential. Some graphic is also recommended so that it better appeal to people. The alternative designs for the „New Nieboczowy“ village should be presented as well. The whole letter, edited in attractive format shall prove that the investor and its partners take the future of all the people living in the area to heart.

The subsequent correspondence should be improved basis of the feedback received by any means. It is important to know how did the residents like the first letter and to draw conclusions.

Some reference to the proposed web site will be included into the next letters. Assuming that access to internet in both villages can be limited the information leaflet can be attached consisting of following information:

- Purpose of reservoir and its necessity
• General time schedule (how many years of construction can be expected, explanation, that after taking the decision to sell and signing the notary papers people would be still allowed to stay for a certain period of time before they will find themselves a new place to stay)
• Information about the inevitability of the project – explanation that Raciborz reservoir, as a part of Program Odra 2006, has been included in a governmental tasks list, that local permit has been issued and that all the important decisions has already been taken.
• Description of the compensation methods
• Request for the information concerning preferable compensation method, views on creating the resettlement village – these questions could be put on the perforated part. To make it easier for the respondents envelope with the stamp should be attached.
• Contact details to the person who could answer any additional questions or could take a note of respondent’s views – telephone number, email address, position (to ensure people that they are treated seriously and that the person they can speak to is adequate and has a good knowledge of the subject).

7.1.2 Media

Raciborz reservoir subject was raised several times in the local and national media. Information about planned construction of the reservoir could be found in newspapers – for example: Nowiny Raciborskie (local) and SuperExpress (national). There were also radio (i.e. national RMF FM – Raciborz reservoir weekend – spring 2004) and television auditions (spring 2004 TVP2).

In the press releases and radio/tv auditions on the local level investor was usually criticised for not having sufficient contact with the affected society and for lack of so called “good will” in studying alternatives that would allow resettlement of Nieboczowy and Ligota. The short abstract of media information on the planned reservoir is presented in Appendix D.

On the national level, in the contrary, Investor is rather encouraged to speeding up the process and the people presenting the strong views against the reservoir (Defence Committee of Nieboczowy mainly) are criticised for not seeing the greater picture, and for not taking into any account that the reservoir will protect thousands of people from the tragedy of the flood.

RZGW has some possibilities to include the radio into its plans. The local radio “90FM” has agreed to dedicate one week for Raciborz reservoir auditions during which the journalists are going to present the project and than the experts using the special hot line will explain all the matters connected to its construction. The proposed plan of broadcasting is presented in Appendix E.

All current information on project implementation, decisions and actions taken as well as all on occurring problems will be regularly transmitted to representatives of local press, radio and television.
7.1.3 New web site

During one of the consultants' meetings with local teachers, it was suggested to build a website concerning all the issues concerning construction of the reservoir and related matters. This would enable affected people to communicate their views as well as receive information. The website should consist of the following subjects:

- **Technical information** (engineering): type, capacity, construction, drafts, designs, purpose, investor etc.
- **Environmental information** (losses, benefits), environmental protection measures, documents connected with environmental protection
- **Commercial information** concerning prices, land and property evaluation methodology description
- **Sociological information** concerning surveys results, analysis of opinions and forum contents
- **Others** – photos, interesting facts as well as a forum page, questionnaires, advertisements etc.

The web site should approach following people:

- Flood Plain residents, their families, other people directly affected by the investment
- RZGW employees and other people from the Investor's side
- Consultants, scientists, experts (Jacobs) and other people meritorically connected with the project
- Media representatives looking for the up to date information
- "Politics" – local level, deputies, voivodship administration
- People interested in hydraulic structures
- "Ecologists" – people for and against dams
- Project Coordination and Financing Institutions representatives – easy way to monitor progress of the construction of the reservoir

The proposed contents of the site is presented in Appendix E. However, before any investment in the web site there must be evidence that people directly affected will use it.

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 residence.

The process of "New Nieboczowy" village designing will be a good opportunity to motivate the distrustful population of Nieboczowy. However, all should be informed in advance about the work already done (by letters) and invited to further discussion (if interested).

- The website should comprise a separate web page dedicated to this issue (with forum if need be)
- The Lubomia Gmina office should organize an exhibition of village designs. The questionnaires can be prepared and available for all the visitors to collect their free opinions and evaluation of particular proposals.
• The formal invitation for consultation should be addressed to Defence Committee, and all relevant documentation made available to it
• The local media should be involved in preparation and promotion of the village design with emphasis on improvement of living conditions and high standard of new houses
• A competition could be organized to engage local people into co-operation, for example: to propose a new name for a new village.
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 decisions 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.
9 Monitoring and evaluation

9.1 Monitoring

9.1.1 Need

The status of displaced people will be monitored periodically 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.

9.1.2 Methodology

RZGW will maintain case notes of each family to be displaced from the time of first contact to three years after the family has relocated. 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 families, if not most, 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.

All affected persons will be given the name and contact information for the RZGW official responsible for monitoring and liaison.

9.2 Independent evaluation

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

List of publications:

Other sources of information:
Appendix A - Socio-economic database

1. Data base description
2. Example of PESEL base printout
3. Example of questionnaires analysis printout
4. Example of land register printout
Appendix C - Property evaluation and cost estimates

1. Collection of stocktaking data concerning property that is to be affected by the investment


3. Cost estimate – Compensations.

4. Identification of all cultural goods and development of proper handling procedure, determination of relevant impact and elaboration of their protection plan.
Appendix D - Public opinion documentation

1. Press abstracts analysis
2. Odra riverside gminas statement
Appendix E - Proposals for public related actions

1. Letter to inhabitants (draft)
2. Proposed plan of broadcasting
3. Proposed contents of the web site
Rys. 1.1 Orientacyjne położenie zbiornika Racibórz.
DESCRIPTION OF THE SOCIO-ECONOMIC INFORMATION SYSTEM

Having considered the huge amount and heterogeneity of data that is to be handled in the project as well as the need to perform sophisticated analyses based on this data, it had been decided to gather all the available information in a form of database. It is being designed as a relational database with the following key tables:

- table \textit{People} containing information on name, surname, date and place of birth, address, names of parents etc.
- table \textit{Parcels} with information on number, area, owners, land use etc.
- table \textit{Households} with information on each household: members, features, estate, possessions and families living in a household. This table and related tables will comprise data from answers given by the family members in several questionnaire surveys e.g. their attitude to the planned investment.

A number of additional tables is likely to be built for extra information necessary to ensure the cohesion of data (e.g. table with remarks and comments to the specific fields of some tables).

The system will be provided in the form of a partially functional demonstration version, filled with representative data. Thus the client will be given the opportunity to learn the functions offered by the full system, if it is built.

In the project of the database it is assumed that the system will be equipped with the effective interface, allowing to access the information even for those users, who are not very experienced in using information tools. Functions that will be available through the interface have been being discussed with the client. One can presume that these functions should include:

- simple queries, directly related to the fields existing in database tables (e.g. 'select all parcels belonging to the owner named "Kowalski"')
- advanced queries (e.g. 'select households whose members rejected to answer questions asking about the way they gained the property and at the same time those which count more than four people, excluding children below 3 years and at the same time belonging to the village Nieboczowy')
- simple algorithms supporting decision makers in solving their typical problems (e.g. show the sorted list of parcels that should be purchased as soon as possible).

Additional feature of the system will be its linkage to the interactive map – a window with information on the objects located in particular place will be displayed when clicked on the map. For example, when targeting at a parcel, a user obtains a set of basic data on this parcel (area, number), and if required, extra data e.g. information on owners.

From the technical point of view, all the software used for constructing the system will be based on the Open Source solutions, mainly to reduce the investment cost for the client. The database will use the MySQL platform, while the interface is designed to take advantage of PHP language. It is considered to use the Open SVG Mapserver for the purpose of facilitating the GIS functions. Alternatively, own applications will be built. It is very likely that the system will be available in the Internet. Having this in mind, a particular attention will be paid to the issues of the safety of the system, to prevent the unauthorized users from the access to vital data.

The significant feature of the system will be the possibility of operating it on several levels, dependently on the rights given by the system administrator to the users. It is planned that few groups of users will be declared, with rights stretching from simple right to view data up to right to modify the database structure.
January 12, 2005

Jacobs GIBB (Polska)
Sp. z o.o.
00-682 Warszawa,
ul. Hoża 86

EXHIBIT no. ___ to Resettlement Action Plan

LEGAL ANALYSIS


Dear Sirs,

We are acting as your special local counsel on matters of Polish law and other relevant jurisdictions in relation to issuing the Analysis (hereinafter: the Analysis) establishing the legal framework pertaining to land valuation, acquisition and expropriation within the Resettlements Action Plan (hereinafter: RAP) which is contemplated as an element of the project of construction of the dry polder in Racibórz as part of the Oder River Basin Flood Protection Project.

¹ The term „involuntary resettlement” is used in the World bank Policies and according to its definition should be treated as the equivalent of the term of “expropriation” (wywłaszczenie), within the meaning of the Polish Management of the Real Properties Act. Throughout the text of the Analysis both terms are used interchangeably, unless the context does not require otherwise.
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## Annex 1 to the Analysis
### Specific issues connected with expropriation

<table>
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<th>Legal regulations concerning the closure of cemeteries located within area for an concerned reservoir and the designation of an alternative site for interments (who takes the decision and designates alternative sites)</th>
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<td>Legal regulations concerning the exclusion of forest lands within the reservoir cup from forest use and the exclusion of farm lands from agricultural use for alternative buildings when a local master plan does not exist</td>
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<td>Legal regulations concerning the conveyance of lands managed by the Agricultural Real Property Agency for the construction of hydrotechnic objects, for the reservoir cup and for alternative lands outside the reservoir</td>
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<td>Legal regulations concerning a possibility of financing the construction of alternative (social) buildings by RZGW and conveying governmental administration buildings (to the starosta) or self-governmental administration buildings (to the wójty)</td>
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<td>5</td>
<td>Means of recourse in relation to the location for a public purpose investment</td>
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<td>6</td>
<td>Clarification of the issue whether there is an obligation to pay compensation to entities having at their disposal buildings which were erected against valid regulations (e.g., a house erected without a construction permit).</td>
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**Re: POLAND/ Oder River Basin Flood Protection Project/ Resettlements Action Plan/ Legal framework for expropriation process.**

### I. Qualifications

This Analysis has been prepared, written and issued by attorneys at law.

### II. Beneficiary of the Analysis
This Analysis has been prepared for the benefit of Jacobs Gibb Polska Sp. z o.o. and Jacobs Gibb Ltd. within the scope of the contract with the Project Coordination Unit.

**III. Scope of the Analysis**

Pursuant to the contract, we have been assigned to prepare the Analysis dealing with the following subjects:

1. The compilation and analysis of Polish laws pertaining to expropriation;
2. A description of the legal framework for the RAP, relevant local laws and customs that apply to resettlement; compensation entitlement policies for each category of entities;
3. The evaluation of impact of the EU legislation and other European legislation on the expropriation issues.
4. A description of the World Bank regulations pertaining to the legal framework of expropriation under the project financed by the World Bank.
5. Indication of legal possibilities of referring to the World Bank regulations in the case of discrepancies between those regulations and provisions of Polish law.

Specifically, the Analysis addresses the following points:

- A summary of the applicable laws regarding expropriation, including compensation for expropriated properties, evaluation of assets, summary of rights of appeal and the appeal process;
- A summary of changes due to Poland’s entry into the European Union;
- A summary of disparities between the provisions of Polish law and World Bank requirements;
- Under the hypothesis (to be established) that there is no direct or indirect reference in Polish law to World Bank regulations, proposals of alternative ways to enable payment of World Bank levels of compensation.
IV. Assumptions

Due to the fact, that not all the issues connected with the subject of the Analysis have been decided (or conveyed to the information of the authors of this Analysis), for purpose of judgments and conclusions presented in the Analysis it was necessary to take following assumptions:

1) The Project is generally in accordance with its description contained in [insert reference].

2) The financial means provided by the World Bank will be used to finance the Project through the state budget, what allows for their qualification as the public means in the meaning of the of Article 3 sec. 1 point 3d of the Act of November 26, 1998 on public finances (Journal of Law 2003, position 15, item 148, with further amendments);

3) There is no regulation that would prevent, or substantially modify the usage of the Polish domestic law with respect to the subject of the Analysis, in the context of financing the Project from the EU Cohesion Fund, pursuant to the article 30 in connection with the article 3 sec. 1 point 2 of the Act on public finances.

4) The loan agreement between Republic of Poland and the World Bank pertaining to financing the Project, has not been executed, and its draft has not been presented to the authors of the Analysis.

V. Detailed Analysis

1. Polish law

1.1 List of legal acts

We have examined the following Polish legislation applicable to the subject of the Analysis:

- The Constitution of the Republic of Poland dated April 02, 1997 (Journal of Law 1997 No 78, item 483);
- The National Development Act dated April 20, 2004 (Journal of Law 2004 No 116 item 1206);
• The Act on Management of Real Property dated August 21, 1997 (Journal of Law No 2000 No 46 item 543, with further amendments);

• The Ordinance of the Council of Ministers (Rady Ministrów) on specific principles of evaluation of properties and the preparation of the Analysis of evaluation procedures dated November 27, 2002 (Journal of Law 2002 No 230 item 1924);

• The Ordinance of the Council of Ministers (Rady Ministrów) on evaluation of real property and preparation of the Analysis of evaluation, dated September 21, 2004 (Journal of Law 2004 No 207, 20108);

• The Ordinance of the Minister of Economy and Labor dated July 30, 2004 on the strategy of using the Cohesion Fund during the period 2004-2006 (Journal of Law 2004 No 176 item 1827);

• The Law on establishment of the long-term program – “Program of Odra 2006” dated July 6, 2001 (Journal of Law 2001 No 98 item 1067, with further amendments);

• The Civil Code dated April 23, 1963 (Journal of Law 1963 No 16 item 94, with further amendments);

• The Law of Public Finances dated November 26, 1998 (Journal of Law 2003 No15 item 148, with further amendments);

• The Administrative Procedure Code dated June 14, 1960 (Journal of Law 2000 No 98 item 1071 with further amendments);


Furthermore, with reference to specific issues described in point VI below reference was made to other provisions that regulate the matter.

1.2 Customary law

In the Polish legal system there is no customary and/or traditional law that is applicable to expropriation procedures. The legal procedures governing expropriation and standard practices for real property valuation are covered by the Act on Management of Real Property (hereinafter: MoRPA) and by regulations issued on its basis.
1.3 Expropriations – general remarks

According to Article 112 item 3 and Article 113 of the MoRPA, expropriation is allowed only for the benefit of the State Treasury or units of territorial self-government if:

- It is indispensable for public purposes that can not be otherwise achieved than through deprivation or limitation of right to the real property;
- The local master plan provides that the real property is located in the area designated for public purposes;
- Public purposes cannot be fulfilled in any other way than through deprivation or limitation of rights to the real property and it is not possible to acquire the real property on the basis of a civil law agreement with the entitled party (landowner/perpetual usufructuary/person who holds limited proprietary rights on the real property).

The real property owned by the State Treasury cannot be expropriated. It does not apply to expropriation of the right of perpetual usufruct or limited proprietary rights on the property.

The real property may be a subject to expropriation in whole or in part. If, as an effect of expropriation of the part of the real property, the remaining part will not be suitable for its former use (prior to expropriation), then subject to the motion of its owner/perpetual usufructuary it may be sold to the State Treasury or a unit of territorial self-government depending on whose benefit the expropriation is being exercised for.

To make reading the Analysis easier the authors differentiated between voluntary expropriation ("largo sense") and involuntary expropriation ("strict sense"). However, one should note that such differentiation does not have juridical reflection and it does not result straight from the applicable regulations or the doctrine of law.

1.4 "Voluntary resettlements" (expropriation largo sense)

1.4.1 General remarks
According to Article 114 of the MoRPA, prior to involuntary resettlement (expropriation), negotiations between the landowner or person who has the right of perpetual usufruct or limited proprietary rights (such as usufruct, land and personal servitude, co-operative member’s right to their own apartment, co-operative right to utility premises, right to a single family house in a housing co-operative) to the property to be taken over and the local authority dealing with the resettlement (starosta) must be undertaken. In the case of property expropriation upon the motion of a unit of territorial self-government the negotiations are conducted by their executive bodies.

As a result of those negotiations, an agreement may be reached that among other issues determines the amount of compensation to be paid to the landowner/perpetual usufructary/holder of the limited rights to the real property. Based on this agreement, the real property/perpetual usufruct/other right to the property would be conveyed to the State Treasury or a unit of self-government administration.

1.4.2 Negotiations

According to Article 72 of Polish Civil Code – the agreement as a result of negotiations is reached upon a meeting of the minds on each of the elements in the negotiations. The MoRPA does not provide for any particular limitations or requirements regarding the negotiations or the conditions under which the agreement may be reached. Article 114 of the MoRPA provides only that the affected party may alternatively be offered different real property. Alternative real property referred to in this provision should be differentiated from alternative real property mentioned in Art. 131 item 1 of the MoRPA that may be granted as compensation. There is a difference between the two alternative real properties as to their legal nature and intended function. If the owner or perpetual usufructuary agrees to take alternative real property in exchange for real property taken over for public purposes, then it fact it means that a civil law agreement on the exchange is being made that is governed by Art. 603 and 604 of the Civil Code.

Affected person may be offered alternatively:

- Monetary compensation;
- Monetary compensation and land where new buildings (house) may be erected;
- Monetary compensation and farm land;
• A new house with farm land;
• A new house without farm land.

The proposal submitted to the affected party that sets out the basis for negotiations should cover specific provisions of the contemplated agreement including a property purchase price.

If an agreement has not been reached, the starosta (or other authority conducting negotiations) shall establish a two-month period for the owner/perpetual usufructuary/limited rights holder to execute an agreement on the conditions submitted during the negotiations. The requirement to undertake the negotiations in the mode of the MoRPA, or at least to attempt to undertake them, and to establish the above-mentioned term to execute the agreement as stipulated in Art. 115 item 2 of the MoRPA is binding, regardless of the fact that the affected party rejects the negotiation proposal from the beginning.

The local authority competent to conduct the negotiations pursuant to the MoRPA is the starosta. Negotiations are carried out with a limited range of entities: landowners; entities holding the perpetual usufruct right, or entities holding limited proprietary rights on the real property. According to the MoRPA, the starosta is not allowed to offer compensation to any entities other than those mentioned above.

1.5 “Involuntary resettlements” (expropriation strict sense)

1.5.1 General remarks

Similar to the case of voluntary resettlements, the expropriation procedure is covered by the MoRPA. This procedure is initiated *ex officio* upon unsuccessful attempt to take over the property on the basis of the agreement discussed in Section 1.4.2 above. If expropriation is to be exercised for the benefit of the self-government unit, then it is commenced subject to the motion of its executive authorities. Expropriation is carried out subject to the administrative decision issued by the starosta. The commencement of expropriation of the real property is disclosed in the land and mortgage register.
With reference to real property for which legal status is not established, the starosta provides notice of the intended expropriation in the locally customary manner and in a newspaper of Poland-wide circulation.

If the expropriation covers a part of the real property, the notice also informs about an intention to initiate proceedings on division of the real property. If within 2 months from the date of the notice anybody who has limited proprietary rights on the real property does not appear, the division proceedings and expropriation procedure can be initiated. If within the deadline specified above any person who has limited proprietary rights to the real property is not established, the starosta issues a decision on the acquisition of the real property by the State Treasury or a unit of territorial self-government applying for the expropriation. The ownership right is acquired as of the date when the decision became final. Compensation for the real property whose ownership was transferred for benefit of the State Treasury or a unit of territorial self-government is set according to regulations in Section 5 of the MoRPA and is placed at the court deposit for 10 year.

After commencing the expropriation procedure the starosta, who executes a task within the scope of governmental administration, conducts an administrative trial. The above clause does not apply in relation to the real property with an unspecified legal status. No administrative settlement regulations are applicable to the expropriation procedure.

According to Art. 121 of the MoRPA the ownership right is transferred to the State Treasury or a unit of territorial self-government as of the day, when a decision on the property expropriation becomes final. The right of perpetual usufruct is transferred to the State Treasury or a unit of territorial self-government as of the day when a decision on the expropriation from that right became final, if the right of perpetual usufruct was established on the land property owned by other person than the one for benefit of whom the expropriation has been exercised. The right of perpetual usufruct of the land property expires as of the day when a decision on the expropriation from that right became final, if the right of perpetual usufruct was established on the land property owned by the person for benefit of whom the expropriation has been exercised. Under provision of Article 121 item 4 of the MoRPA there is opportunity to allow for lease of the expropriated real property to the former landowner until the time when it is used for the purpose for which the expropriation has been carried out.
Pursuant to Art. 122 of the MoRPA in cases specified in Art. 108 of the Administrative Procedure Code i.e. when it is necessary due to life and health protection or for securing the national property against heavy losses or due to other social interest and specially important interest of the affected party the starosta may, through his decision, grant the entity that executes a public goal, an authorization to immediately take over the real property after issuing a decision on the property expropriation if a delayed takeover was to make it impossible to execute the public goal for which the real property has been expropriated. This decision can be subject to immediate execution. If in the cases referred to in the preceding clause the issue of a decision on expropriation required prior division of the real property, the decision on approval of the division can be subject to immediate execution.

1.5.2 Compensation.

1.5.2.1 The nature of compensation and its legal regulation

The notion of “compensation” involves a loss or limitation of rights being subject to legal protection. Compensation for expropriation is governed by the MoRPA and legal acts issued on its basis. The regulations are in a sense independent with reference to the Civil Code provisions pertaining to compensation. In civil law the duty to repair damage (scope of compensation) usually covers *damnum emergens* and *lucrum cessans*, i.e. both detriments to property and lost benefits. According to the MoRPA compensation in the case of expropriation covers only *damnum emergens*. Apart from the MoRPA provisions while evaluating compensation for expropriated rights one should also (first of all) take into consideration stipulations of the Constitution of the Republic of Poland where Art. 21 item 2 established a rule that expropriation is allowed only when it is exercised for public purposes and for fair compensation. The regulation referred to above allows to distinguish two prerequisites for referring to the expropriation mode as violating the principle of respect for ownership. The two prerequisites are: public purpose as justification for expropriation and fair compensation to which the affected party is entitled. The term “fair compensation” was interpreted by the Constitutional Tribunal in its ruling dated March 19, 1990 (K 2/90, OTK 1990, part I, item 3) stating that fair compensation is a benefit equal to the value of expropriated real property and enabling its owner to recreate the property taken over by the state.
What is important is that, pursuant to Art. 8 of the Constitution, its provisions are applied directly. Therefore, claims of persons whose rights to fair compensation will be in their opinion violated may be based solely on Art. 21 of the Act. Specific methods of evaluation of property are specified in regulations issued on the basis of the MoRPA. Until September 21, 2004 methods of property valuation had been covered by the Ordinance of the Council of Ministers (Rady Ministrów) on specific principles of evaluation of properties and the preparation of the Analysis of evaluation procedures, dated November 28, 2003 (Journal of Law 2002 No 230 item 1924). Currently, specific methods of assessing the value of real property for calculation of compensation are covered by the Ordinance of the Council of Ministers (Rady Ministrów) on evaluation of real property and preparation of the Analysis of evaluation, dated September 21, 2004.

Because of the fact that those regulations will be analyzed in a separate analysis, the authors of this Analysis provide only general information about principles for calculation of compensation.

1.5.2.2 Beneficiaries

Similar to voluntary resettlement, the scope of entities entitled to receive compensation for expropriated property encompasses: landowners, entities holding the perpetual usufruct right, and entities holding limited proprietary rights on the real property.

1.5.2.3 Scope of compensation

As stated in Article 128 of the MoRPA, the compensation shall be equal to the value of property, the right of perpetual usufruct or the limited rights to property that is the subject of the expropriation. The amount of compensation is mitigated by the amount of limited rights on real property, should such rights encumber the property or the right of perpetual usufruct being subject to expropriation.

The amount of compensation is determined according to the state and value of expropriated property by the local authority (starosta) in the decision of expropriation. The state of the property means its development, legal status, technical condition and surroundings including the size, character and a degree of urban development of the area where the property is located. This value is determined by a qualified property surveyor appointed by the starosta (Art. 130 item 2 of
the MoRPA) and it a basis for determining the amount of compensation in the starosta's decision. Art. 130 item 2 of the MoRPA is not clear. The following sentence:

_The amount of compensation is determined after obtaining an opinion prepared by a licensed property surveyor which specifies the value of the real property_

raises doubts as to the interpretation of a legal character of the property surveyor's opinion that determines the value of real property in the context of a decision of the authorities that set the value of compensation. Without getting into details the property surveyor's opinion is a guideline for the authorities that determine the amount of compensation. The authorities are not bound (limited) by it and in extreme cases it does not have to be taken into account.

MoRPA's relevant regulations assume as a basis for assessing the value of assets for the purpose of expropriation the public amortized market value of the real property (Article 134 of MoRPA). This value is determined by a qualified property surveyor appointed by the starosta.

In estimating the value of the real property, the following factors should be taken into account: the type of property, the method of use, the location, with installations and other fixtures to the real property and current market prices for real property.

If the market value of the real property can not be assessed due to the fact that such properties are not traded, then the value is calculated as the cost of rebuilding, taking into account the current physical state of the buildings and other fixtures including the degree of wear. Land, buildings, trees and other agricultural vegetation are assessed separately.

According to Article of 131 of the MoRPA as to the compensation for expropriated property, subject to consent of the affected party, alternative real property may be provided. Any difference between the amount of the compensation contemplated by the decision on expropriation and the value of the alternative real estate is covered by monetary repayment.

(Article 130 item 2 of MoRPA).

Subject to the provisions of Article 132 item 1 of the MoRPA, payment of compensation by the starosta should occur within 14 days from the date that the relevant expropriation decision becomes final and binding.
1.5.3 Means of recourse

According to the provisions of the Administrative Procedure Code and provisions of the law dated August 30, 2002 Procedure before Administrative Courts Act, the starosta's decision on expropriation can be overruled. Upon receiving such a decision, the affected party is entitled to employ means of recourse provided for in the Administrative Procedure Code ie. to refer to the administrative body of higher instance. An appeal is lodged within 14 days counting from the day of delivery of the decision to the party. Pursuant to Art. 130 Administrative Procedure Code before the expiry of the deadline for lodging an appeal the decision is not subject to execution and lodging an appeal ceases execution of the decision. Having exhausted an administrative course of the instance, the affected party is entitled to lodge an appeal in the Provincial Administrative Court. The appeal can be lodged pursuant to Art. 52 of the above Act after exhausting means of recourse if they served to the appellant in the proceedings before relevant authorities (starosta). An appeal is lodged within 30 days via the authorities whose activity or inactivity is the subject of an appeal. The authority transfers the appeal to the court together with files of the case within 30 days from lodging.

According to Article 61 para. 1 of the Code on Procedure Before Administrative Courts Act, lodging an appeal does not stop the execution of the act or action that is the subject of the appeal. Nevertheless, pursuant to Art. 61 para. 2 item 2 of the Act in case of lodging an appeal the authority which issued a decision may stop, ex officio or to the motion of the appellant, its execution in whole or in part. Also, the court after receiving the appeal on the basis of Art. 61 para 3 of the Act – may, to the motion of the appellant, issue a decision to stop the execution of the act or action referred to in para. 1 in whole or in part if there is a risk of causing significant damage or other effects difficult to be removed. The ruling of the Provincial Administrative Court may be referred to the Supreme Administrative Court (court of II instance) for cassation. The Court's award is decisive and binding. A cassation appeal is brought to the court which issued an appealed ruling or decision within 30 days counting from delivery of a copy of the ruling with justification to the party (Art. 177 para 1 of the Act). Art 61 of the Act is applicable to a stay of the execution of the appealed decision.

According to Art. 122 of the MoRPA, if during the proceedings the parties came to agreement as to conditions of expropriation, they may apply for suspension of the administrative proceedings until an appropriate agreement is concluded (Art. 98 para. 1 of the Administrative Procedure Code). After its conclusion the suspended proceedings are initiated and discontinued as having
no purpose. Expropriation conditions can be agreed and the agreement can be concluded also during appeal proceedings. A voivode may either subject the decision to immediate execution or issue a decision on immediate takeover of the real property in the event of fulfillment of conditions in Art. 108 of the Administrative Procedure Code, however the issue of the decision on immediate takeover of the real property can only be possible if, apart from conditions in Art. 108 of the Administrative Procedure Code, a delay in taking over the real property was to make it impossible to execute a public purpose.

A regulation applicable to a decision on investment location is found in the Act dated March 30, 2003 on spatial planning and development (Journal of Law 2003 No 80 item 717). Pursuant to Art. 53 item 3 of this Act - 6. Appeal from the decision on location for an investment should contain objections to the decisions, specify the nature and scope of a claim and indicate proofs to justify the claim.
Moreover, pursuant to Art. 53 item 7 – 7. The decision on location of a public purpose investment is not found invalid if 12 months have expired since the day of its delivery or announcement.

In other issues the above regulations pertaining to administrative and subsequently court verification of administrative decisions are applicable to the mode of appeal from these specific decisions.

1.6 References to other jurisdictions

As of the date of this Analysis, the MoRPA and other Polish law on expropriation do not provide for any references to any other jurisdictions.

2 European Union law pertaining to the subject of the Analysis

2.1 Rule of supremacy of European Law

Before we address specific questions, we would like to point out a few general principles of European Law pertaining to the subject of the Analysis. Upon Poland’s accession to the European Union on May 1 2004, the provisions of European Law became applicable in Poland. Conflicts between provisions of European Law and provisions of Member States’ law are settled in accordance with the doctrine of supremacy of European Law. The doctrine of supremacy has no formal legal basis in the Treaty establishing the European Community (hereinafter: the EC
Treaty), although this doctrine, developed by the European Court of Justice\(^2\) (hereinafter: ECJ), is fully recognized among Member States. 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\(^3\).

2.2 European Law pertaining to the subject of the Analysis

As far as European Law is concerned, there is no specific legislation with regard to resettlements (expropriations). There are provisions that deal with the problem of protection of ownership, which may be indirectly applicable to the problem of expropriation. With reference to holding of real property, the EC Treaty in Article 295 (former Article 222) provides: "This Treaty shall in no way prejudice the rules in Member States governing the system of property ownership"\(^4\). The general rule is that Member States are fully authorized to establish autonomous systems of property ownership. The ECJ in its judgments has set forth guarantees of and limits to this right. The general rule arising from judgments of the ECJ provides that the system of property right protection, including expropriations, is subject to the political decision of the Member States\(^4\). Despite the fact that the provisions of EC Treaty Article 295 do not call in question the Member States' right to establish a system of property rights protection (including compulsory acquisition by public bodies), such systems remain subject to the fundamental rights of European law\(^5\). Fundamental rights form an integral part of the general principle of European Law, and their observance must be ensured\(^6\). Fundamental rights are identified by the ECJ from the common constitutional tradition of the Member States and from the guidelines supplied by the international treaties for the protection of human rights. The Convention For Protection of Human Rights and Fundamental Freedoms (hereinafter: the "Convention") has special significance for identification of these rights\(^7\).


\(^7\) Case: Annibaldi v. Sindaco del Commune di Guidonia and Presidente Regione Lazio, [1997], 7493.
In our opinion, the right to protect property from expropriation without fair compensation must be recognized as a fundamental right of European Law. This view is based on the following observations:

- European Law fundamental rights are contained in the Charter of Fundamental Rights of the European Union (hereinafter the “Charter”). Article 17.1 of the Charter reads: “No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss.” We stress that this Charter is merely a political declaration and not a source of law in the meaning of the EC Treaty; thus, it does not give rise to rights and obligations that can be enforced directly.
- The right of protection of property from expropriation without justified compensation may be found as a common rule in the Member States’ constitutions.
- The “Convention” in Article 1 of Protocol 1 to the Convention reads: “Every natural or legal person is entitled to peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”

In our judgment, as regards expropriation for the purposes of the RAP, if exercised according to applicable Polish legislation there will most probably be no violation of the right to protect ownership under the afore-mentioned European regulations. Moreover, we stress that for commencing a proceeding before the ECJ, it is necessary to establish that the given case falls within the scope of European Law\(^8\). In our opinion expropriation for the purpose of the RAP is not within the scope of European Law; thus Article 295 of the EC Treaty shall apply\(^9\).

2.3 Recognition of disputes with regard to expropriation by the European courts

The ECJ shall have jurisdiction to make preliminary rulings concerning the interpretation of European treaties. The law of Member States is subject to “control” of the ECJ in the event of a violation of fundamental rights only if this violation is within the scope of European Law. Nevertheless, that in our opinion the provisions of Polish law do not violate the right of protection of ownership, and the ECJ thus has no jurisdiction as such issues do not fall within

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the scope of European Law, private entities may attempt to commence proceedings before the ECJ.

If any question is raised before a Polish court and a determination of such question is deemed necessary to reach a verdict, the Polish court should refer to the ECJ for a preliminary ruling. The request to submit such a question to the ECJ may be lodged by the parties to the dispute pending before the Polish court. The Polish court must render a decision on the submission/refusal of submission of the case to the ECJ for a preliminary ruling. The parties may appeal such decision to a court of higher instance. If a case is pending before the court against whose decisions there is no judicial remedy under domestic law (the Supreme Court), such court is obliged to refer such case to the ECJ for a preliminary ruling. If the case is submitted to the ECJ for a preliminary ruling, the procedure before the Polish court will be withheld until the ECJ renders its judgment. The judgment of the ECJ is binding for the court that submitted this case for a preliminary ruling and other courts in this case in the event of an appeal.

The European Court of Human Rights (hereinafter the “ECHR”) shall have jurisdiction to render judgments against a country in the event of a violation of the Convention (and protected fundamental rights). Any natural or legal person may apply to the ECHR, provided that all domestic legal remedies have been exhausted (after a final decision of the Supreme Court). The parties must commence proceedings before the ECHR within six months from the date of final judgment. If the ECHR 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.

3. The World Bank regulations pertaining to the subject of the Analysis

Referring to the legal issues pertaining to the subject of the Assignment, we have reviewed documents concerning the legal status of the World Bank. We have also examined the following documents relating to the subject of the Analysis:


OP 4.12 contains the overall objectives of the World Bank Policies on involuntary resettlements; the character of the economic and social impacts covered as a result of Bank-assisted investment projects taken into consideration in the compensation process; and measures that need to be undertaken in order to achieve the objectives of the World Bank Policies.


BP 4.12 describes the institutional framework of involuntary resettlements in Bank-assisted projects.

For the purpose of this Analysis all three documents are collectively referred to as the “World Bank Policies”.

3.1 Interaction between Polish statutory law and the World Bank regulations

3.1.1 A possibility of direct reference to the World Bank regulations

For purposes of this Analysis we have examined ways to enable direct (i.e. by replacing the Polish law provisions) reference to the World Bank regulations. With this intention, we have examined provisions of the Constitution, which provides a list of sources of law applicable in Poland. Chapter III “Sources of Law”, Article 87 of the Constitution, enumerates as the sources of governing law for the territory of Poland:

3.1.1.1 the Constitution,

3.1.1.2 acts of Parliament,

3.1.1.3 ratified international treaties,

3.1.1.4 ordinances.
Section 2 of the same Article also provides that the acts of local law (issued by units of self-government administration within their competences) are the governing laws for the territory of competence of the authorities that issued them.

According to Article 91 of the Constitution, a ratified international treaty, upon its announcement in the Journal of Laws, becomes a part of the domestic legal system and is directly applicable, unless its applicability requires issuing of an act of Parliament. Section 2 of Article 91 provides that, in case of a conflict between the provisions of acts of Parliament and the international treaty ratified upon prior consent expressed in the act of Parliament, the provisions of such treaty shall prevail. Section 3 of the same Article states that should this conflict arise from a treaty ratified by the Republic of Poland constituting an international organization, the law established by this organization is applicable directly, having priority over Polish laws in the event of any discrepancy.

Taking into consideration the provisions of the Articles of Agreement of The International Bank for Reconstruction and Development, the Treaty on Establishment of the International Bank for Reconstruction and Development dated July 22, 1944 (Journal of Laws 1948 No 40 item 292), The Vienna Convention on International Treaties, dated 1969, ratified by the Republic of Poland in 1990, the Act on International Treaties, dated April 14, 2000 (Journal of Laws No 39 item 443, with further amendments), we are of the opinion that the regulations contained in the World Bank Policies would most probably not be applicable directly as a complete treatment of the subject of resettlements contemplated by the RAP. In our opinion, the Operational Policies may be treated as internal regulations of the international organization, (so-called "soft-law"), and are not directed to the member states of the World Bank. Thus, such Policies will not prevail over Polish statutory law.

According to the information acquired from the Bank representatives in Poland, the loan agreements with the Republic of Poland would require consent from the Parliament. The legal grounds for such consent would be Article 89 Section 1(5) of the Polish Constitution. Should that be the case, Article 87, Section 1, in connection with Article 89, Section 1 of the Constitution, provides, in light of Article 2 in connection with Article 3 of the Vienna Convention on International Treaties, a theoretical possibility that if the loan agreement between the Bank and the Government of the Republic of Poland stipulates a clear reference to the World Bank Policies, then those provisions of the loan agreement would prevail over the Polish legislation in aspect of resettlement procedures. We suggest, though, that given the current general character of
the World Bank Policies, the provisions contained in the loan agreement would have to be additionally developed to be clear and precise in order to be recognized as a complete treatment of the subject. In analyzing this aspect, we stress that, if such provisions become governing law for the resettlement under the RAP, then certainly this development would give rise to questions as to the equality in terms of eligibility to compensation of parties affected by the expropriation in other projects in Poland.

In conclusion, according to the authors of this Analysis the World Bank Policies should be treated as those specifying the goals whose execution can be possible on the basis of national legislation and not as overall regulations replacing the national law. The same interpretation is supported by the Policies themselves, namely Annex 2 to OP 4.12 which in item 7(e) poses before the expropriation plans created for the needs of Bank-assisted projects a task to find mechanisms to overcome legal discrepancies between the Bank's policy in the scope of expropriations and local regulations.

3.1.2 Interaction between Polish statutory law and World bank regulations – introductory remarks

In describing this issue first we need to point out that it is difficult to directly compare both legal systems due to different terms applied in World Bank regulations and Polish legislation. Not all institutions within the Polish legal system have their equivalents in the Bank’s regulations (and vice versa) and those terms which are used in both systems are often different as to their definition and scope.

Taking this introductory remark into account, in order to make it easier to use this Analysis we have defined basic terms contained in the World Bank Policies as close to their literal meaning as possible:

**Involuntary**\(^{10}\) – for purposes of the policy (of the Bank – note by GFKK), means actions that may be taken without the displaced person’s informed consent or power of choice.

**Displaced person**\(^{11}\) - refers to persons who are affected in any of the ways described in para. 3 of OP 4.12 (ie. (a) the involuntary taking of land resulting in: relocation or loss of shelter; lost of

\(^{10}\) OP 4.12 – footnote 7
\(^{11}\) OP 4.12 – footnote 3
assets or access to assets; loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons (note - by GFKK).

**Land**\(^{12}\) - includes anything permanently affixed to land, such as buildings and crops.

**Involuntary restriction of access**\(^{13}\) - covers restrictions on the use of resources imposed on people living outside the park or protected area, or on those who continue living inside the park or protected area during and after project implementation.

Replacement costs\(^{14}\) - With regard to land and structures, it is defined as follows: For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the land affected (by taking over – note by GFKK), plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities (and access to – note by GFKK) and services and located in the vicinity of the land affected (by taking over – note by GFKK), plus the cost of any registration and transfer taxes. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the structure affected (by taking over – note by GFKK), or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the assets and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an asset affected (by relocation – note by GFKK). Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement measures to be provided under other clauses in OP 4.12, para. 6.

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\(^{12}\) OP 4.12 – footnote 2  
\(^{13}\) OP 4.12 – footnote 8  
\(^{14}\) Annex 2 to OP 4.12 – footnote 1

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In further parts of this Analysis terms used for describing World Bank regulations are consistent with the above definitions.

3.1.3 Interaction between Polish statutory law and World Bank regulations – specific issues

Assuming that the term “resettlement” under World Bank Policies is equivalent in principle to the term of expropriation in the meaning of the MoRPA we have examined the interaction between Polish statutory law provisions and the World Bank regulations concerning expropriation. We have focused on the following problems: types of compensation provided for in connection with the expropriation projects, range of beneficiaries to apply for compensation as well as types and the scope of compensation.

3.1.3.1 Types of compensation under expropriations projects to be executed

According to para. 11 OP 4.12 of World Bank in relation to expropriation projects preference as far as types of compensation to eligible persons is concerned (described below) should be given to strategies provide for alternative land. If land is not the preferred option of the displaced persons, the provision of land would adversely affect the sustainability of a park or protected area, or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank. Payment of cash compensation for lost assets may be appropriate where livelihoods are land-based but the land taken (to be taken) for the project is a small fraction of the affected asset and the residual is economically viable; active markets for land, housing, and labor exist, and there is sufficient supply of land and housing; or livelihoods are not land-based.

3.1.3.2 Entities eligible for compensation

Interactions between Polish regulations and World Bank regulations can be presented as follows:
<table>
<thead>
<tr>
<th>Polish regulations</th>
<th>World Bank regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parties who have formal legal rights to land, which include: landowners; parties holding the perpetual usufruct right; parties having limited rights to real property ie. land and personal servitude, co-operative member’s right to their own apartment, co-operative right to utility premises, right to a single family house in a housing co-operative.</td>
<td>(a) Parties (displaced persons) who have formal legal rights to land;</td>
</tr>
<tr>
<td></td>
<td>(b) Displaced persons who do not have formal legal rights to land at the cut-off date but have a claim to such land or assets - provided that such claims are recognized under the laws of the country or become recognized through a process identified in the RAP</td>
</tr>
<tr>
<td></td>
<td>(c) Displaced persons who have no recognizable legal right or claim to the land they are occupying.</td>
</tr>
</tbody>
</table>

Comparing a legal situation pertaining to the entities eligible for compensation (or in a wider sense – for benefits due to expropriation) we should acknowledge that the categories of persons eligible pursuant to the MoRPA ie. landowners, perpetual usufructuaries and persons holding limited rights to expropriated land can be directly related to the categories described in item (a) at the World Bank’s side. Taking into account the fact that the category described in item (b) at the World Bank’s side refers to persons who do not have formal rights to expropriated land yet they have a claim to establish such rights formally, one may assume that taking into consideration a significant qualification for “recognising” such claims by national law persons in this category can be treated in a similar way as those who have formally recognized rights. For instance one may point out claims of persons who after a specified period of time acquired (or have an opportunity to acquire) by way of acquisitive prescription the ownership to the land they occupy (Art. 172 and subsequent articles of the Civil Code) or a situation of an independent landowner in good faith who erected in its area a building or other facility with a value significantly exceeding the value of the land, and who may claim for conveying the ownership to the occupied land for suitable compensation (Art. 231 of the Civil Code).

In indicating differences between Polish regulations and World Bank regulations we need to examine the category of eligible entities described in item (c) at the World Bank’s side. At first the designation of this category should be defined. In the opinion of the authors of this Analysis a
term referring to “displaced persons who have no recognizable legal right or claim to the land they are occupying” from the perspective of Polish material law should include landowners (independent possession) who for different reasons have not acquired owner’s rights. The reasons for that can be, for instance, insufficient time for acquiring ownership rights to the land occupied by virtue of acquisitive prescription or whose “ownership” was acquired by them on the basis of a defective sale agreement (e.g. the prescribed form of a notary deed has not been observed).

In establishing whether the above assumption is correct in order to make the following argumentation clear first we need to define the institution of possession and later concentrate on a doctrinal dispute concerning its nature, which has the key significance from the perspective of this Analysis.

Art. 336. of the Civil Code reads:

A possessor of a thing is the one who actually holds it as an owner (independent possessor) and the one who actually holds it as a user, pledgee, tenant, lessor or having other rights connected with specific control over another person’s thing (dependent possessor).

Generally speaking possession is a kind of control over a thing which can be connected with the execution of a right (e.g. ownership right), but it does not have to be connected with the execution of a right (e.g. a person who concluded an agreement on the conveyance of property ownership in a defective form).

Under Polish conditions, especially in the countryside, there were often discrepancies between the state of ownership and the state of possession as a result of which a significant number of farmers cultivated the lands that were not in their ownership. There were various reasons for that situation: little command of law among residents or their unwillingness to incur additional charges due to acquisition of property in a formal way (“official”). In order to regulate this problem the legislature decided to intervene. He did it in the Act regulating farm ownership dated October 26, 1971 (Journal of Law No. 27, item 250, 1971) which granted land ex lege to persons who on the effective date of this Act (4.11.1971) were holders of lands as a result of “informal” agreements on the ownership conveyance as well as some other categories of holders. This Act was made invalid by the act dated 26.03.1982 changing the Civil Code Act and on invalidating the
Act regulating farm ownership (Journal of Law No 11, item 81, 1982). In retrospect it is arguable that this Act resolved the problem of agricultural land holders without ownership rights to a large extent.

In Polish law (but not only in Polish law) there is a doctrinal dispute lasting for many years (if not centuries) between supporters of the concept to recognize possession as a subjective right – one of material rights and supporters of the theory that possession is only an actual state and does not create a subjective right. Without opting for any of those standpoints one should point out that the majority of legal regulations and practically all jurisdictions support the concept of recognizing possession as an actual state which entails specific legal effects (described below).

By relating the dispute described above to this Analysis one may state in a simplified way that the adoption of the first concept i.e. recognizing possession as a subjective right – material law allows for covering with a disposition of Art. 112 para. 2 of the MoRPA

*Expropriation of real property consists in deprivation or limitation, through a decision, of a right of ownership, right of perpetual usufruct or other limited right to the real property.*

Also the possessing of real property, which would not necessarily have to be connected with ownership (perpetual usufruct). However, as it was noted earlier the theory to recognize possession as a material right is not dominant in Polish law.

In case of rejecting the concept of recognizing possession as a material right and of adopting that possession (not linked with ownership) is only an actual state, in order to evaluate its consequences for this Analysis we need to examine legal effects connected with possession, including the problem of protection.

Legal effects connected with possession include among others: a number of presumptions (including presumption of existence of a right due to the fact of possession), possibility of acquiring profits of a thing by a possessor in good faith, possibility of acquiring ownership by a possessor after sufficient time or protection of possession to which a possessor is entitled (in principle) regardless the kind of possession. When dealing with the last consequence one should state that a possessor is entitled as to the principle to the possessory protection (protection of the actual state) which consists in protecting the possession against violation.
With few exceptions the possessor is not entitled to claims for compensation for violation of possession. One of the exceptions to this rule is a possibility of claiming for compensation according to Art. 415 and subsequent articles of the Civil Code, if the possession was violated due to an unlawful act. In such a situation it is possible to claim for compensation from the person responsible for such violation. However, we note that certain behavior would result in responsibility for compensation only if all conditions of responsibility exist. Such a condition is in principle unlawfulness of an action, damage caused or adequate causal nexus between the action and damage caused. Due to the fact that expropriation stipulated in the MoRPA is carried out on the basis of administrative decisions issued pursuant to a statutory delegation, the existence of unlawfulness is doubtful, which in turn in principle (but not completely) excludes the existence of responsibility for compensation due to an unlawful act.

It is possible to adopt that in a specific actual state the execution of rights aiming to deprive of the possession without compensation may be the violation of social existence rules. According to Art. 5 of the Civil Code an action which violates the rules of social existence does not make advantage of protection and is an unlawful action. As a result a condition of unlawfulness in a given actual state will occur and therefore a potential possibility of claiming for compensation, at the assumption that remaining conditions of responsibility are fulfilled. Obviously the evaluation whether social existence rules have been violated depends on the evaluation of a specific actual state. Leaving aside a possibility of applying the term of expropriation (strict sense) to the situation of deprivation of possession being an actual state (according to a prevailing standpoint of the doctrine of law), and not the right, one should point out that in certain circumstances the violation of possession due to the Project execution may lead to claims for compensation by possessors. However, it should be taken into account that probability of formation of responsibility for compensation is small in this actual state.

The MoRPA in Art. 116 item 5 provides for protection of persons who are tenants of expropriated premises. The protection of that category of persons is de facto (and also de jure) the protection of dependent possessors. The MoRPA imposes on the authority responsible for expropriation an obligation to ensure alternative premises to them. Information on fulfillment of this obligation is included in an expropriation motion submitted by the entity which intends to execute a public goal or by a territorial self-government unit. This obligation also pertains to the resettlement procedure initiated ex officio. The regulation does not precisely state whether the ensuring should be understood as the conveying of premises into ownership or enabling the use
of premises on the basis of a rental agreement. In the light of interpretation of purposefulness one should acknowledge that the second solution is to be taken into account.

3.1.3.3 Scope of compensation for eligible persons

As regards general postulates concerning resettlement procedures OP 4.12 provides that involuntary resettlement should be avoided where feasible or minimized, exploring all viable alternative project designs. Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs. Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher. As far as categories of impacts covered are concerned, the OP 4.12 refers to direct economic and social impacts that both result from Bank-assisted investment projects and are caused by

(i) the involuntary taking of land resulting in: relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or

(ii) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement that, in the judgment of the Bank, are directly and significantly related to the Bank-assisted project.

According to OP 4.12, the displaced persons, in addition to all the necessary support in form of consultation and information, should also be provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. The compensation includes measures to ensure that the displaced persons are: provided assistance (such as moving allowances) during relocation, and residential housing, or housing sites, or, as required,
agricultural sites for which a combination of productive potential, geographic advantages, and other elements at least equivalent to the advantages of the old site.

Where necessary to achieve the objectives of the policy (to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher), displaced persons should also be offered support after displacement for a transition period based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living. They should also be provided in addition to compensation measures with development assistance such as land preparation, credit facilities, training and job opportunities.

In projects involving involuntary restriction of access to legally designated parks and protected areas, the nature of the restrictions, as well as the type of measures necessary to mitigate adverse impacts, should be determined with the participation of the displaced persons during the design and implementation of the project. In such cases, the RAP should also provide for measures to assist the displaced persons in their efforts to improve their livelihoods in real terms, or at least to restore them, while maintaining the sustainability of the park or protected area. To achieve the objectives of this policy, particular attention should be paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons.

By relating the above categories of compensation to the categories of eligible persons described in a table in item 3.1.3.2 of this Analysis it should be noted that the World Bank Policies state that the categories of eligible persons described in items (a) and (b) in the table for the involuntary taking of land resulting in: relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood (whether or not the affected persons must move to another location) should receive support in the scope of: necessary consultation and information as regards technically feasible alternatives and rights under the resettlement process as well as compensation at full replacement cost, residential housing or housing sites or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site. Where necessary to achieve the objectives of the policy, displaced persons should also be offered support after displacement for a transition period based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living. They should also be provided in addition to compensation measures with development assistance such as land preparation, credit facilities, training and job opportunities.
Eligible persons mentioned in item (c) of the table in item 3.1.3.2 of this Analysis instead of compensation should receive resettlement assistance which, according to explanations to BP 4.12 may include land, other assets, cash, assistance in finding a job etc. depending on the situation as well as support necessary for achieving goals specified in the World Bank Policies. Assistance referred to above is due if the expropriated persons occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance.

All persons included in para. 15(a), (b), or (c) are provided compensation for loss of assets other than land.

When comparing the scope of compensation Polish law regulations provide them for benefit of eligible persons (as indicated in the table presented in item 3.1.3.2) within the range described in item 1.5.2.3 of the Analysis. World Bank regulations provide compensation following the remarks presented in item 3.1.3.3.

In order to make reading of this Analysis easier we present a relation between both groups of regulations dividing the issue into parts: (a) compensation and benefits connected with compensation, (b) other:

(a) Compensation:

(i) date of determining the market value of land being the basis for determining the amount of compensation:

World Bank regulations:

- with reference to lands it is the date when the project or resettlement begins, whichever is higher;
- for lands located within urban areas it is the date preceding the expropriation.

Polish regulation:

Each time it is the date when an expropriation decision is issued:
(ii) determination of the value of real property in order to estimate the amount of compensation:

World Bank regulations:

- Value of agricultural land – the market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.
- Value of land in urban areas – the market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes;
- Value of houses and other structures (including other facilities) - the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.

Polish law

- Value of land (without differentiation between types) is determined on the basis of its market value taking into account its type, location, use, if its designation in the local plan, according to the expropriation purpose, does not increase its value (if it increases, the higher value may be assumed), number of technical infrastructure facilities, state of development and current prices in the real property trade;
- Value of buildings or their parts, structures, technical infrastructure facilities and other equipment is determined according to the above rules unless due to the kind of real property its market value can be estimated on the basis of costs of its reconstruction including the degree of wear.
- In estimating the value of forest trees, if the trees contain useful materials, the value of wood in these trees is determined. If trees do not contain useful material or the value of wood which can be obtained is lower than the value of afforestation and maintenance, costs of afforestation and maintenance are estimated up to the resettlement date. In estimating the value of cultivation of long-term Vegetations costs of establishing and
maintaining the Vegetation are calculated up to the time of first crops as well as the value of lost profits within the period from the expropriation date to the day of completion of full harvesting. A sum of costs and the value of lost profits is decreased by the sum of annual depreciation write-offs resulting from the period of using the Vegetation from the first year of harvesting until the expropriation date. In determining the value of sowing, cultivation and other annual crops, the value of anticipated harvest is determined according to market prices, decreased by the value of inputs necessary for harvesting the crops.

From the comparison of the regulations above it appears that the regulations of both groups, in spite of the fact that they are formulated in a different way, refer basically to the market price of the expropriated land (including constituents) as to the reference price used for determining the value of compensation. The dates for determining the value of real property (mentioned above) are established differently. As opposed to World Bank regulations Polish provisions do not include costs of adopting the land to standards approximate to the affected land nor the costs of registration and transfer taxes within compensation. With reference to the estimation of the value of buildings World Bank regulation unlike Polish provisions do not include the degree of wear as a condition to decrease their value.

Polish regulations do not provide for any specific taxes imposed on a tax payer due to expropriation. In a wide sense provisions of laws on income taxes can be applied to the problem of expropriation. The Act on natural persons’ income tax in Art. 21 para. 1 item 29 reads that income obtained due to compensation paid under regulations on real property management or due to paid disposal of real property for purposes justifying its expropriation are exempt from income tax. The above exemption does not apply to cases when the owner of the land mentioned in the preceding sentence, had acquired its ownership within 2 years before the expropriation procedure commenced or the real property was disposed of for the price lower by at least 50% than the amount of the compensation obtained or the price of disposing the real property for purposes justifying its expropriation.

The Act quoted above does not provide for any specific mode of exemption from the tax duty for persons excluded from the disposition of the same exemption, however one should point out a possibility (after fulfilling certain conditions) of exemption from income tax for those tax payers who are not qualified to general exemption specified in Art. 21 para. 1 item 29 of the Act on natural persons’ income tax.
The Act dated February 15, 1992 on legal persons' income tax (Journal of Law of 2000 No 54, item 654 with subsequent amendments) in its current meaning does not provide for similar exemption.

From this perspective we may speak about a difference between Polish regulations and World Bank regulations that if a tax obligation is imposed on a payer who is a legal person, connected with compensation received due to expropriation, the value of this tax should be included in the compensation pursuant to the definition (in a wide sense) of compensation included in Policies.

As regards other public law levies due to expropriation we may deal with court fees (eg. connected with procedures related to land and mortgage registers when making entries concerning alternative land) and administrative fees (eg. connected with an obligation to obtain new identity documents in case of a new place of residence). The amount of those levies should not be significant and should be estimated ad casu (ie. with reference to individual cases) and an obligation to include them within the value of benefits received as a result of negotiations and within compensation is justified by a constitutional postulate to pay “fair” compensation for expropriated assets.

As opposed to Polish regulations World Bank regulations expressly provide for compensation for loss of assets other than land. Taking into consideration the fact that apart from land (together with constituents) also land which is not subject to expropriation due to obvious reasons can be lost, the loss may also be understood as any situation when land is lost (and damaged) due to the execution of the expropriation process. At such interpretation one should refer to general rules of the Civil Code governing the problem of expropriations, stating at the same time that if land is lost or damaged under conditions specified in Art. 417, 417\(^1\) of the Civil Code, the affected person will be entitled to compensation in a full amount of the damage. Under Polish conditions the execution of this right can be enforced by court, which does not diminish the value of claims of affected persons.

(iii) Term of payment of the compensation:

The provisions of the World Bank

The World Bank Policies require prompt payment of the compensation at the level provided by the principles included in the Policies.
The Polish law.

In accordance with article 132 of the MoRPA the payment of the compensation takes place within 14 days from the day in which the decision on expropriation became enforceable. In cases for which the separate decision on compensation had been issued, the payment of compensation shall take place within 14 days from the day in which the decision for compensation became final. The provisions of the Polish Civil Code shall be applied to the effects of delay in payment of the compensation. The amount of compensation as set forth in the decision on expropriation shall be subject to revaluation on the date of payment. This revaluation shall be made by the administrative unit obliged for payment of the compensation. On permission of the affected person, Starosta may settle for alternative way of payment of compensation.

Such handling of the problem of the term of payment of the compensation in the Polish law allows for the conclusion, that there is no material difference in comparison to the provisions of the Policies.

(b) other

(i) information obligations

As mentioned above the provisions of the World Bank impose on institutions engaged in the projects connected with expropriation a number of information obligations. The affected persons related to displacement or loss of shelter, loss of assets or access to assets, loss of sources of income or livelihoods (independently from the fact on whether such person had been forced to migration or not) should receive necessary assistance in form of consultation and information about their options and rights pertaining to expropriation.

The provisions of MoRPA do not provide expressis verbis such obligations of the public institutions being engaged in the process of the expropriations, however the obligations concerning information and consultation are imposed upon the units of public administration by the provisions of Chapter 2 of Polish Administrative Procedure Code. Within this scope there is no material difference between the World Bank regulations
and the provisions of Polish law (in broad meaning). With respect to the affected persons the regulations of the World Bank provide for assistance during relocation (such as moving allowances). Polish law does not envisage such form of aid.

(ii) The assistance in the development.

Towards the persons affected as a result of expropriation in addition to compensation measures the regulations of the World Bank envisage development assistance in form of and preparation, credit facilities, training or job opportunities. Polish law on expropriations do not provide for such form of assistance. However one has to take into account that said aid should be awarded in order to achieve the purposes of the Policies, which is aimed at improvement or at least restoration in real terms livelihood and standards of leaving to the pre-project or pre-expropriation levels. (whichever is higher). With respect to the above, it should be stressed that for the factual assessment of the extent of this obligation, one needs to relate them to the current situation of the people from areas covered by the project.

(iii) Restriction of access to parks and protected areas.

Pursuant to regulations of the World Bank, restriction of access (in accordance with definition of this term 3.1.2.) covers restrictions on the use of resources imposed on people living outside the park or protected area, or on those who continue living inside the park or protected area during and after project implementation.

In situations when new parks and protected areas are created as a part of the project, persons who lose shelter, land or other assets, shall be subject to the provisions of article 3 (a) OP 4.12, thereby these persons are subject to these same principles as another categories of people affected with the expropriation. Similar principles shall be applied also to persons who shall lose their shelter in the existing parks and on the existing protected areas. Such interpretation of the Polish provisions leads to the conclusion that the Polish expropriation provisions are not contradictory with the Policies of World Bank.
With respect to the remarks contained in the Analysis, in projects requiring compulsory
restriction of access to parks and legally designated areas, the nature of restrictions and
essential preventive measures undertaken for mitigation of the negative impacts of the
project, should provide for participation of the affected communities during design and
implementation of the project. In such situations, RAP should also provide for measures
to assist displaced persons in their efforts to improve or at least to restore (in real terms)
their livelihoods. In this aspect, independently from the lack of the detailed regulations
concerning of the consultation and information obligations in MoRPA within the
aforementioned scope, on the basis of provisions of Chapter 2 of the Polish
Administrative Procedure Code, as well as along with due reference to the provisions of
the Act dated 27th March 2003 on spatial planning and development Journal Law dated 10th
May 2003 (including among others chapter 5), the obligations provided in the Policies of
Bank which envisage the participation of communities affected by expropriation process
in the process of design and implementation of the project that had been imposed on the
public entities engaged in the projects connected with expropriations, may be recognized
as being covered by the Polish law.

(iv.) Protection of “vulnerable groups”

In contradiction to the Policies (OP 4.12 para. 8), Polish law does not establish any
particular obligations pertaining to the treatment of the vulnerable groups, such as people
living below the poverty line, the landless, the elderly, women and children, indigenous
people, ethnic minorities, in the process of expropriation These persons pursuant to
Polish law relating to expropriations shall be treated as any other categories of the
affected persons. The above said does not exclude the possibility of providing particular
attention to those categories of people by the public institutions acting in the broadly
understood social assistance sector provided that these persons as a result of
implementation of the project involving expropriation may find themselves a in situation
which require such assistance pursuant to the separate regulations.

3.1.4 The legal mechanisms to enable overcoming of the disparities between Polish law
and the World Bank regulations.
Taking into account the fact that in the Polish legislation concerning expropriations there are no references to any other legal systems, Polish applicable law shall be applied as the governing law. Accordingly to Polish law in force in date of issuing of this Analysis there is no directly legal basis for referring to the World Bank Policies as regulations having priority in case of discrepancies with Polish law.

Upon presenting the differences between Polish law and the World Bank regulations, we would like to propose the following ways to overcome those discrepancies:

3.1.4.1 The difference concerning the scope of the persons entitled to consideration.

As stated in the point 3.1.3.2 of the Analysis, persons being the possessors of the real properties and not being owners or perpetual usufrutuary (the category of persons entitled accordingly to Policies of World Bank – see table set forth in 3.1.3.2) are not recognized as persons entitled to consideration on the basis of MoRPA (with the exception made on with respect to the tenants of the expropriated premises). A possible solution enabling a reference to the World Bank Policies, is containing in the loan agreement to be executed between the World Bank and the Republic of Poland, which will have a status of an international agreement a reference to the obligation of the Republic of Poland to provide compensation measures to the persons covered by the World Bank Policies. Such stipulations of the loan agreement will be deemed as being supplementary with regard to the provisions of the Polish law. In practice we encounter situations, when financial resources are transferred as a target subsidy to the appropriate territorial self-government units or other units (including budgetary agency) within the scope of designated tasks and pursuant to regulations set out in agreements/arrangement concerning disposal of those subsidies.

With respect to the above, we have to point out that, such treatment of the persons entitled in category (c) according to the table above may be deemed as privileged, which may entail a possible charge of breaching of principle of the equal treatment, as expressed in the article 32 subparagraph 1 of the Constitution.
3.1.4.2 Development assistance

The possible way of realization of an obligation to provide consideration assigned for assistance in development such as an allowance to remuneration in the form of: development assistance in form of and preparation, credit facilities, training or job opportunities within the Polish applicable legislation may be realized by means of using existing institutions and legal instruments being in their competence. Accordingly to the article 3 of the Act dated 6th July 2001 on establishment of the longterm program “Project for Oder – 2006” (Law Journal no. 98, item 1067 with subsequent amendments) the said Project is managed by The Council of Ministers. The realization of said Project may be recognized as the task being within the scope of governmental administration and its implementation may be assigned to other entities as the assigned task. Together with the assignment certain funds necessary for their realization should be provided. With respect to the scope of the development assistance, as defined in the Policies, the institutions assigned with certain competences may be:

- territorial self-government units, in particularly boroughs to which according to article 6 subparagraph 1 of the Act dated 8th March 1990 r. on community self-government (Journal Law dated 2001, no. 142, item 1591 with subsequent amendments)

- the institutions provided in the Act dated 20th April 2004 on promotion of employment and institutions of the labor market (Journal Law no. 99, item 1001), in particularly: district labor offices, province labor offices, labor intervention agencies, temporary labor agencies, training institutions;

- social assistance institutions: social assistance centers, municipal social assistance centers (municipal centers for the assistance to the family), regional social assistance centers;

- commercial banks or financial institutions which may be engaged in the programs on credit facilitations to affected persons on the basis of civil contracts and financial resources assigned for said purpose,

The above institutions hold suitable legal instruments which enable provision of the consideration in form of development assistance, provided that the prerequisites arising from applicable provisions shall be fulfilled. The financial resources assigned for realization of those tasks may directly or indirectly be assigned to the appropriate entities in form of target subsidy.
3.1.4.3 The difference with reference to scope of the compensation.

The World Bank regulations envisage that in situations the domestic law does not provide for the compensation at the full replacement cost level, the compensation to equal the level provided according to the World Bank policies, should be supplemented by additional measures. Such additional assistance is distinct from the resettlement measures to be provided pursuant to OP 4.12 para. 6.

Below we present proposals of overcoming of the discrepancies between Polish law and regulations of the World Bank:

(a) the issue of taking into account depreciation of buildings and other assets in the process of assessing the value of the real property for the purpose of expropriation

At the stage of the voluntary expropriations by reference to the notion of freedom of contracting as the principle deriving from the Polish Civil Code with regard to the method of determining the amount of consideration (whether cash, or in - kind) there exists the possibility of determining of payment of the consideration at the level stipulated in the World Bank's Policies.

At the stage of involuntary expropriations, in principle the rules of estimation of the real estate provided by MoRPA, which envisage obligation to determine the state of real estate with reference to the degree of its depreciation as provided in the Act on G.N. are binding. The public authority competent to decide on the amount of compensation theoretically may estimate the amount of compensation at the higher level than, than the assessment made by the property surveyor, however if the real estate depreciation has not been taken into account in the assessment, than such action might by recognized as action contra legem (contrary to the law).

Furthermore, in our view, taking into account the level of depreciation in the course of real estate assessment made for purpose of establishing the level of compensation, could not be recognized as the constituting the breach of Constitution norm providing for obligation of payment a "fair compensation". This arises out from the institution of the compensation provided in Polish law which refers to obligation of redress of damage in its factual amount. This is a crucial issue in the
context of compensations in the event of expropriations, as stipulated in the MoRPA, where in principle the compensation refers exclusively to *damnum emergens* (i.e. without future incomes, which are lost, because of the damage)

The possibility of overcoming of this discrepancy between both groups of provisions would have to lead to use of indirect forms of granting the assistance (not recognized as compensation) set forth above in the 3.1.4.1.

(b) the issue of the land preparation to levels similar to expropriated land cost.

Similar to the remarks to the sub-point (a) above, also in relation to this category of consideration, on the "voluntarily" expropriation stage, by reference to contracting freedom deriving from the Civil Code, there is a possibility to establish consideration for real estate on the level of the World Bank Policies.

On the stage of involuntary expropriation, in principle there is no possibility to finance this kind of consideration, as the compensation for expropriated real properties should be equal the value of real estate/ proprietary right being subject to expropriation. On the other hand, taking into account provisions of the Article 21 section 2 Polish Constitution, which use the notion of "fair" compensation and which may be an autonomous (having superiority in case of divergence with other domestic legal acts) base for claims, one may assume, that in situations of difference between the value of the land affected by expropriation and the land received as the compensation, the principle of fair compensation should lead to assuming this higher level of compensation (regardless if it is in cash payment or by alternative real estate).

(c) The issue of the date relevant for establishing the value of real estate for calculating compensation purposes.

One can overcome the presented difference on the stage of "voluntary expropriation" according to the remarks presented in sub-point (a) above.
On the stage of “involuntary” expropriation, without prejudice to the problem of interpretation of “pre-project or pre-displacement” dates, on the basis of applicable Polish law, there is no direct way to overcome the difference in aspect of assuming the different than stipulated in MoRPA date for assessing the value of the real estate.

Possible disadvantage being the result of assuming different date of establishing the value of expropriated assets, that the one, that would have been assumed according to the World Bank regulations one may attempt to overcome by indirect method i.e., namely by additional compensation as discussed in point 3.1.4.1. above.

(d) The issue of registration and transfer taxes as part of the compensation.

Assuming that definition of “registration and transfer taxes” encompasses also income taxes, there is a chance of discrepancy between Polish law and the World Bank Policies, as in light of Polish tax law compensation received for expropriated assets (in some situations) is subject to the income tax. Indirect way of compensating this cost to the taxpayer one may search on the stage of “voluntary” expropriation, by way of including this costs in the in the consideration for expropriation. On the “involuntary” expropriation stage in assessment of the authors of Analysis there is no opportunity to take this cost into account. In this context we would like to point out the provisions of the Article 22 §1 point 1 of the Act on rules for taxation (ordynacja podatkowa) of August 29, 1997 (Journal of Law no 137, item 926, 1997), which reads:

In circumstances justified by the public interest or taxpayers' important interest, the minister competent in matters of public finance through a regulation may waive entirely or in part the collection of taxes, specifying the type of tax, the period for which the waiver shall apply, and taxpayer groups to whom the waiver shall apply.

In all of this situations, the public authorities (largo sense) which deal with expropriations and decide about the level of consideration to affected persons should take into account constitutional rule of equality to the law as well as specified in the Act of Parliament on public finances the principles relating to management of public resources. In some cases (mainly in relation to business entities) the necessity may arise to analyze the problem of consideration provided to the affected persons in light of public aid law.
In order to allow for application of the World Bank Policies provisions to designing and implementation of Project, in situations, when this regulations do not fully comply with Polish law provisions, we recommend introducing a reference to specific provisions of the World Bank Policies in the loan agreement between the Republic of Poland and the World Bank, with the description of legal mechanisms for implementation of those World Bank regulations on the basis of relevant Polish law.

Yours faithfully,

*Grzybczyk Fuchs Kaluża Kamiński Attorneys at Law, Partnership*
Annex 1 to the Analysis
Specific issues connected with expropriation

1. Legal regulations concerning the closure of a cemetery located within the area for an intended reservoir and the designation of an alternative site for interments (who takes the decision and designates alternative sites).

The analysis of issues concerning the closure of the cemetery and designation of an alternative area for interments has been based on the following legal acts:

1./ Act dated January 31, 1959 on cemeteries and burying the dead (Journal of Law 2000, no. 23 item 295 with further amendments);
2./ Ordinance by the Ministers of Land Management and Environmental Protection Health and Social Care dated October 20, 1972 on establishing cemeteries, maintaining cemetery registers and burying the dead (Journal of Law 1972 no. 47 item 299 with further amendments);
3./ Ordinance of the Minister of Municipal Management dated August 25, 1959 indicating which areas are suitable for cemeteries as regards sanitary conditions (Journal of Law 1959 no. 52 item 315);
4./ Act dated May 17, 1989 on the State’s Relations with the Catholic Church in the Republic of Poland (Journal of Law 1989 no. 29 item 154 with further amendments);
5./ Concordat between the Holy See and the Republic of Poland dated July 28, 1993 (Journal of Law 1998 no. 51 item 318);

The Act on cemeteries and burying the dead differentiates between municipal and church cemeteries. Establishment and extension of municipal cemeteries are the commune’s own tasks. A decision in this matter is taken by a commune or town council (in towns with powiat (district) rights) after obtaining an approval of a relevant sanitary inspector. The commune or town council decides on the closure of a municipal cemetery after obtaining an opinion of the sanitary inspector. In relation to church cemeteries the Act referred to above reads that a decision on the establishment or extension of a church cemetery is left to church authorities. It may be done within the area designated for that purpose in the local master plan after obtaining an opinion of the sanitary inspector. A decision on closing a church cemetery is taken by church authorities after obtaining an opinion of the sanitary inspector.
Pursuant to Art. 24 of the Concordat - "The Church has the right to erect, extend and preserve sacred and church buildings and cemeteries - according to Polish law. A diocesan bishop or other proper ordinary bishop decides on the need for the erection of a temple and for the establishment of a cemetery. The erection of sacred and church buildings and the establishment of a cemetery are initiated by relevant church authorities after arranging the site with competent authorities and after obtaining necessary administrative decisions".

A comparison of the Concordat provision quoted above with stipulations of the Act on the State's Relations with the Catholic Church in the Republic of Poland, particularly:

- Art. 42 para. 1, according to which a site is designated in local master plans for church investments and catholic church cemeteries following the motion of a diocesan bishop or monastery superior; and
- Art. 42 para. 4, according to which diocesan bishops or monastery superiors decide on the sequence of church investments within the social and economic plans;

allow to assume that "the relevant church authority" in the meaning of the Act on cemeteries and burying the dead quoted above, responsible for a decision on the closure of a cemetery after obtaining an opinion of a competent sanitary inspector and for a decision on establishing a cemetery after arranging the site with competent authorities and after obtaining necessary administrative decisions is a diocesan bishop. Although according to Art. 45 para. 1 of the Act on the State's Relations with the Catholic Church in the Republic of Poland – parishes are entitled to have, manage, establish and extend graveyards (which would indicate a parish priest as a competent church authority), pursuant to para. 4 Art. 45 this entitlement "does not infringe general regulations concerning cemeteries and burying of the dead, spatial planning and protection of farm and forest lands", which means that the competence to issue a decision on the closure of a cemetery as well as on its establishment is left to the bishop. It does not exclude a possibility of transferring this competence to e.g. a parish priest by the bishop within the diocese's organizational structure. As regards a decision on the location the investor has to take actions to make competent church authorities actively participate in the process of closing a cemetery and take care of all relevant issues.

In the case of changing the purpose of the cemetery site remains of bodies should be moved to another cemetery at the cost of a purchaser or new user. In the case of expropriation of a cemetery area costs of the exhumation and moving of bodies are covered by the purchaser of the area. When the area is being taken over (designated) for other purposes bodies are exhumed on
the basis of a decision of a proper sanitary inspector. The cemetery site may be used for other purposes provided all historic, archeological and artistic mementoes are preserved. The investor should apply to the Provincial Conservation Officer for approval to move them. Any actions in this scope should be also agreed with a commission working at the diocesan bishop whose tasks, according to Art. 25 of the Concordat, include the cooperation with “relevant state authorities in order to preserve cultural assets of a nationwide character and archival documents of historic and artistic value kept in church buildings”.

2. Legal regulations concerning the exclusion of forest lands within the reservoir cup from forest use and the exclusion of farm lands from agricultural use for alternative buildings when a local master plan does not exist.

The analysis of legal regulations concerning the exclusion of forest lands within the reservoir cup from forest use and the exclusion of farm lands from agricultural use for alternative buildings when a local master plan does not exist, has been based on the following legal acts:

1./ Act dated February 3, 1995 on protection of farm and forest lands (Journal of Law 2004 no. 121 item 1266);
2./ Act dated September 28, 1991 on forests (Journal of Law 2000 no. 56 item 679 with further amendments);
3./ Act dated October 19, 1991 on management of the State Treasury’s agricultural real properties (Journal of Laws 2004 no. 208 item 2128);
4./ Act dated March 27, 2003 on spatial planning and development (Journal of Law 2003 no. 80 item 717 with further amendments).

Taking into account the fact that the planned construction of a reservoir is a public purpose investment of nationwide importance, the starting point for the analysis of the problem described above is Art. 50 para.1 of the Act on spatial planning and development, according to which in the case when there is no local master plan, an investment for public purposes is given a location on the basis of a decision on the location of the public purpose, hereinafter: a location decision. If the location decision is treated as “replacing” a local master plan there seems to be grounds for the interpretation that the term of “a local master plan” wherever contained in legal acts (including
the ones mentioned above) also means a location decision for the needs of a specific case. In context of the exclusion of forest lands from forest use and farm lands from farm use one should point out that according to Art.53 para.4 item 6.) – a location decision is issued in agreement among other things with “authorities proper for issues concerning the protection of farm and forest lands and water meliorations – with reference to lands used for agricultural and forest purposes in the meaning of real regulations on management of real property”. It means that proper authorities already know the investor’s needs concerning the lands in connection with the execution of a public purpose investment, including the need for excluding certain areas from forest or farm use.

According to Art. 7 para. 1 of the Act on protection of farm and forest lands – farm and forest lands are designated for non-agricultural and non-forest purposes in a local master plan (a location decision) in the mode specified in provisions on spatial planning and development.

Designation for non-agricultural and non-forest purposes of:

1) farm lands being I – III class arable lands, if their close area designed for such purpose exceeds 0.5 ha – requires an approval of the Minister of Agriculture and Food Management;

2) forest lands owned by the State Treasury – requires an approval of the Minister of Environmental Protection, Natural Resources and Forestry or a person authorized by him;

3) farm lands being IV class arable lands, if their close area designed for such purpose exceeds 1 ha,

4) farm lands being V and VI arable lands, produced from soils of organic origin and peat lands, if their close area designed for such purpose exceeds 1 ha;

5) other forest lands

- requires the voivode's approval issued after obtaining an opinion of the agricultural chamber (Art.7 para.2)

An approval mentioned in para. 2 items 1-5 is issued to the motion of the wójć (mayor, town president). The wójć (mayor, town president) encloses an opinion of the director of the regional State Forests Administration with the motion concerning forest lands owned by the State Treasury and in relation to lands of national parks – a park director’s opinion. The motion concerning lands referred to in para. 2 items 1 and 2 is enclosed with the opinion of a voivode who submits the motion to the competent minister within 30 days from submission of the motion by the wójć (mayor, town president).

Issues connected with the changing of the designation of lands are specified in details in Art. 11 of the Act on protection of farm and forest lands. The provision mentioned above lays down a requirement to obtain an approval for the exclusion of a specified category of arable lands from
production and forest lands intended for non-agricultural and non-forest purposes. Such an approval specifies obligations connected with the exclusion. The rule is that the approval for the exclusion of lands from production imposes a duty to pay annual charges (in relation to farm lands) and in relation to forest lands — single compensation in case of premature clearing of trees.

With reference to this specific reservoir construction project one should point out at the regulation included in Art.13 of the Act on protection of farm and forest lands. Pursuant to this regulation:

Para. 1. While excluding lands from production in order to construct water reservoirs fees and annual charges are fixed proportionally to the participation of persons in using these reservoirs.

Para. 2. If the water reservoirs referred to in para. 1 are to be used by the persons who utilize water for agricultural and forest production, for power generation in water power plants with installed capacity not higher than 10 MW or for fire protection, payments of a proportional portion of fees and annual charges is suspended for 10 years. A proportional portion of fees and annual charges is fixed appropriately to the participation of those persons, specified in the reservoir technical documentation, however inviolable flow determined in this documentation is included in the use of the reservoir for agricultural purposes. A suspended portion of fees and annual charges is amortized after 10 years.

As far as issues concerning a new location of the cemetery (see item 1) are concerned one should point out at a possibility of amortizing all or part of fees and annual charges for farm lands and a compensation for premature clearing of trees in relation to forest lands, in the case of an investment for public purposes in the scope of education, culture, religious cult, health and social care if the investment serves a local community and if it concerns the extension or establishment of a cemetery, if the area subject to exclusion does not exceed 1 ha and there is no possibility of executing the investment in the land under no protection. As far as farm lands are concerned the amortization is done by the marshal of a voivodeship and director of the regional State Forests Administration to the motion of an executive unit of territorial self-government (Art. 12 para. 16 of the Act on protection of farm and forest lands).

According to the provisions of the Act on farm and forest land, commencement of the procedure connected with the changing of the purpose and exclusion of lands from farm and forest production requires a motion of the wójt (mayor, town president). If executive bodies of a commune do not show a will to cooperate in spite of the investor's motion and of a decision on the location, it is necessary to consider "alternative variants". Pursuant to Art. 87 of the Act on commune self-government — Supervising bodies may step in the commune's activity only in the cases specified by laws. Such a case directly provided for in the act is, among other things, authorization of a
voivode to issue a decision on the location for a public purpose investment in the event when on such decision is issued by the wójci, mayor or town president on the basis of the Art.51 para.2 of the Act on spatial planning and development. As regards the motion mentioned in Art. 7 of the Act on protection of farm and forest lands competence of supervision bodies is not exactly specified. The analysis of provisions in the Act on protection of farm and forest lands in combination with provisions of the Act on commune self-government concerning supervision over a commune’s activity (Art.85 and subsequent articles) do not allow to assume the interpretation that it is acceptable to replace the motion of the wójci, mayor or town president Directly with the voivode’s action. Supervision bodies may attempt to influence the commune’s executive bodies by using other instruments provided for in the Act on commune self-government. In this context one may contemplate applying the regulation in Art. 88 pursuant to which: Supervision bodies have the right to demand necessary information and data on the commune’s organization and operation and they may visit the commune administration and participate in meetings of the commune’s authorities and in Art. 97 of the Act on commune self-government: In case of little hope for quick improvement and lack of efficiency in executing public tasks by the commune’s authorities the President of the Council of Ministers, following the motion of the Minister of Internal Affairs and Administration, may suspend the commune authorities and appoint a receiver for the period of up to 2 years, however not longer than until the next receiver is elected by the council of the next term. A receiver may be appointed after prior presentation of charges to the commune authorities and calling them to immediately submit a programme for improvement, assuming that the issues concerning spatial order and land management are the commune’s own tasks (art.7) and the existing location decision constituting a valid administrative act cannot be ignored by the commune.

3. Possibility to encumber the alternative (replacement) real estate with a mortgage for the benefit of the State Treasury in case of higher value of this property with reference to the expropriated real estate.

The definition of mortgage is contained in the Article 65 of the Act of Parliament on land and mortgage register:

“To secure a specified debt one can encumber the real estate with the right, whereby creditor can demand a satisfaction of his debts secured on the real property regardless of its ownership and with priority over personal creditors of the real estate owner (mortgage)”
The notion of the alternative (replacement) real estate is connected with expropriation process. On the negotiations stage, according to the article 114 section of MoRPA, the owner, perpetual usufructuary or the person who has limited rights on property can be offered the alternative (replacement) real estate. In case, when negotiations do not end up with agreement the next stage would be involuntary expropriation. Within the framework of this procedure, subject to the article 116 sec. 1 of MoRPA, there is necessary to specify:

- the replacement premises and the way to ensure them to the lessee of expropriated premises;
- the replacement real estate, if the local authorities offer it.

According to the Article 129 sec. 3

*If within the scope of compensation, the replacement real estate was granted according to the administrative decision, provides specification of the replacement real estate according to the land register and according to cadastre survey, its value and amount of additional payment.*

In case of differences between the amount of compensation established in decision expropriation on and the value of the replacement real estate, the difference is compensated by additional payment (article 131 sec. 4). Additional payment is the only way allowed by law to balance the difference between: amount of compensation establish in decision on expropriation and the value of the replacement real estate.

MoRPA provides with possibility to encumber the real estate with a mortgage in few situations

- Article 70 sec. 1 in relation to securing the payment of the purchase price of the real estate sold in non-tender way or in negotiation way, which are specified in article 37 sec. 2 and 3 and article 39 sec. 2 of this Act,

- Article 140 in relation to secure the return of the replacement real estate or compensation in case of the return of the expropriated real estate to former owner

- Article 147 section 1 secure a payment of adiacenckiej charge
Taking the above into account, it is necessary to point out, that to the additional payment, that the persons affected by expropriation is obligated to pay the law does not foresee the opportunity to divide this extra charge for installments and secure this debts in the way of mortgage.

It seems that wide interpretation of this problem, in the light of other legislation connected with expropriation issue does not give justification to encumbering the replacement properties with mortgage and if did so, can be questioned in light of principles relating to the management of public means, as stipulated in Act on public finances.

4. Legal regulations concerning the conveyance of lands managed by the Agricultural Real Property Agency for the construction of hydrotechnic objects, for the reservoir cup and for alternative lands outside the reservoir

According to Art. 24 para.1 of the Act on management of agricultural real properties of the State Treasury (hereinafter: AoMARPS) - The Agency manages its Resources through:

1) selling property in whole or in part on principles specified in Section 6;
2) conveying it for paid use to legal or natural persons for specified time on principles given in Section 8;
3) contributing property or its part to a company;
4) conveying property in whole or in part to an administrator to manage it, on principles specified in Art.25;
5) letting property to be administered;
6) exchanging property.

The manners of managing the State Treasury’s agricultural real properties by the Agency listed in the regulation referred to above as well as specific provisions providing for free conveyance of lands for particular purposes or to particular entities in specific cases and under specific conditions are complete and exhausting. As regards the RAP one should pay particular attention to items 1.), 5.) and 6.).

Sale.
As far as the sale is concerned its rules are specified in Section 6 of the AoMARPST (Art. 27 -33). The basic sale procedure is the tender. Article 29 specifies categories of entities which have preference in buying real properties from the Agency's resources. As regards the need for obtaining considerable areas by RZGW as the investor, it is necessary to point out that preference in buying the land is given to inter alia leaseholders of the real property being disposed of if the lease actually lasted for at least three years.

In the case of a reservation included in the invitation to tender that all or some categories of persons mentioned in Art. 29 para.3b of the AoMARPST may participate in it, a restricted tender procedure is carried out. The persons listed in Art. 29 para.3b referred to above are among others: 1) natural persons meeting the conditions specified in provisions on forming the agricultural system and intending to establish or extend a family farm in the meaning of these provisions, who are:

a) farmers possessing a farm in a commune within the area of which the property is put up for tender and who intend to extend this farm, or

b) workers of liquidated state-owned agricultural enterprises who intend to establish a farm, or

c) farmers who after December 31, 1991 sold properties necessary for public purposes to the State Treasury, or

d) members of agricultural production co-operatives under liquidation or bankruptcy.

Specific rules pertaining to the sale of lands by the Agency are governed by the Ordinance of the Minister of the State Treasury dated August 1, 2003 on a specific course of selling properties within the Agricultural Property Resources of the State Treasury and their constituents, conditions of dividing payments of purchase prices into installments and on estimated rates for lands (Journal of Law 2003 no. 140 item 1350).

Letting the property to be administered.

This form of managing the State Treasury's agricultural real properties by the Agency can be taken into account by RZGW as a state entity without legal personality. Pursuant to Art. 34 para.1 of the AoMARPST – Real properties within the Resources may be conveyed to state entities without legal personality for permanent administration, hereinafter referred to as the “administration”.

Such conveyance is carried out on the basis of a decision of the Agency's President for a specified or unspecified period of time. It may also be done on the basis of an agreement concluded after consent of the Agency's President between state entities without legal responsibility. However, it is worth pointing out that according to Art. 35 para.6 of the
AoMARPST no charges due to administration of real properties located under public roads and between flood banks and a river bed are collected.

According to Art. 43 of the Act on management of real properties a state entity which will receive land to administer it on the basis of provisions referred to above is entitled to use the real property handed over for permanent administration, especially to:

1) use the real property for purposes connected with its scope of activity;
2) develop, reconstruct, extend, redevelop or repair the building within the real property according to provisions of the Building Law, after an approval of a supervising authority;
3) let the real property or its part on hire or lease or lend it for use for the period not longer than the period for which permanent administration has been established, informing a competent authority and supervising authority at the same time about it, if an agreement is concluded for the period of 3 years or, after consent of these authorities, if an agreement is concluded for the period longer than 3 years.

Letting real property to be administered may be a form of taking over those lands by RZGW (in which it is interested) which are located inside the reservoir cup and designated for construction of hydrotechnic objects. Real property is let to be permanently administered following the motion of an interested entity.

**Exchange**

Specific rules concerning the exchange are governed by the Ordinance of the Minister of the State Treasury dated July 22, 2000 on conditions and a course of conducting the exchange of real properties (Journal of Law 2000, no. 22 item 288).

According to §4 of the above Ordinance - § 4. 1. The Agency may exchange the real property:
1) if as a result of the exchange a farm owned by a farmer for at least 5 years, located in the provinces where an average area of a single farm is smaller than 5 ha, is liquidated and this farmer will establish a new farm in another province and he will change its permanent place of residence;
2) following the motion of a farmer, if the exchange will prevent the farm area from being reduced due to the designation of the real properties within this farm for public purposes in the meaning of provisions on real property management.

In the case of a difference between the value of real properties being exchanged it is compensated with additional payments (§7 of the Ordinance). The amount of an additional payment, which has to be paid by a farmer or the Agency pursuant to §9 of the Ordinance can be
divided into 1-year or 6-month installments for the period not exceeding 15 years counting from the day of conclusion of an exchange agreement.

At this point one should note that as regards alternative real properties which in the expropriation process can be offered to expropriated persons, based on Art. 131 para.3 of the Act on Management of Real Properties – Alternative real property can be granted in agreement with the President of the Agricultural Real Property Agency from the State Treasury’s Agricultural Property Resources, if the expropriation is carried out for the benefit of the State Treasury. The investor could apply to the Agency with a motion concerning this matter making use of the data on persons interested in the exchange of real property.

**Free conveyance**

Pursuant to Art. 24 para.5 of the AoMARPST the Agency may convey properties within its resources free of charge into ownership inter alia to units of territorial self-government – for the purposes connected with infrastructure investments serving own tasks. 

Taking into account an exemplary breakdown of a commune’s own tasks included in Art. 7 of the Act on commune self-government there seems to be grounds from the assumption that potential construction of an estate of single houses, for instance, where expropriated persons would reside are included in the commune’s own tasks. In consequence it is possible to obtain necessary lands from the Agency by the commune.

5. **Legal regulations concerning a possibility of financing the construction of alternative (social) buildings by RZGW and conveying governmental administration buildings (to the starosta) or self-governmental administration buildings (to the wójń)**

Taking into account an obligatory content of the motion on expropriation specified in Art. 116 para.1 of the Act on Management of Real Properties pursuant to which the motion on expropriation should specify inter alia alternative premises and the manner how they are provided to tenants of expropriated premises (item 5) it seems justified to assume that it also concerns alternative buildings constructed by the investor (assuming that a necessity of constructing such buildings is proven). Taking into consideration RZGW’s statutory tasks, housing management, even if it was connected with the execution of a public purpose, cannot be a permanent responsibility of
RZGW but it should be transferred to a relevant unit of territorial self-government. In this issue one should point out Art.13 of the Act on Management of Real Property, which reads:

*Para.1. With reservation of exceptions resulting from laws, real properties may be traded. In particular, real property can be sold, exchanged, renounced, put into perpetual usufruct, let on hire or lease, lent for use or let to be permanently administered and they can also be encumbered with limited rights, brought as non-monetary contribution (in kind contribution) to companies, conveyed as facilities of newly created state-owned enterprises and as assets of newly established foundations.*

Para.2 of the Art.13 of the Act on Management of Real Property also provides for a possibility of making a donation to public purposes, and alternative buildings can be classified as such. Real property owned by the State Treasury is donated by the starosta, who exercises a governmental administration task – after consent of the voivode. If the real property belongs to a unit of territorial self-government, it is donated by its executive body – after the council’s or sejmik’s consent. Taking into account Art.17 of the Act on Management of Real Property real properties purchased by RZGW are purchased into ownership or perpetual usufruct of the State Treasury. Therefore, it will be starosta’s competence to make a donation, after the voivode’s approval.

6. **Means of recourse in relation to the decision on the location for a public purpose investment.**

According to the provisions of the Administrative Procedure Code and provisions of the law dated August 30, 2002 Procedure before Administrative Courts Act, the starosta’s decision on expropriation can be overruled. Upon receiving such a decision, the affected party is entitled to employ means of recourse provided for in the Administrative Procedure Code i.e. to refer to the administrative body of higher instance. An appeal is lodged within 14 days counting from the day of delivery of the decision to the party. Pursuant to Art. 130 of the Administrative Procedure Code before the expiry of the deadline for lodging an appeal the decision is not subject to execution and lodging an appeal within the deadline ceases execution of the decision. Having exhausted an administrative course of the instance, the affected party is entitled to lodge an appeal in the Provincial Administrative Court. The appeal can be lodged pursuant to Art. 52 of the above Act after exhausting means of recourse if they served to the appellant in the proceedings before relevant authorities (starosta). An appeal is lodged within 30 days from delivery of the ruling to the appellant via the authorities whose activity or inactivity is the subject
of an appeal. The authority transfers the appeal to the court together with files of the case within 30 days from lodging.

According to Article 61 para. 1 of the Procedure Before Administrative Courts Act, lodging an appeal does not stop the execution of the act or action that is the subject of the appeal. Nevertheless, pursuant to Art. 61 para. 2 item 2 of the Act in case of lodging an appeal the authority which issued a decision may stop, ex officio or to the motion of the appellant, its execution in whole or in part. Also, the court after receiving the appeal may, on the basis of Art. 61 para 3 of the Act – to the motion of the appellant, issue a decision to stop the execution of the act or action referred to in para. 1 in whole or in part if there is a risk of causing significant damage or other effects difficult to be removed. The ruling of the Provincial Administrative Court may be referred to the Supreme Administrative Court (court of II instance) for cassation. Pursuant to Art. 153 of the Procedure before Administrative Court Act legal evaluation and indications as to further procedure expressed in the court’s decision bind in this case the court and the authority whose activity or inactivity was a subject of the appeal. In the event of lodging a cassation appeal against the ruling of the Provincial Administrative Court, the case is adjudicated by the Supreme Administrative Court. The Court’s award is final and binding. A cassation appeal is brought to the court which issued an appealed ruling or decision within 30 days counting from delivery of a copy of the ruling with justification to the party (Art. 177 para 1 of the Act). Art 61 of the Act is applicable to a stay of the execution of the appealed decision.

A regulation applicable to a decision on the investment location is found in the Act dated March 30, 2003 on spatial planning and development (Journal of Law 2003 No 80 item 717). Pursuant to Art. 53 item 3 of this Act - 6. Appeal against the decision on the location for an investment should contain objections to the decisions, specify the nature and scope of a claim and indicate proof to justify the claim. Moreover, pursuant to Art. 53 item 7 – 7. The decision on location of a public purpose investment is not found invalid if 12 months have expired since the day of its delivery or announcement.

In other issues the above regulations pertaining to administrative and subsequently court verification of administrative decisions are applicable to the mode of appeal against these specific decisions.
6. Clarification of the issue whether there is an obligation to pay compensation to entities having at their disposal buildings which were erected against valid regulations (e.g. a house erected without a construction permit).

A thorough analysis would be required to evaluate whether a building was erected against or with violation of the law valid within the time of its erection, especially the Building Law, taking into account changes to the law in time. It would be necessary to establish a critical date since when an evaluation of legality and compliance of the construction process covering the erection of a building would be carried out. The Act on Management of Real Property which partly regulates the expropriation process and issues of compensation does not include provisions which would make a valuation of the real property to be expropriated and payment of compensation conditional on the evaluation of legality and observance of the Building Law provisions and specific provisions while developing the land property. Taking into account the fact that according to the Building Law inspection and supervision over construction processes is carried out by such authorities as a powiat construction site inspector it seems justified to assume that during the expropriation process RZGW is not entitled to step in the statutory competences of other institutions and public administration bodies. Taking a different position would in consequence lead to the “necessity” of considering by RZGW of other legal aspects concerning the use of real property eg. with reference to persons who do not pay real property tax.
FLOOD CONTROL RESERVOIR RACIBÓRZ
DOLNY ON ODRA RIVER

Collection of stocktaking data concerning property that is to be affected by the investment

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Katowice, October 2004
COLLECTION OF STOCKTAKING DATA CONCERNING PROPERTY THAT IS TO BE AFFECTED BY THE INVESTMENT

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1. MATERIALS USED

This elaboration constitutes collection of stocktaking data concerning property that is to be affected by the investment project that provides for construction of the flood control reservoir.

The main source of the information that was used in the materials, which constituted the grounds for elaboration of this document, were results of the 1998 questionnaire study that was conducted by the Centrum Badań Społecznych (Center of Social Studies), Katowice, repeated study of 2002 and results of the 2002 population census and agricultural census.

Data collected from the following materials and documents were used first of all in this elaboration:

2. Decision by the Head of Silesian Province, Ref. No. Nr PR – AB. II/ID/7111/93/04, dated 05.07.2004, concerning location of the flood control reservoir RACIBÓRZ on Odra River.

They were edited to bring in more details by their supplementing with information collected from the current elaborations and studies, such as:
3. Study of conditions and directions of communal planning – Gmina Lubomia – conditions of cultural environment in the Commune.
4. Study of conditions and directions of communal planning – Gmina Lubomia – conditions of natural environment in the Commune, and evaluation of the flood hazard.
5. Study of conditions and directions of communal planning – Gmina Lubomia – establishment of the study – Development objectives and directions of communal planning.
8. Estimated Impact Statement - Przedsiębiorstwo Consultingowo – Handlowe GAJA s. c., Gliwice 05.11.1998 – Joanna Fąckowiak Włoszyn,
9. List of the real estates purchased by the Regional Water Management Board in Gliwice.
10. Information from Zakład Wodociągów Kanalizacyjnych Lubomia (Waterworks and Sewage Company, Lubomia) (Memo of the telephone contact of 05.11.2004 - H. Okoń).
2. GENERAL INFORMATION
Construction of the flood control reservoir Racibórz Dolny within Odra River valley.
This investment site is found within boundaries of the Silesian Province, between the State borders and the city of Racibórz, area 2626.90 ha.
Its approximate location is presented in Appendix No. 1.
Said area is located in two counties and four communes as follows:

Table 1
Administration structure of lands designed for investments

<table>
<thead>
<tr>
<th>County</th>
<th>City/Commune</th>
<th>Investment land area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wodzisławski</td>
<td>Lubomia</td>
<td>1065</td>
</tr>
<tr>
<td>Raciborski</td>
<td>Racibórz</td>
<td>612</td>
</tr>
<tr>
<td></td>
<td>Kornowac</td>
<td>37</td>
</tr>
<tr>
<td></td>
<td>Krzyżanowice</td>
<td>912</td>
</tr>
</tbody>
</table>

%  
40.6  
23.3  
1.4  
34.7

Source: Decision on determination of location of the flood control reservoir Racibórz on Odra River in Silesian Province.
Location selected for the reservoir is the Odra River valley from the road bridge Krzyżanowice – Buków ( km. 33.580 of Odra River ) to the division of waters in Racibórz (km. 46.300 of Odra River). Shape of the reservoir was chosen according to a rule that provides for the least collision with existing technical infrastructure found in that area. Side dams at the eastern and western sides are located in direct vicinity of railway embankments¹.

Location plan of that area, scale 1:10000, is presented on Fig. 2.

Construction of the planned reservoir is to affect two villages populated by 240 families ( 176 households ), totaling to 704 people. The Racibórz Reservoir would remain empty in the second stage of construction, save for periods of flood wave when it would be filled with water from a few or dozen or so days to a few weeks. In these conditions one would be able to proceed with land cultivation though facing a risk of a loss of harvest resulting from flooding of the reservoir; residing in that area would not be feasible. In the third stage the reservoir will be filled permanently with water, and thus neither the cultivation of land nor the residing in that area will be possible.²

Thus it became necessary that residents living in the reservoir area are resettled. Polish regulations require that the State purchases lands/real estates found within the polder, to be delivered to the territorially competent Regional Water Management Board (RZGW) (RZGW Gliwice in this case). The State must purchase all the lands and buildings found within the polder bowl / investment area.

3. LAND DEVELOPMENT

Areal extent of the planned reservoir bowl covers 2626.90 ha., with 1853.58 ha. of that constituting an agricultural land – 76 % of the reservoir area.³

¹ Materials for determination of the public purpose investment: Zakład Usług i Robót Wodnych Sp. z o.o.
³ Materials for determination of the public purpose investment: Zakład Usług i Robót Wodnych Sp. z o.o.
Current use of the 2626.90 ha. area that is to be assigned to construction of the planned reservoir is presented in Table 2.

### Table 2

Use of land assigned to construction of the reservoir

<table>
<thead>
<tr>
<th>Use</th>
<th>Area acc. to records (ha)</th>
<th>% share</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agricultural lands</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of that:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ploughlands</td>
<td>1483.5</td>
<td>56.47</td>
</tr>
<tr>
<td>Meadows</td>
<td>323.64</td>
<td>12.32</td>
</tr>
<tr>
<td>Pastures</td>
<td>35.35</td>
<td>1.35</td>
</tr>
<tr>
<td>pastures for afforestation</td>
<td>1.05</td>
<td>0.04</td>
</tr>
<tr>
<td>Forests</td>
<td>147.51</td>
<td>5.62</td>
</tr>
<tr>
<td>Coppices</td>
<td>14</td>
<td>0.53</td>
</tr>
<tr>
<td><strong>Waters</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of that:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>stagnant waters (ponds, lakes)</td>
<td>124.99</td>
<td>4.76</td>
</tr>
<tr>
<td>lotic waters (rivers)</td>
<td>59.57</td>
<td>2.27</td>
</tr>
<tr>
<td>Ditches</td>
<td>24.84</td>
<td>0.95</td>
</tr>
<tr>
<td><strong>Minerals / aggregate excavations</strong></td>
<td>16.74</td>
<td>0.64</td>
</tr>
<tr>
<td><strong>Transport areas</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of that:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roads</td>
<td>52.57</td>
<td>2</td>
</tr>
<tr>
<td>other transport areas</td>
<td>0.82</td>
<td>0.03</td>
</tr>
<tr>
<td><strong>Residential areas</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of that:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>built-up areas</td>
<td>28.86</td>
<td>1.1</td>
</tr>
<tr>
<td>unbuilt areas</td>
<td>0.16</td>
<td>0.01</td>
</tr>
<tr>
<td>green areas</td>
<td>10.96</td>
<td>0.42</td>
</tr>
<tr>
<td>various areas</td>
<td>3.98</td>
<td>0.15</td>
</tr>
<tr>
<td>Waste land</td>
<td>292.3</td>
<td>11.13</td>
</tr>
<tr>
<td>Total</td>
<td>2626.9</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Materials for determination of the public purpose investment: Zakład Usług i Robót Wodnych Sp. z o.o.

### 4. REAL ESTATES FOUND WITHIN THE PLANNED RESERVOIR AREA

Real estates that are affected by the investment can be broken down into the following six categories:

Unbuilt real estates:
- Ploughlands

FLOOD CONTROL RESERVOIR ON Odra RIVER – COLLECTION OF STOCKTAKING DATA CONCERNING PROPERTY THAT IS TO BE AFFECTED BY THE INVESTMENT
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Built-up real estates, including:
- Residential buildings and adjoining objects;
- Public and public utility buildings;
- Objects of cultural value;
- Service-shopping buildings;
- Infrastructure and communal services.

4.1 PLOUGHLANDS

Area of the planned reservoir is 2626.90 ha. Detailed presentation of use of said land is shown in Table 2 – „Use of land assigned to construction of the reservoir”

Agricultural lands 1853.58 ha.
Forests 147.51 ha.
Coppices 14 ha.
Waters 184.56 ha.
Ditches 24.84 ha.
Minerals/aggregate excavations 16.74 ha.
Transport areas 53.39 ha.
Residential areas 39.98 ha.
Waste land 292.3 ha.
Total 2626.9 ha.

Table 3 presents arable lands found within the investment area, broken down according to soil classes.

<table>
<thead>
<tr>
<th>Soil classes</th>
<th>Ploughland</th>
<th>Orchard</th>
<th>Meadow</th>
<th>Pasture</th>
<th>PsZ</th>
<th>Total</th>
<th>% Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Class II</td>
<td>44.27</td>
<td>0.4</td>
<td>50.95</td>
<td>7.14</td>
<td>0</td>
<td>102.76</td>
<td>5.54</td>
</tr>
<tr>
<td>CLASS III</td>
<td>0</td>
<td>0</td>
<td>194.09</td>
<td>1.57</td>
<td>0</td>
<td>195.66</td>
<td>10.56</td>
</tr>
<tr>
<td>CLASS IIIa</td>
<td>620.45</td>
<td>0.25</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>620.7</td>
<td>33.49</td>
</tr>
<tr>
<td>CLASS IIIb</td>
<td>619.01</td>
<td>8.51</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>627.52</td>
<td>33.85</td>
</tr>
<tr>
<td>TOTAL CLASS III</td>
<td>1239.46</td>
<td>8.76</td>
<td>194.09</td>
<td>1.57</td>
<td>0</td>
<td>1443.88</td>
<td>77.9</td>
</tr>
<tr>
<td>TOTAL I-III</td>
<td>1283.73</td>
<td>9.16</td>
<td>245.04</td>
<td>8.71</td>
<td>0</td>
<td>1546.64</td>
<td>83.44</td>
</tr>
<tr>
<td>CLASS IV</td>
<td>0</td>
<td>0</td>
<td>72.41</td>
<td>12.36</td>
<td>0</td>
<td>84.77</td>
<td>4.57</td>
</tr>
<tr>
<td>CLASS IVa</td>
<td>165.52</td>
<td>0.88</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>166.4</td>
<td>8.98</td>
</tr>
<tr>
<td>CLASS IVb</td>
<td>27.88</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>27.88</td>
<td>1.5</td>
</tr>
<tr>
<td>TOTAL</td>
<td>193.4</td>
<td>0.88</td>
<td>72.41</td>
<td>12.36</td>
<td>0</td>
<td>279.05</td>
<td>15.05</td>
</tr>
<tr>
<td>CLASS V</td>
<td>6.37</td>
<td>0</td>
<td>4.86</td>
<td>14.28</td>
<td>0</td>
<td>25.51</td>
<td>1.38</td>
</tr>
<tr>
<td>TOTAL IV-V</td>
<td>199.77</td>
<td>0.88</td>
<td>77.27</td>
<td>16.64</td>
<td>0</td>
<td>304.56</td>
<td>16.43</td>
</tr>
<tr>
<td>CLASS VI</td>
<td>0</td>
<td>0</td>
<td>1.33</td>
<td>0.105</td>
<td>0.28</td>
<td>2.38</td>
<td>0.13</td>
</tr>
</tbody>
</table>

FLOOD CONTROL RESERVOIR ON ODRA RIVER – COLLECTION OF STOCKTAKING DATA CONCERNING PROPERTY THAT IS TO BE AFFECTED BY THE INVESTMENT
Appendix C, part 1

<table>
<thead>
<tr>
<th>Soil classes</th>
<th>Plough-land</th>
<th>Orchard</th>
<th>Meadow</th>
<th>Pasture</th>
<th>PsZ</th>
<th>Total</th>
<th>% Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL 1 - VI</td>
<td>1483.5</td>
<td>10.04</td>
<td>323.64</td>
<td>35.35</td>
<td>1.05</td>
<td>1853</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Materials for location of the public purpose investment: Zakład Usług i Robót Wodnych Sp. z o.o.

List of built-up real estates found in villages Ligota Tworkowska and Nieboczowy, located within the reservoir bowl, number of buildings and their types are presented in the summary shown in Table No. 5.

The summary was supplemented by the remaining real estates that were not covered earlier, and was edited to eliminate disparity with data of other sources that present summary of real estates found in that area.

Table 5

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>Ligota Tworkowska</th>
<th>Nieboczowy</th>
<th>Ligota Tworkowska*</th>
<th>Nieboczowy *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of inhabited buildings, including farms</td>
<td>40</td>
<td>136</td>
<td>178, of that 2 houses uninhabited</td>
<td></td>
</tr>
<tr>
<td>Craft workshops</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Wayside shrines</td>
<td>1</td>
<td>-</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Grocery</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Fire brigade building</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Village recreation room</td>
<td>1</td>
<td>-</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Bakery</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Bar</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Café</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Church</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Cemetery</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Recreational centers</td>
<td>-</td>
<td>2</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>School</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Kindergarten</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Crosses</td>
<td>-</td>
<td>2</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Gravel pit</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Poultry farm</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Bread House run by</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Salvatorian Priests</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: Materials for location of the public purpose investment: Zakład Usług i Robót Wodnych Sp. z o.o.


Higher values are accepted hereinafter of reason of disparities found in the number of buildings and of reason of disparities concerning structure of the buildings.
The agricultural lands and built-up real estates purchase action will be conducted during period of preparation for construction and during period of construction itself. First lands and real estates owned by residents of Ligota Tworkowska and Nieboczowy, lands designed for use in construction of embankments and locations of production of the construction materials will be purchased. This is why it is necessary that data concerning property that is to be affected by the investment are collected\(^4\).

4.2 RESIDENTIAL BUILDINGS AND ADJOINING OBJECTS

- cowsheds;
- sheds;
- garages;
- other buildings found in farms or locations of residence

4.2.1. Residential buildings:

According to the available materials it can be determined that there are 178 residential buildings (two of them uninhabited) in the area affected by the investment (villages Ligota Tworkowska and Nieboczowy).

The 1998 questionnaire study, that covered usable area of 168 houses, revealed that the total usable area was 23,881 m\(^2\). It is being thus assumed that area of an average residential building found in the villages subject to evaluation is 142 m\(^2\).

Extrapolation of these data onto 178 buildings identifies the total usable area of 25,276 m\(^2\)\(^5\).

Summary of age and numbers of residential buildings, broken down according to erection years, is presented in Table 6.

Table 6

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Erection year of residential building</th>
<th>Number of buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>2000-1991</td>
<td>5</td>
</tr>
<tr>
<td>2.</td>
<td>1990-1981</td>
<td>11</td>
</tr>
<tr>
<td>3.</td>
<td>1980-1971</td>
<td>13</td>
</tr>
<tr>
<td>5.</td>
<td>1960-1951</td>
<td>32</td>
</tr>
<tr>
<td>6.</td>
<td>1950 – or earlier</td>
<td>89</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>178</strong></td>
</tr>
</tbody>
</table>


\(^4\) Materials for location of the public purpose investment: Zaklad Uslug i Robót Wodnych Sp. z o.o.

4.2.2. Farm buildings

Data of the 1998 questionnaire study, that covered 166 farmsteads, signal that an average usable area of a multi-function farm building is 195 m². Total usable area of the multi-function farm buildings is 32,370 m² approx.6

Summary of erection years, area of farm buildings and actual existence of such buildings at farmsteads is presented in Table 8.

Table 8

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Erection years of farm buildings</th>
<th>Farmsteads with such buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>2000-1991</td>
<td>3</td>
</tr>
<tr>
<td>2.</td>
<td>1990-1981</td>
<td>7.5</td>
</tr>
<tr>
<td>3.</td>
<td>1980-1971</td>
<td>10</td>
</tr>
<tr>
<td>5.</td>
<td>1960-1951</td>
<td>13</td>
</tr>
<tr>
<td>6.</td>
<td>1950 – or earlier</td>
<td>54.5</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100%</td>
</tr>
</tbody>
</table>


4.2.3. Specialized livestock buildings

Livestock buildings designed for specialized stock-farming are scarce in the two villages. Their total area is 6900 m²7

4.2.4. Garages

Existence of garage was declared by 46.4% of the questioned owners; this means that such an object is the case with 83 households. But the brick free-standing garage that constitutes a separate object is seen in 41 households.

Average usable area of a free-standing garage is 38 m².8

---

Appendix C, part 1

Summary of erection years, areas of garages and information concerning existence of such garages in households is presented in Table 9.

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Erection years</th>
<th>Households with garages</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>2000-1991</td>
<td>24 10</td>
</tr>
<tr>
<td>2.</td>
<td>1990-1981</td>
<td>32 13</td>
</tr>
<tr>
<td>3.</td>
<td>1980-1971</td>
<td>29 12</td>
</tr>
<tr>
<td>4.</td>
<td>1970-1961</td>
<td>5  2</td>
</tr>
<tr>
<td>5.</td>
<td>1960-1951</td>
<td>10 4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100%</td>
<td><strong>41</strong></td>
</tr>
</tbody>
</table>


It should be noted that from 09.2003 to 09.2004 the Regional Water Management Board in Gliwice, Inspectorate in Racibórz, purchased 26 real estates according to civil-legal agreements; precise list, composition and description of 24 of them is presented in Table 10.

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Real estate</th>
<th>Year of purchase</th>
<th>Composition of real estate and its description</th>
<th>Year of constr.</th>
<th>Quantities (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Nieboczowy</td>
<td>09.2003</td>
<td>Residential building with land</td>
<td>1980</td>
<td>203.6</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Pigsty</td>
<td>1990</td>
<td>27.2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Umbrella roof</td>
<td>1985</td>
<td>66.6</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Barn</td>
<td>1990</td>
<td>90.4</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Garage</td>
<td>1975</td>
<td>55</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fencing</td>
<td>X</td>
<td>216.7</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Sidewalks</td>
<td>1980 – 1997</td>
<td>197.5</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Farmland for farming</td>
<td>X</td>
<td>2225</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Vegetation component</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Farm building</td>
<td>1958</td>
<td>59</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Barn</td>
<td>1958</td>
<td>117</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Garage</td>
<td>1980</td>
<td>102</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fencing</td>
<td>X</td>
<td>48</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Summer house</td>
<td>X</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Farmland</td>
<td>X</td>
<td>16361</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Vegetation component</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>
### Appendix C, part 1

<table>
<thead>
<tr>
<th></th>
<th>Ligota Tworkowska 10.2003</th>
<th>Residential building with land</th>
<th>1930</th>
<th>62.7</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Farm building</td>
<td>1930</td>
<td>12.2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Barn</td>
<td>1930</td>
<td>62.2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fencing</td>
<td>X</td>
<td>155.5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sidewalks</td>
<td>X</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Farmland</td>
<td>X</td>
<td>1099</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Farmland for farming</td>
<td>X</td>
<td>1809</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vegetation component</td>
<td>X</td>
<td>1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Ligota Tworkowska 10.2003</th>
<th>Residential building with land</th>
<th>1900/1960</th>
<th>87.5</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Farm building</td>
<td>1972</td>
<td>52.5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Barn</td>
<td>1930/1960</td>
<td>47.1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Objects: cesspool, dungstead, well</td>
<td>X</td>
<td>26.8</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fencing</td>
<td>X</td>
<td>118.65</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sidewalks</td>
<td>X</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td></td>
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<tr>
<th></th>
<th>Ligota Tworkowska 10.2003</th>
<th>Residential building</th>
<th>1921</th>
<th>89.1</th>
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<td>Fencing</td>
<td>X</td>
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<td>X</td>
<td>2525</td>
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<th></th>
<th>Ligota Tworkowska 10.2003</th>
<th>Residential building</th>
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<td>95.2</td>
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<td></td>
<td>Fencing</td>
<td>X</td>
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<td>Sidewalks</td>
<td>X</td>
<td>155</td>
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<td>Built-up land</td>
<td>X</td>
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<table>
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<td>Barn</td>
<td>1958</td>
<td>59.5</td>
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<tr>
<td></td>
<td></td>
<td>Shed</td>
<td>1958</td>
<td>18.7</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fencing</td>
<td>X</td>
<td>142</td>
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<td></td>
<td>Sidewalks</td>
<td>X</td>
<td>77</td>
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<td>Built-up land</td>
<td>X</td>
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<td>Land for building development</td>
<td>X</td>
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<table>
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<th></th>
<th>Ligota Tworkowska 12.2003</th>
<th>Residential building with land</th>
<th>1960</th>
<th>123.05</th>
</tr>
</thead>
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<tr>
<td></td>
<td></td>
<td>Farm building</td>
<td>1960</td>
<td>58.8</td>
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<tr>
<td></td>
<td></td>
<td>Fencing</td>
<td>X</td>
<td>77.5</td>
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<td>Sidewalks</td>
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<td>48.5</td>
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<td>Vegetation component</td>
<td>X</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Ligota Tworkowska 12.2003</th>
<th>Residential building with land</th>
<th>1930/1987</th>
<th>83.6</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Farm building</td>
<td>1958</td>
<td>58</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fencing</td>
<td>X</td>
<td>82.6</td>
</tr>
</tbody>
</table>

---

The table above represents the stocktaking data for each property affected by the flood control reservoir on the Odra River. Each row details the property type, year of construction, and area in square meters. The data includes residential buildings, farm buildings, fencing, sidewalks, farmland, and vegetation components. The table is part of the collection of stocktaking data concerning property that is to be affected by the investment in the flood control reservoir.
### Appendix C, part 1

<table>
<thead>
<tr>
<th>Component</th>
<th>Value</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brick wall</td>
<td>11.7</td>
<td></td>
</tr>
<tr>
<td>Sidewalks</td>
<td>87.8</td>
<td></td>
</tr>
<tr>
<td>Farmland for farming</td>
<td>2037</td>
<td></td>
</tr>
<tr>
<td>Vegetation component</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>

#### 10 Ligota Tworkowska 12.2003
- **Poultry processing plant**: x Complete plant
  - composed of: collection buildings, slaughter house, processing buildings, cold store, boiler house and land
- **Grain drier**: x Complete grain drier
  - composed of grain drier building, drier, warehouse, land

#### 11 Ligota Tworkowska 05.2004
- **Barn with farming part for demolition**: x
  - Farmland for building development x 593
  - Farmland for farming x 9742
  - Vegetation component x 1

#### 12 Ligota Tworkowska 05.2004
- **Residential building**: 1940/1980 125.9
  - Barn 1940 108
  - Farm building 1960 35
  - Farm building with garage 1960 45
  - Fencing x 101
  - Farmland for farming x 8153
  - Adjoining land – ditch x
  - 50% of the value 1079
  - Built-up land x 1051
  - Vegetation component x 1

#### 13 Ligota Tworkowska 05.2004
- **Residential building with land**: 1958 190.5
  - Farm building 1977 60
  - Shed 1977 35
  - Barn 1958 91
  - Garage 1974 20
  - Fencing x 52.7
  - Sidewalks 1980-01997 30
  - Farmland for farming x 19940
  - Vegetation component x 1

#### 14 Ligota Tworkowska 06.2004
- **Residential building**: 1900 56.5
  - Farm building 1970 91
  - Farm building 1930 56
  - Barn 1930 32.2
  - Fencing x 42
  - Built-up land x 1250
  - Farmland for farming x 17593
  - Vegetation component x 1

#### 15 Ligota Tworkowska 06.2004
- **Residential building**: 1930/1980 112.4

---

**FLOOD CONTROL RESERVOIR ON ODRA RIVER – COLLECTION OF STOCKTAKING DATA**

**CONCERNING PROPERTY THAT IS TO BE AFFECTED BY THE INVESTMENT**
### Appendix C, part 1

<table>
<thead>
<tr>
<th></th>
<th>Barn</th>
<th>1950</th>
<th>86</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fencing</td>
<td>x</td>
<td>246</td>
</tr>
<tr>
<td></td>
<td>Well</td>
<td>x</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Land for building development</td>
<td>x</td>
<td>1439</td>
</tr>
<tr>
<td></td>
<td>Farmland for farming</td>
<td>x</td>
<td>6963</td>
</tr>
<tr>
<td></td>
<td>Vegetation component</td>
<td>x</td>
<td>1</td>
</tr>
</tbody>
</table>

#### 16 Ligota Tworkowska 06.2004

| | Residential building | 1930 | 113.1 |
| | Farm building | 1950 | 75.9 |
| | Barn | 1930 | 91.9 |
| | Fencing | x | 55 |
| | Land for building development | x | 1430 |
| | Farmland for farming | x | 11999 |
| | Vegetation component | x | 1 |

#### 17 Ligota Tworkowska 07.2004

| | Residential building | 1907 | 74.5 |
| | Farm building | 1939 | 48.2 |
| | Silo | x | 1 |
| | Barn | 1930 | 156.75 |
| | Fencing | x | 111 |
| | Land for building development | x | 750 |
| | Farmland for farming | x | 57161 |
| | Vegetation component | x | 1 |

#### 18 Ligota Tworkowska 07.2004

| | Residential building | 1925/1960 | 24.8 |
| | Farm building | 1900 | 76.3 |
| | Barn | 1970 | 40 |
| | Shed | 1950 | 50 |
| | Land for building development | 1960x | 650 |
| | Farmland for farming | x | 33362 |
| | Vegetation component | x | 1 |

#### 19 Ligota Tworkowska 07.2004

| | Farmland for farming | x | 8320 |

#### 20 Ligota Tworkowska 07.2004

| | Residential building | 1980 | 141050 |
| | Farm building | 1890 | 184 |
| | Fencing | x | 83 |
| | Sett pavements | x | |
| | (yard) | | 42.7 |
| | Dungstead + cesspool | x | 1 |
| | Land for building development | x | 1482 |
| | Farmland for farming | x | 49205 |
| | Vegetation component | x | 1 |

#### 21 Nieboczowy 08.2004

| | Residential building | 1930/1980 | 112.8 |
| | Farm building z garage | 1950 | 108.1 |
| | Fencing | x | 19 |
| | Yard of concrete pavement | x | 1 |
| | Farmland for farming | x | 1700 |
| | Built-up land | x | 1100 |
| | Vegetation component | x | 1 |

#### 22 Nieboczowy 08.2004

| | Residential building | 1930/1980 | 181.5 |

---

_Flood Control Reservoir on Odra River - Collection of Stocktaking Data Concerning Property That Is to Be Affected by the Investment_
### Appendix C, part 1

<table>
<thead>
<tr>
<th>Description</th>
<th>Year 1</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Farm building</td>
<td>1950</td>
<td>75.9</td>
</tr>
<tr>
<td>Garage attached to resid. building</td>
<td>x</td>
<td>17.5</td>
</tr>
<tr>
<td>Fencing + gate</td>
<td>x</td>
<td>1</td>
</tr>
<tr>
<td>Well</td>
<td>x</td>
<td>1</td>
</tr>
<tr>
<td>Built-up land</td>
<td>x</td>
<td>500</td>
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<tr>
<td>Farmland for farming</td>
<td>x</td>
<td>4792</td>
</tr>
<tr>
<td>Vegetation component</td>
<td>x</td>
<td>1</td>
</tr>
</tbody>
</table>

**23 Nieboczowy 07.2004**

- Residential building: 1930/1997, 76.9
- Farm building: 1939, 78.5
- Barn: 1950, 66.8
- Farm building: x, 15.54
- Well: x, 1
- Fencing: x, 114.9
- Built-up land: x, 675
- Vegetation component: x, 1

**24 Ligota Tworkowska 09.2004**

- Residential building: 1930/1980, 179.6
- Farm building – Barn with a part adapted for use as cold store for storage of vegetables + cooling equip.: 1955, 71.6
- Free-standing garage: x, 55
- Fencing + gate: x, 185
- Well: x, 1
- Boiler house: x, 12
- Film greenhouse, tunnel type: x, 1
- Farmland for farming: x, 20401
- Built-up land: x, 1230
- Orchard + Fencing: x, 1
- Vegetation component: x, 1

According to the above-presented Table, from 09.2003 to 09.2004 the Regional Water Management Board in Gliwice, Inspectorate in Racibórz, purchased 24 real estates according to civil-legal agreements. Precise list and composition of 24 of them was presented; the purchase covered also 2 more real estates but no relevant data are available. Of the 24 purchased real estates:

- 20 were purchased in Ligota Tworkowska;
- 4 were purchased in Nieboczowy.

Continued negotiations concerning purchase of real estates were taking place as of 02.11.2004, conducted with owners by the Regional Water Management Board in Gliwice.
Analysis and description of practice applied in appraisal, purchase and expropriation of real estates

Elaborated by the team of the following bench:

Eng. Katarzyna Wyczawska


Eng. Leszek Krawczyk, M. Sc.

Katowice, October 2004
Analysis and description of practice applied in appraisal, purchase and expropriation of real estates

1. Legal acts.

The main legal acts of relation with purchase of land in public ends are as follows: Constitution of the Republic of Poland (Art. 21) and Real Estate Management Act of August 21, 1997 – hereinafter called the Act.

There are also some supplementing legal acts that are listed below:

- Land and Mortgage Registers Act of July 6, 1982 (final text: Journal of Law of 2001, No. 124, Item No. 1361, as amended);
- Civil Code Act of April 23, 1964 (Journal of Law of May 18, 1964, No. 16, Item No. 93, as amended);
- Code of Administrative Procedure Act;
- Town and Country Planning and Development Act of March 27, 2003 (Journal of Law of May 10, 2003, No. 80, Item No. 717);
- Act on Administrative Executive Proceedings of June 17, 1966;
- Decree by the Council of Ministers, dated September 21, 2004, on appraisal of real estates and elaboration of the appraisal statement (Journal of Law of September 22, 2004, No. 207, item No. 2109) – hereinafter called the Decree;
- Act on Protection of Crop and Forest Lands, dated February 3, 1995 (final text: Journal of Law of 2004, No. 121, Item No. 1266);
- Forests Act of September 28, 1991 (final text: Journal of Law of 2000, No. 56, Item No. 679, as amended);
2. Analysis and description of practices applied in appraisal of real estates.

The main rules of appraisal are stipulated by the Real Estate Management Act, Chapter IV. Appraisal of Real Estates.

Detailed rules are stipulated by Decree the Council of Ministers, dated September 21, 2004, on appraisal of real estates and elaboration of the appraisal statement.

Regulations of instructing character are found in professional standards of the Real Estate Appraisers.

2.1. [Appraisal] Appraisal of real estate is the procedure that results in determination of the real estate value. This takes place according to calculation procedures applicable to specific approach, method and technique of appraisal. Said activities, starting from collection of required information from offices and courts, through visit to the real estate site, to elaboration of the appraisal statement, are conducted by the real estate expert.

2.2. [Determination of value] Appraisal of real estate serves the purpose of:
1) determination of market value;
2) determination of replacement value.

Market value is determined for the real estates that are or can be subject to trading.

Replacement value is determined for real estates that of reason of their current use or purpose are not or cannot be subject to market trading, and also when this is required by special regulations.

Determination of value is conducted by real estate experts (art. 150, of the Act).

2.3. [Market value and replacement value] Market value of the real estate is its expected price feasible in the market, determined according to the actual transaction prices agreed when the following conditions were met:
1) parties of the agreement were independent of each other, were not acting in a forced situation and had firm intent to execute agreement;
2) enough time is allowed to facilitates proper presentation of the real estate in the market and negotiation of the terms of agreement.

Replacement value of the real estate is equal to costs of replacement, with the wear and tear taken into account (art. 151, of the Act).

2.4. [Approaches to appraisal] Methods of determination of the value of real estate, constituting approaches to the real estate appraisal, depend on the assumed types of factors that affect value of the real estate. Real estates are appraised using the following approaches: comparative, income-based or cost-based one, or mixed approach that shows elements of the former ones (art. 152, of the Act).

2.5. [Comparative, income-based, cost-based approach] Comparative approach consists in determination of the value of real estate under assumption that said value matches the prices that were paid for similar real estates that were subject to trading in the market. Value of the real estate is corrected according to the features that make the real estate differ, combined with determination of the time-related variation of prices. Comparative approach is applied when prices of real estates similar to the one subject to appraisal are known.

Income-based approach consists in determination of the value of real estate under assumption that its buyer is to pay the price that depends on the expected income the buyer is to get from the real estate. This method is applied to the real estates that generate or can generate income.

Cost-based approach consists in determination of the value of real estate under assumption that the value matches the costs of replacement of the real estate, reduced by its wear and tear. With this type of approach one determines purchase cost of land and cost of replacement of its component parts (art. 153, of the Act).
2.6. **[Rules of choice]** Choice of the proper approach, method and technique is done by the real estate expert taking into account in particular the purpose of appraisal, type and location of real estate, function assigned to it in the local plan, degree of saturation with technical infrastructure, condition of its development and available data concerning prices of similar real estates (art. 154, of the Act).

2.7. **[Data concerning real estates]** Appraisal of real estates is combined with use of all the available data concerning real estates, found in particular in:
- land and mortgage registers;
- real estate register;
- records of technical infrastructure;
- valuation tables and valuation maps established according to art. 169;
- local plans;
- lists kept by fiscal offices;
- agreements, judgments, decisions and other documents that constitute ground for recording of entry in land and mortgage registers, registers covered by the real estate register statement, and also excerpts from the appraisal statements filed with the real estate register.

Data used in the appraisal statement, as discussed above, can be of a form of records and plans certified by the real estate expert (art. 155, of the Act).

2.8. **[Appraisal statement]** The real estate expert draws a written opinion on value of the real estate, presenting it in a form of appraisal statement (art. 156, of the Act).

2.9. **[Data for the real estate register]** The real estate experts deliver, with stipulations found under art. 175, par. 3, taken into account, to the agencies that keep the real estate register the excerpts of the appraisal statements they elaborate, presenting descriptions of real estates and their values, acting to that end within 3 months of the day when the documents are ready (art. 158, of the Act).

2.10. **[Determination of the amount of compensation]** Determination of the amount of compensation is based on market value of the real estate. Determination of market value of the real estate is done taking into account in particular type of the real estate, its location, method of its use, its purpose according to local plan, degree of saturation with technical infrastructure facilities, development condition and current prices agreed in trading of real estates. Market value of the real estate is determined according to the current method of use of the real estate, provided its purpose according to the local plan, coming in agreement with the purpose of expropriation, does not bring about increase of its value. If purpose of the real estate according to the local plan, coming in agreement with the purpose of expropriation, brings about an increase of the real estate market value, the actual market value is determined according to the alternative method of use resulting from said purpose (art. 134, of the Act).

If type of the real estate prevents determination of its market value, because this type of real estates is not subject to trading, it is the replacement value of the real estate that is determined.

Determination of replacement value requires that value of the land and value of its component parts are determined separately.

Determination of the value of land is done according to stipulations found under art. 134.

Determination of value of buildings or their parts, objects, technical infrastructure facilities and other facility items is based on their replacement cost, with the actual wear and tear taken into account (art. 135, of the Act, par. par. 1-4).

2.11. **[Determination of the forest and wooded real estates value in expropriation ends]** General rules that govern management of forest resources are stipulated by the Forests Act. Issues related to protection of lands, as applicable to appraisal, result from the Act on Protection of Agricultural and Forest lands.
Appendix C, part 2

Appraisal of the forest real estates can practically concern the following component parts:

a) forest land (without tree stand or as component part of the forest);
b) tree stand (in calculation of compensation for destruction or loss, or as component part of the forest);
c) forest land complete with tree stand, first of all in context of sale of the real estate.

Damages concerning forest land should take into account in particular its location, method of its use, its purpose according to local plan, degree of saturation with technical infrastructure facilities, condition of development and current prices paid in trading of real estates. As a rule the comparative approach is the most credible one, provided data are available, concerning executed sale transactions of the forest real estates.

With no market sale transactions concerning forest lands their value is determined according to estimated rates (§ 18 of the Decree).

Determination of the value of the forest tree stand or wooded area, where tree stand offers usable materials, consists in determination of the value of wood found in said tree stand. If the tree stand does not offer usable material, or if the value of wood that can be produced is lower than the cost of the forestry planting and cultivation, the determination concerns cost of forestry planting and tree stand cultivation till the day of expropriation (art. 135, par. 5).

Determination of the value of tree-covered, bush-covered or forest real estates located within municipal investment area, made available to the public or assigned to relevant ends, constituting parks, decorative gardens, lawns or shelterwoods, requires market transactions, while with no market transaction available it is assumed that the value of real estate is a sum of the value of land and the value of trees, bushes and other plants found in that land, while:

1) in determination of the value of land it is assumed that value of 1 m² of said lands is equal to 50% of the value of 1 m² of land of a dominant purpose found in the adjoining lands;
2) in determination of the value of trees, bushes and other plants the cost of their planting and cultivation is determined till the day when their value is determined.

Determination of the value of lands covered by the real estates that are discussed above, located off the municipal investment area, requires market transactions concerning the adjoining lands, while with no such market transaction available it is the land estimated-index method that is applied.

Determination of the value of tree-covered, bush-covered or forest real estates, that perform shelter, recreation or landscaping functions, requires that that said functions are taken into account (§ 45 of the Decree).

2.12. [Determination of the value of compensation paid for expropriated long-term cultures]

Determination of the value of long-term culture plantations, consists in estimation of the plantation establishment costs and those of its cultivation till the first harvest, and value of lost benefits from the day of expropriation till the final day of the full crop yield. The sum of costs and value of the lost benefits is reduced by the sum of annual depreciation charges for the period when the plantation was used, from the first crop yield till the day of expropriation (art. 135, par. 6).

2.13. [Determination of the value of crops, cultivation and other annual harvests]

Determination of the value of crops and other annual harvests requires estimation of the value of expected yield according to the prices paid in market trading, reduced by the value of input required in context of harvesting of said yield.
2.14. [Determination of the value of damage suffered by real estate] Determination of the value of damage suffered by the real estate, as discussed under art. 128, par. 4, of the Act, the elements that are taken into account in particular are as follows:

1) development condition of real estate as of the issuing date of the decision concerning, as the case may be, expropriation, use restrictions or permit for a temporary seizure of the real estate, and development condition of the real estate as of the day when activities justifying taking of said decision cease to be the case;
2) loss of benefits form the decision issuing day till the day when activities justifying taking of said decision cease to be the case.

Development condition of a built-up real estate is construed as the purpose and method of use of the building objects, and their technical condition, and also features of said objects (in particular their overall dimensions, architectural form, location in reference to the building line, and intensity of land utilization).

Determination of the value of real estates, that are discussed under art. 128, par. 4, of the Act, requires that the following factors are taken into account:

1) change of the conditions of use of the real estate;
2) change of usability of the real estate;
3) permanent restrictions concerning use of the real estate;
4) effects brought about by obligatory making-available of the real estate for performance of activities related to maintenance and fault clearing required by the lines, pipes and facility items that are discussed under art. 124, par. 1, of the Act.

Value of the damage caused by the activities that are discussed under art. 124, par. 6, of the Act is determined after the damage is noticed (§ 43 of the Decree).

2.15. [Determination of the value of real estates recorded in the register of historical monuments]

Determination, according to comparative method, of the value of real estates recorded in the register of historical monuments requires taking into account of:

1) tangible features and development potential of the real estate, resulting from findings of departments responsible for protection of historical monuments;
2) intangible features, including artistic and historical value, esthetics of the architectural form and unique character of the real estate;
3) transaction prices paid for similar real estates in the local, national or foreign market;
4) other circumstances related to historical character of the real estate.

With income-based approach one takes into account income that can be generated by the real estate, and restrictions and costs resulting from necessary protection required in the line of conservation of historical monuments (§ 44 of the Decree).

The cultural good as construed by the Act on Protection of Cultural Goods (art. 2), hereinafter called the APCG, is an object, movable or immovable, old or contemporary, being of importance for the heritage and cultural development of reason of its historical, scientific or artistic value.

Legal protection is applicable to the following cultural goods called ,,historical monuments”:

1. those registered in the register of historical monuments,
2. others, provided their character of historical monument is obvious, and provided they are not subject to protection according to other regulations (art. 4 of APCG).

Materially the protection can be applied among others to cemeteries, buildings and their interiors complete with surrounding, and building complexes of architectural value, and also buildings of importance in terms of history (complete list can be found under art. 5).

Establishment and development of communal cemeteries is one of the own tasks of the commune (art.1.1, of the Act on Cemeteries and Funerals).
Appendix C, part 2

Use of the cemetery area in other ends is allowed provided the tokens of historical, archeological or artistic value are preserved. Said tokens can be transferred to a proper place according to a permit issued by the provincial conservator of historical monuments. If the cemetery or its part is recorded in the register of historical monuments the use of land in other ends requires consent of the minister of competence in the matters of culture and protection of national heritage. (art. 4, par. 11, of the Act as above).

A change of the purpose of cemetery area requires that remains of the corpses found in the area are transferred to another cemetery to the costs of land buyer or user (art. 7, par. 14, of the Act as above).

Exhumation of corpses and remains can be conducted among others according to decision issued by the competent sanitary inspector should the cemetery be assigned to use in other ends. In such a case the corpses and remains should be buried anew in another location. If cemetery land is expropriated the cost of exhumation and transfer is covered by the buyer of land (art. 15, par. 1, sub-par. 3, and, par. 2, of the Act as above).

2.16. [Determination of value of real estates located on mineral deposits] When value of real estates located on mineral deposits that are not component part of the real estate, as discussed under art. 7, par. 1, of the Act of February 4, 1994 – Geological and Mining Law (Journal of Law No. 27, Item No. 96, as amended), is determined the appraisal does not take into account the value of the deposit (§ 46 of the Decree).

1. With real estates located on mineral deposits that constitute component parts of the real estate the value of real estate is determined with value of the deposit taken into account.

2. In comparative-approach one takes into account transaction prices paid for real estates similar to the one subject to appraisal, located on mineral deposits, in particular deposits of the same type, featuring similar volume and geological structure.

3. When income method is applied in income-based approach the income generated by the real estate is assessed as the amount equal to owner's share of profits generated by businessman in exploitation of deposit found in this type of real estate.

4. Determination of the value of real estate done for determination of the amount of payment for the right of possession of the real estate, which is needed in context of exploitation of the mineral deposit, requires that the value of real estate is determined according to its condition as of before exploitation of deposit, and according to expected condition of the real estate after termination of exploitation, according to the prices as of the day when the appraisal statement is drawn.

5. Value of the real estate after termination of exploitation of the deposit is determined using comparative or income-based approach, taking into account volume of the deposit left after termination of exploitation. Excavation reclamation costs are not taken into account in determination of the value of real estate.

6. Determination of the values discussed under par. par. 1-5 requires taking into account the establishments recorded in geological documentation of the deposit, deposit development design, mineral production license, study of conditions and directions of the communal land development, and in the local land development plan, as well as data found in the deposit survey-geological documentation (§ 47 of the Decree).

Starost, who proceeds with implementation of the task covered by the scope of competence of the State administration, is free to take decision that decides restrictions concerning method of use of the real estate, issuing to that end a permit that allows conducting of activity that consists in prospecting, surveying or production of deposits, which constitute property of the State Treasury, for a period of up to 12 months, if the owner or user benefiting from perpetual usufruct refuses relevant consent (art. 125, of the Act).
2.17. [Determination of the value of real estate for deciding of the church property matters] In determination of the value of real estates for deciding of property matters of the church legal persons and religious unions, which have their relations with the State put in order, the regulations found under art. 128, par. par. 1 and 2, and art. 134, par. par. 1 and 2, of the Act are applied accordingly. When value of the real estate is determined to decide compensation the condition of the real estate is assumed as of the day when the church legal person loses its property rights, while the applicable prices and purpose of the real estate are determined as of the day when the compensation is determined (§ 52 of the Decree).

2.18. [Appraisal methods applicable to lands that constitute resources of the State Treasury agricultural property, governed by regulations of the law]

Rules applicable to appraisal of lands that constitute resource of the State Treasury agricultural property can be found in: the Act on Management of the State Treasury Agricultural Property and decree by Minister of State Treasury on determination of detailed procedure applicable to sale of real estates and their component parts, conditions to govern spreading of payments into installments, land estimated appraisal rate and tender process conducting procedure.

According to regulations the appraisal is based on market prices. It is allowed alternatively that the lands are appraised by multiplication of the land estimated appraisal rate by price of one quintal of rye determined according to the farming tax regulations.

The starting criterion that governs deciding of the estimated appraisal rate to be applied in appraisal of lands under waters is the characteristic of the waters, which decides their being fit or not fit for fish breeding or farming.

The estimated appraisal rate applicable to lands under lakes of a character of stagnant waters, fit for fish breeding or farming, is assumed according to class of land under said waters in given tax area. With no such classification it is the estimated rate applicable to class IV grasslands that is applied. Value of land is increased by the value of facilities.

The estimated rate applicable to appraisal of lands under fish ponds is assumed according to class of lands in given tax area. With no such classification it is the estimated rate applicable to class I grasslands that is applied. Value of land is increased by the value of facilities.

With waters not fit for fish breeding or farming, and with natural and artificial water courses recognized as the particular water melioration facilities, and also with the waste waters the appraisal of lands under such waters is based on 50% of the estimated appraisal rate applicable to class IV grassland in given tax area.
3. Analysis and description of practices applied in purchase of real estates.

As construed by the Act the purchase of real estate is the purchase of the property right or perpetual usufruct right according to any act of law. Purchase of real estate can result from various acts of civil-legal nature. The real estate purchase method that is applied most frequently consists in delivery of declarations of will by two parties, i.e. legal act in a form of agreement. In this case the ownership is assigned onto buyer resulting from the fact of execution of the valid agreement that must be drawn in a form of notarial deed under the clause of nullity.

Commune not only sells but also buys real estates. Basically this takes a form of execution of a civil-legal agreement with owner of the real estate. But if premises that govern expropriation of real estate are the case – given real estate is located in areas assigned in the local plans to use in public ends (art. 112, par. 1, of the Act) – the real estate can be made become the communal property in an administrative decision, i.e. its ownership is removed from the owner in a compulsory way. But it is only when the plan is finally adopted that the expropriation activities can be started. Starost is obliged to precede the expropriation procedure by negotiations held with entities that hold real rights attached to the real estates (parties to the proceeding), concerning purchase of the real estate through the civil-legal agreement, in the line of freedom of execution of agreements the remains with both the parties (art. 114, par. 1, of the Act). Agency that conducts negotiations is also free to offer a replacement real estate.

Negotiations with the owner (or entity that holds the perpetual usufruct rights) are conducted by the entity that is to implement given investment:

- executive agency of the commune (county or province) or the local-government structural unit in operation within said agency, entrusted with the investment implementation tasks;
- Starost of the State structural unit acting according to his or her authorization – if the investment is to be implemented by the State Treasury;
- natural person or representative of the company that is to implement given investment.

If negotiations result in a situation where owner (or entity holding the perpetual usufruct right) consents to compulsory purchase of the real estate the relevant action takes place according to the conditions agreed by the parties in the agreement. If conditions stipulated by the agreement are not complied with the parties are free to vindicate their rights at the civil court. Negotiations concerning execution of agreement are not allowed to last infinitely. If the real estate owner refuses consent to the conditions offered by way of agreement within the time limits specified in the offer, or if investor refuses acceptance of the conditions offered by the owner a protocol or other document is drawn to record actions and positions of both the parties.

Thus it is only after ineffective negotiations held by the parties that the Starost institutes the expropriation proceedings:

- ex officio, if the real estate is to become property of the State Treasury, or
- to request of the communal, county or provincial executive agency, if the real estate is to become property of commune, county or provincial local government (relevant request must be appended among others with the documents of the conducted negotiations) (art. 115, par. 1, of the Act).

Even before the expropriation proceedings are started the Starost must always check to see if the negotiations were conducted properly, and offer the entity that is to be expropriated an additional two-month term for execution of the real estate sale agreement. However if the Starost recognizes the request as the one that fails to justify instituting of the expropriation proceedings, he or she does not offer to the real estate owner the time for execution of the sale agreement but instead issues decision that refuses instituting of the expropriation
proceedings. If the Starost finds that the request or its appendices show shortages of the form (for instance miss documents of the negotiations), he or she demands that the applicant that filed the request (i.e. for instance executive agency of the commune) clears the shortages within seven days under the clause of leaving the request without examination (art. 64, § 2, of the Code of Administrative Procedure).

With an ineffective lapse of the two-month term allowed for execution of the agreement the expropriation proceedings become the fact.


4.1. Expropriations of real estates.

The main premises that govern expropriation are found in the Constitution of the Republic of Poland, under art. 21, par. 2, allowing expropriation solely in a situation where this takes place in public ends and according to a just compensation.

Expropriations of real estates are governed by the Real Estate Management Act¹ of August 21, 1997, hereinafter called the Act.

4.1.2. [Premises; concept; competence] Expropriation of real estate can concern solely the real estate that is located in an area assigned in the local plan to use in public ends (art. 112, par. 1, of the Act). This applies to the areas that are reserved for the public purpose, as required according to the Town and Country Planning and Development Act of March 27, 2003².

Expropriation of real estate consists in revoking or abridgement, by way of decision, of the property right, right of perpetual usufruct or other real right attached to the real estate (art. 112, par. 2, of the Act).

Expropriation makes an exception to the general civil-legal rules of assignment of ownership. Expropriation of real estate is not allowed to be conducted in a way other than revoking or abridgement of the rights attached to the real estate, while said rights are not allowed to be assumed by way of agreement (art. 112, par. 3, of the Act).

The agency of competence in expropriation is the Starost who proceeds with the tasks of the scope of competence of the State administration (art. 112, par. 4, of the Act).

4.1.3. [Public ends] Under its art. 6 the Act presents catalogue of tasks implemented in the line of public ends.

4.1.4. [Entities] Expropriation can concern natural persons, legal persons and local government units (commune, county, provincial local government).

Expropriation can be conducted exclusively to benefit of the State Treasury or local government unit, i.e. commune, county or provincial local government (art. 113, par. 1, of the Act). Thus the right revoked that way is assigned onto the State Treasury, commune, county or provincial local government, save for the personal servitudes (e.g. accommodation servitude) that expire resulting from expropriation.

Real estate that constitutes property of the State Treasury cannot be expropriated. This does not concern the perpetual usufruct right or restricted real rights that burden the real estate (art. 113, par. 2, of the Act).

Expropriation can cover the complete real estate or its part. If expropriation concerns a part of the real estate while the rest of the real estate is not fit for a proper use according to the current purpose, than if requested by owner of the real estate or holder of perpetual usufruct the rest of the real estate is bought by way of agreement for the State Treasury or the local government, depending on beneficiary of the expropriation (art. 113, par. 3, of the Act).

¹ Journal of Law of 2000, No. 46, Item No. 543, as amended
If the real estate fails to have its own land and mortgage register or set of documents, its expropriation is conducted based on other documents that identify rights to the real estate, and data from the real estate register (art. 113, par. 4, of the Act).

With real estates of indefinite legal status the expropriation is conducted according to data of the real estate register. The real estate of indefinite legal status is construed as the real estate that prevents determination of people holding property rights, resulting from lack of land and mortgage register, set of documents or other documents (art. 113, par. 5 and 6, of the Act).

4.1.4. [Negotiations] The Act makes admissibility of institution of expropriation proceedings depend on a prior attempt of purchase of the real estate by way of agreement (art. 114, par. 1, of the Act). This concerns the civil-legal real estate sale agreement executed according to the rules and form stipulated by the Civil Code. Assignment, onto the State Treasury or commune, of ownership of the real estate required in implementation of the public project, taking place in a form of agreement, makes the expropriation proceedings become pointless.

Institution of expropriation proceedings should be preceded by negotiations concerning assumption of the rights (ownership, perpetual usufruct or other real right), conducted by and between the Starost, who proceeds with implementation of the State administration tasks, and owner or beneficiary of perpetual usufruct rights, or also other person who holds restricted real right attached to the real estate. During negotiations a replacement real estate can be offered. With expropriation requested by a local government agency the above-mentioned negotiations are held by relevant executive agencies (art. 114, par. 1 and 2, of the Act). With the real estate of an indefinite legal status the Starost, who proceeds with implementation of the State administration tasks, announces publicly the intended expropriation, acting to that end according to relevant customs in effect in particular location, and by publishing relevant announcement in the nationwide press. If within 2 months the above-mentioned announcement day the persons who hold the real rights attached to the real estate do not report themselves the expropriation process can be instituted (art. 114, par. 3 and 4, of the Act).

4.1.5. [Institution of proceedings] Institution of expropriation proceedings to benefit of the State Treasury takes place ex officio, while institution of the same to benefit of the local government agency – to request of its executive agency (art. 115, par. 1, of the Act).

Institution of expropriation proceedings can take place after ineffective lapse of the two-month term for execution of agreement, offered in writing by the Starost to the owner, holder of perpetual usufruct or other person holding restricted real right attached to the real estate. Flow of said period of time starts from the negotiations termination date (art. 115, par. 2, of the Act). Consent to sale of the real estate by way of agreement can be delivered before the final decision is obtained (issued (art. 16 § 1 of the Code of Administrative Procedure). With purchase of real estate by the State Treasury or local government agency the expropriation proceedings are discontinued as the pointless ones (art. 105 of the Code of Administrative Procedure).

Institution of expropriation proceedings takes place when the parties are delivered relevant notice, or on the day identified in the announcement of institution of expropriation proceedings, displayed at the county starost office, after lapse of 2 months (art. 115, par. 3, of the Act). Refusal of institution of expropriation proceedings requested by a local government agency takes a form of decision (art. 115, par. 4, of the Act).

Starost files with the court a request of recording of the fact of institution of expropriation proceedings in the land and mortgage register, while with the real estate of no such land and mortgage register — the request of inclusion of the notice of institution of expropriation proceedings in the existing set of documents (art. 117, par. 1, of the Act).
4.1.6. [Request of expropriation] Art. 116, of the Act specifies in detail the contents of the request of expropriation and its appendices. These requirements are of an obligatory character.

4.1.7. [Indefinite real estate status] With ineffective lapse of the two-month term allowed for identification of the persons who hold the real rights attached to the real estate the Starost, who proceeds with implementation of the State administration tasks, issues decision on assumption of ownership of the real estate by the State Treasury or the local government agency who applied for expropriation. Assumption of the ownership takes place on the day when the decision becomes final. Said decision is announced in a way specified under art. 49 of the Code of Administrative Procedure (art. 118a, par. par. 1 and 2, of the Act).

4.1.8. [Administrative Hearing] Administrative hearing is held by the Starost after institution of expropriation proceedings (art. 118, par. 1, of the Act). Regulation found under art. 118, par.1, is not applied to the real estate of indefinite legal status (art.118, par. 1a, of the Act).

4.1.9. [Expropriation decision] Elements of the real estate expropriation decision are specified under art. 119, par. 1, of the Act and under art. 107, § 1, of the Code of Administrative Procedure. The decision should include: identification of the public administration agency, issuing date, identification of party or parties, legal ground, decision, facts-related and law-related reasons, signature combined with statement of name, surname and position of the person empowered to issue the decision. Decision that can be subject to bringing of an action to the common court of law, or to appeal at administrative court, should include instructions concerning admissibility of action of appeal (art. 107 § 1 of the Code of Administrative Procedure)

4.1.10. [Transfer of ownership; expiration of usufruct] Transfer of real right onto the State Treasury or local government unit takes place on the day when the real estate expropriation decision becomes final (art. 121, par. 1 and 2, of the Act), said decision constituting ground for recording of a record in the land and mortgage register (art. 123, of the Act). Decision of the Starost, who proceeds with implementation of the State administration tasks, taken in reference to expropriation of real estates that constitute property of the State Treasury, and on the matters of expropriations, compensations for expropriated real estates, and returns of said real estates, can be appealed by the party to the Head of Province (art. 9a, of the Act). The public administration agency is obliged to suspend implementation of the decision that is appealed at the administrative court (art. 9, of the Act).

4.2. Compensations for expropriation of real estate.
Expropriation of real estate or other right takes place for a compensation offered to the expropriated person, matching the value of the expropriated real estate or value of relevant right (art. 128, par. 1, of the Act). Said compensation is decided by the Starost, who proceeds with implementation of the State administration tasks, in the real estate expropriation decision (art. 129, par. 1, of the Act). Determination of the amount of compensation takes place after delivery of an opinion of the property expert, defining value of the real estate (art. 130, par. 2, of the Act). Owner of real estate or holder of perpetual usufruct attached to the real estate can be offered in the line of the compensation, to his or her consent, a proper replacement real estate (art. 131, par. 1, of the Act). Payment of compensation takes place as one-time event within 14 days of the day when the expropriation decision becomes final (art. 132, par. 1, of the Act).
Regulations of the Civil Code are applied accordingly to effects of delayed or postponed payment of compensation (art. 132, par. 2, of the Act).
According to art. 132, par. 3, of the Act the amount of compensation identified in the expropriation decision is subject to valorization as of the compensation payment day (according to index identified under art. 5 of the Act).
Compensation is paid to deposit at the court if:
- entitled person refuses its acceptance or if obstacles difficult to overcome are faced in effecting of payment;
- expropriation compensation concerns real estate of indefinite legal status (art. 133, of the Act).

Determination of the amount of compensation is based on market value of the real estate (art. 134, of the Act).

If type of the real estate prevents determination of its market value because real estate like that are not subject to trading, then the replacement value of the real estate is determined. Determination of the real estate replacement value requires separate determination of the value of land and the value of its component parts (art. 135, of the Act).

4.3. Returns of expropriated real estates.
Expropriated real estate cannot be used in ends other than the ones defined in the expropriation decision, unless the former owner or successor of the former owner does not file request of return of the real estate (art. 136, par. 1, of the Act). With the intended use of the expropriated real estate or its part in ends other than those identified in the expropriation decision the competent agency notifies the owner or successor of the owner about the intent, complete with information about possible return of the expropriated real estate (art. 136, par. 2, of the Act). The competent agency obliged to deliver required notice is the Starost in capacity of the body that represents the State Treasury, and the executive agency of commune, county and province, when the real estate is the property of commune, county and province, resp. – art. 4 pkt. 9 of the Act. If in context of matters that are discussed in regulations found in Chapter III (covering regulations concerning expropriation and return of expropriated real estates) it is not possible to notify the parties about decision and other important transactions of the public administration agencies, of reason of lack of addresses of the parties, the regulations found under art. 49 Code of Administrative Procedure (art. 8 of the Act) are applied.

The former owner or successor of the former owner is free to demand return of the expropriated real estate or its part, if according to regulation found under art. 137 of the Act the real estate becomes useless in context of the purpose defined in the expropriation decision. Relevant request is addressed to the Starost, combined with notification of the competent agency (art. 136, par. 3, of the Act). If request of return of the expropriated real estate or its part is not filed within 3 months of delivery date of the notice of potential return, the right to return of the real estate or its part expires (art. 135, par. 5, of the Act).

The claim that is discussed under art. 136, par. 3, is not the case, if the real estate was sold, or if perpetual usufruct was established on the real estate to benefit of a third party, and said right was recorded in the land and mortgage register, before the Real Estate Management Act became effective (art. 229, of the Act).

Forms of settlements applicable to return of expropriated real estate are discussed under art. 140 of the Act. Return of expropriated real estate, return of compensation, including also replacement real estate, and settlements related to the return, and relevant time limits, are decided by the Starost by way of a decision (art. 142, of the Act). If return of compensation consists in return of the replacement real estate, then seen as the valorized compensation value is the one that matches value of the real estate as of its return day. Costs of proceedings conducted in return of the expropriated real estate burden the State Treasury or the local government agency, as the case may be (art. 140, par. 5 and 6, of the Act).
5. Economic – organization circumstances.

Expropriation makes a legal form where the State is able to assume rights attached to the real estate, remaining with other entity, for implementation of important public projects, and it comes in agreement with the Constitution of the Republic of Poland, that admits expropriation of real estates in public ends. Condition that governs expropriation, besides its being necessary in public ends, is an inability of purchase of the real estate by way of the civil-legal agreement. A rule was also assumed providing for a situation where expropriation can take place solely to benefit of the State Treasury or commune, while expropriation of the property of the State Treasury is not allowed.

Benefiting from necessary prompt completion of the real estate expropriation procedure the owners of the real estates that are to be assigned to use in public ends demand sums that are multiples of the value of real estates identified in the property expert opinion. Understanding that without his or her real estate the implementation of the public project will be prevented in full or in part the owner refuses his or her consent to execution of the civil-legal agreement that specifies value of the real estate according to opinion of the property expert. Conducting of the expropriation proceedings by the Starost can become a long process of reason of the administrative procedure (appeal, complaint lodged at the Superior Administrative Court). Necessity and indispensable character of investments makes in turn the Startots become forced to pay for real estates much more than their actual value.

Regulations concerning compensation for the expropriated real estates facilitate exercising of the constitutional right to compensation for expropriated real estate. A general rule was assumed, providing for a situation where compensation paid in expropriation of real estates must match value of said real estates. Determination of the compensation is based on market value of real estate, seen as the one that is best matched to the concept of fair compensation. A novelty found in this Act are the regulations concerning appraisal of real estate - its method and technique. Legislator introduced an obligation that provides for procurement of opinion of property expert before decision on compensation is issued.

Regulations concerning return of expropriated real estates result from the duty of observance of the constitutional rule of protection of property right. In each case of expropriated real estate becoming not needed in public ends that served the grounds of its expropriation the former owner or successors of the former owner become free to demand its return. This facilitates consistent implementation of the rule that allows expropriation of real estate solely in public projects. Ant to facilitate proceedings related to this matter the criteria were decided, governing recognition of real estate as the ones not needed in given project.

The central State administration agency of competence in the matters of the real estate management is President of the Office for Housing and Urban Development whose scope of competence covers among others determination of the rules of real estate management.

Starosts (presidents of cities vested with the rights of county) were assigned competence (held till December 31, 1998 by heads of provinces) concerning management of the State Treasury real estates in the first instance, deciding of compensation and return of real estates that are not necessary in the ends that governed their expropriation. Conducting of relevant proceedings was entrusted to the Starosts as the State tasks ordered according to the Act. The proceedings are financed from the State budget in the line of annual subsidies planned for the counties. They are highly responsible tasks as the decisions concern to a significant degree the interests of the citizens.
6. Conclusions.

Regulations of the Real Estate Management Act cover establishments concerning appraisal of the individual component parts that constitute the object of expropriation or restriction of real rights, and summation of their values. Regulations of the Act fail to decide the procedure applicable to a situation where the subject of appraisal – real estates and private farms – covers usable waters (fish ponds) or remaining parts (machines and farming implements, basic herd) that are subject to liquidation even though expropriation concerns just a part of the real estate.

No procedure is defined either in reference to a situation where the real estate or farm loses its features of:

- a) location of employment and source of income;
- b) location where products and services are produced;
- c) location where folklore is cultivated or progress is implemented, or in reference to the consequences of the change of production profile.

For many international institutions that finance investment projects it is highly important that with compulsory purchase of lands and other real estates in public projects, and with resettlements, all the losses are appraised in a proper way and the proper compensation is paid. They want to a maximum feasible degree that each person, family or community is as better off as before compulsory purchase of real estate or resettlement to the new locations.

According to the Polish law the title of ownership of land or real estate vests in the owner the right to compensation for loss caused by the order of compulsory purchase. Remaining people who might use said land or real estate, e.g. tenants, other families using a house belonging to ‘holder of the fundamental rights’, or employees of the employing institution, can lose house or a part, or even all, means of subsistence and still they do not qualify for compensation, even though they suffer some major economic loss or lose their accommodation resulting from implementation of the project.

The World Bank expects that people whose quality of live and subsistence changes resulting from resettlement, not entitled to-, or holding no title of ownership of the expropriated real estates, receive assistance within framework of the project.

Compulsory purchase of land in public ends is governed by the Real Estate Management Act of August 21, 1997. Said Act stipulates that:

- the amount of compensation is to be determined according to conditions and value of the real estate subject to expropriation, as of the expropriation decision issuing date;
- amount of compensation is to be based on value of the real estate determined by the property expert.

In practice, owners of the expropriated real estates can be offered in the line of compensation, according to powers and wishes of the addressee of the offer:

1. Cash;
2. Cash and land for erection of a new house;
3. Cash and farming lands;
4. Ready house complete with farming lands;
5. Ready house without farming lands.

Resettled people should be offered immediate and effective compensation of the loss of property that can be attributed to implementation of the investment project.

Polish procedure applicable to appraisal of buildings and other real estates provides for taking into account of the loss of value according to a moving scale, depending on their age.

According to elaboration – Annex VI, par. 6.4.4. – Operating Policy, an acceptance of the rules is suggested, providing for compensation of the full cost of replacement of building or other real estates by new buildings or real estates constructed at new locations chosen by the
interested family, according to contemporary standards and with the size of the old buildings kept in place. And all types of the indirect costs, such as costs of transport, costs of lawyers' service, costs of brokers, etc., should be treated as items of the "replacement cost".

Interpretation of the term 'replacement cost' should also take into account loss of the value of real estate attributable to 'negative planning effects' – concerning loss of value of real estates resulting from restrictions in effect in reference to modernization of houses and buildings and trading of real estates. The reservoir is yet to be constructed but the intent of its construction clearly affected the real estate values. These changes of prices should be taken into account in calculation of compensation for the interested people, should the payment of cash be effected.

Resettled people should be offered:

- assistance in the move required by resettlement; particular care is needed, in context of effects of the move, by elderly, handicapped or other people at risk, who currently live in a friendly environment of their relatives, friends and neighbors, and are of long-term links to the Church and its institutions, as they might lose the care and assistance they need when all the community is resettled;

- residential building or lot for erection of such a building, or – as the case may be – farming lands, featuring such a combination of features, which determine their production potential, location benefits and other factors, that are equivalent to benefits of the old location, and

- formal-legal assistance in purchase of new real estates or construction of replacement real estates.
FLOOD CONTROL RESERVOIR RACIBÓRZ
DOLNY ON ODRA RIVER

Cost estimate – Compensations

Elaborated by the following team:

Eng. Katarzyna Wyczawska

Eng. Ryszard Szymkiewicz, M.S.

Eng. Leszek Krawczyk, M.S.

Katowice, October 2004
Cost estimate – Compensations
1. Purpose of elaboration.

This elaboration was drawn to calculate, according to indices, the costs of compensations based on general data, without detailed stocktaking.

2. Grounds of elaboration.

This elaboration is of a general character and thus it is not allowed that it is used in direct negotiations concerning purchase of real estates. It does not constitute an estimate impact statement.

Data collected from the following documents were used in this document:

- Study – Collection of stocktaking data concerning property that is to be affected by the investment – elaborated by the PPUH Inwestprojekt.
- Estimate Impact Statement - Przedsiebiorstwo Consultingowo – Handlowe GAJA s. c., Gliwice 05.11.1998r. – Joanna Fąkowiak Włoszyn,
- Bulleting „Prices of Building Objects”, BCO, Parts I and II, 2nd half-year of 2004.

The main legal acts related to purchase of land in public ends are: Constitution of the Republic of Poland (Art. 21) and the Real Estate Management Act of August 21, 1997.
3. Cost of buildings found in Nieboczowy and Ligota Tworkowska.

It was found according to the collected materials that the purchase will concern following buildings: residential buildings, garages, farm buildings, livestock buildings and land development.

3.1. Cost of compensations for residential buildings.

It was found according to the available materials that there were 178 residential buildings (two of them uninhabited) found in the area that is to be affected by the investment (villages Ligota Tworkowska and Nieboczowy).

Their estimated total usable area is 25,276 m².

An average area of the residential building in the villages subject to evaluation is 142 m².

Percentages of residential buildings depending on their wear and tear, and their average usable area (m²)

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Years of residential house construction</th>
<th>No. of houses</th>
<th>% wear and tear</th>
<th>Total usable area, m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>2000-1991</td>
<td>5</td>
<td>-10%</td>
<td>710</td>
</tr>
<tr>
<td>2.</td>
<td>1990-1981</td>
<td>11</td>
<td>-20%</td>
<td>1562</td>
</tr>
<tr>
<td>3.</td>
<td>1980-1971</td>
<td>13</td>
<td>-30%</td>
<td>1846</td>
</tr>
<tr>
<td>5.</td>
<td>1960-1951</td>
<td>32</td>
<td>-50%</td>
<td>4544</td>
</tr>
<tr>
<td>6.</td>
<td>1950 - or earlier</td>
<td>89</td>
<td>-60%</td>
<td>12638</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>178</td>
<td></td>
<td>25276</td>
</tr>
</tbody>
</table>

Our calculations are based on the current unit replacement cost „k1” of the object, assumed in line with the Order by Head of Silesian Province on value of one calculation square meter of residential buildings in the 4th quarter of 2004 and the 1st quarter of 2005, i.e. PLN 2505.00. The calculations presented in the following table result from this assumption.
Appendix C, part 3

Purchase cost of residential buildings, with wear and tear, and average replacement cost of 1m² of usable area taken into account

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Years of resid. building erection</th>
<th>% wear &amp; tear</th>
<th>Total usable area, m²</th>
<th>Average repl. cost PLN/m²</th>
<th>Total repl. cost with wear &amp; tear taken into account</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2000-1991</td>
<td>10%</td>
<td>710</td>
<td>2505,00</td>
<td>1778550,00</td>
</tr>
<tr>
<td>2</td>
<td>1990-1981</td>
<td>20%</td>
<td>1562</td>
<td>2505,00</td>
<td>3912810,00</td>
</tr>
<tr>
<td>3</td>
<td>1980-1971</td>
<td>30%</td>
<td>1846</td>
<td>2505,00</td>
<td>4624230,00</td>
</tr>
<tr>
<td>4</td>
<td>1970-1961</td>
<td>40%</td>
<td>3976</td>
<td>2505,00</td>
<td>9959880,00</td>
</tr>
<tr>
<td>5</td>
<td>1960-1951</td>
<td>50%</td>
<td>4544</td>
<td>2505,00</td>
<td>11382720,00</td>
</tr>
<tr>
<td>6</td>
<td>1950 or earlier</td>
<td>60%</td>
<td>12638</td>
<td>2505,00</td>
<td>31658190,00</td>
</tr>
</tbody>
</table>

Replacement cost of the residential buildings, with wear and tear taken into account, is PLN 32,298.468.

3.2. Costs of compensations for farm buildings.

Total usable area of multi-function farm buildings is 32,370 m² approx.
An average area of a farm building in the villages subject to evaluation is 195 m².

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Years of farm building erection</th>
<th>Farms with such buildings %</th>
<th>Quantity</th>
<th>% wear and tear</th>
<th>Total average area, m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2000-1991</td>
<td>3</td>
<td>5</td>
<td>-10%</td>
<td>975</td>
</tr>
<tr>
<td>2</td>
<td>1990-1981</td>
<td>7,5</td>
<td>12</td>
<td>-20%</td>
<td>2,340</td>
</tr>
<tr>
<td>3</td>
<td>1980-1971</td>
<td>10</td>
<td>17</td>
<td>-30%</td>
<td>3,315</td>
</tr>
<tr>
<td>4</td>
<td>1970-1961</td>
<td>12</td>
<td>20</td>
<td>-40%</td>
<td>3,900</td>
</tr>
<tr>
<td>5</td>
<td>1960-1951</td>
<td>13</td>
<td>22</td>
<td>-50%</td>
<td>4,290</td>
</tr>
<tr>
<td>6</td>
<td>1950 - or earlier</td>
<td>54,5</td>
<td>90</td>
<td>-60%</td>
<td>17,550</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>100%</td>
<td>166</td>
<td>X</td>
<td>32,370 m²</td>
</tr>
</tbody>
</table>

Replacement value was calculated - calculations were based on:
Object No. 2311 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
Unit price of the building usable area (m² of usable area) - PLN 1146.
Purchase cost of farm buildings, with wear and tear, and average replacement cost of 1m² of usable area taken into account

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Years of farm building erection</th>
<th>% wear &amp; tear</th>
<th>Total usable area, m²</th>
<th>Average repl. cost PLN/m²</th>
<th>Total repl. cost</th>
<th>Total repl. cost with wear &amp; tear taken into acc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2000-1991</td>
<td>10%</td>
<td>975</td>
<td>1146</td>
<td>1117350,00</td>
<td>1005615,00</td>
</tr>
<tr>
<td>2</td>
<td>1990-1981</td>
<td>20%</td>
<td>2340</td>
<td>1146</td>
<td>2681640,00</td>
<td>2145312,00</td>
</tr>
<tr>
<td>3</td>
<td>1980-1971</td>
<td>30%</td>
<td>3315</td>
<td>1146</td>
<td>3798990,00</td>
<td>2659293,00</td>
</tr>
<tr>
<td>4</td>
<td>1970-1961</td>
<td>40%</td>
<td>3900</td>
<td>1146</td>
<td>4469400,00</td>
<td>2681640,00</td>
</tr>
<tr>
<td>5</td>
<td>1960-1951</td>
<td>50%</td>
<td>4290</td>
<td>1146</td>
<td>4916340,00</td>
<td>2458170,00</td>
</tr>
<tr>
<td>6</td>
<td>1950 or earlier</td>
<td>60%</td>
<td>17550</td>
<td>1146</td>
<td>20112300,00</td>
<td>8044920,00</td>
</tr>
</tbody>
</table>

Replacement cost of the farm buildings, with wear and tear taken into account, is PLN 18,994,950.

3.3. Cost of compensations for livestock buildings.

Livestock buildings designed for specialized stock-farming are scarce in the two villages. Their total area is 6900 m².

They were erected during 1965 - 1983, and thus it can be assumed that their average wear and tear is 30%.

Replacement value was calculated - calculations were based on:
Object No. 2311 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
Unit price of the building usable area (m² of usable area) – PLN 1146.

Purchase cost of livestock buildings, with wear and tear, and average replacement cost of 1m² of usable area taken into account

<table>
<thead>
<tr>
<th>lt. No.</th>
<th>% wear &amp; tear</th>
<th>Total usable area, m²</th>
<th>Average repl. Cost PLN/m²</th>
<th>Total repl. Cost</th>
<th>Total repl. Cost with wear &amp; tear taken into acc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>30%</td>
<td>6900</td>
<td>1146</td>
<td>7907400,00</td>
<td>5535180,00</td>
</tr>
</tbody>
</table>

Replacement cost of the livestock buildings, with wear and tear taken into account, is PLN 5,535,180.

3.4. Cost of compensations for garage buildings.

Total area of these buildings is 1558 m².
Average usable area of a free-standing garage is 38 m².
### Garages

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Years or garage erection</th>
<th>Households with garage %</th>
<th>Quantity</th>
<th>% wear and tear</th>
<th>Total average usable area, m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>2000-1991</td>
<td>24</td>
<td>10</td>
<td>-10%</td>
<td>380</td>
</tr>
<tr>
<td>2.</td>
<td>1990-1981</td>
<td>32</td>
<td>13</td>
<td>-20%</td>
<td>494</td>
</tr>
<tr>
<td>3.</td>
<td>1980-1971</td>
<td>29</td>
<td>12</td>
<td>-30%</td>
<td>456</td>
</tr>
<tr>
<td>4.</td>
<td>1970-1961</td>
<td>5</td>
<td>2</td>
<td>-40%</td>
<td>76</td>
</tr>
<tr>
<td>5.</td>
<td>1960-1951</td>
<td>10</td>
<td>4</td>
<td>-50%</td>
<td>152</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100%</td>
<td>41</td>
<td>X</td>
<td>1,558 m²</td>
</tr>
</tbody>
</table>

Replacement value was calculated - calculations were based on:

**Object No. 2532** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.

Unit price of the building usable area (m² of usable area) – PLN 1036.

**Purchase cost of garage buildings, with wear and tear, and average replacement cost of 1m² of usable area taken into account**

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Years of garage building erection</th>
<th>% wear &amp; tear</th>
<th>Total usable area, m²</th>
<th>Average repl. cost PLN/m²</th>
<th>Total repl. cost</th>
<th>Total repl. cost with wear&amp;tear taken into acc</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2000-1991</td>
<td>10%</td>
<td>380</td>
<td>1036</td>
<td>393,600,00</td>
<td>354,312,00</td>
</tr>
<tr>
<td>2</td>
<td>1990-1981</td>
<td>20%</td>
<td>494</td>
<td>1036</td>
<td>511,784,00</td>
<td>409,427,00</td>
</tr>
<tr>
<td>3</td>
<td>1980-1971</td>
<td>30%</td>
<td>456</td>
<td>1036</td>
<td>472,416,00</td>
<td>330,691,00</td>
</tr>
<tr>
<td>4</td>
<td>1970-1961</td>
<td>40%</td>
<td>76</td>
<td>1036</td>
<td>787,368,00</td>
<td>472,420,00</td>
</tr>
<tr>
<td>5</td>
<td>1960-1951</td>
<td>50%</td>
<td>152</td>
<td>1036</td>
<td>1574,720,00</td>
<td>787,360,00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td>1558</td>
<td></td>
<td>1614,088,00</td>
<td>1220,408,00</td>
</tr>
</tbody>
</table>

Replacement cost of the garage buildings, with wear and tear taken into account, is PLN 1,220,408.

#### 3.5. Costs of compensation for public and public utility buildings.

##### 3.5.1. Objects in Nieboczowy

**PRIMARY SCHOOL AND KINDERGARTEN AT 20 RZECZNA STREET**

Replacement value was calculated - calculations were based on:
- *for item No. 1* - **Object No. 1371** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
  - Unit price of the building usable area (m² of usable area) – PLN 289.
- *for item No. 2* - **Object No. 2537** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
  - Unit price of the building usable area (m² of usable area) – PLN 901.
### Appendix C, part 3

<table>
<thead>
<tr>
<th>It.</th>
<th>Object Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; Tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Free-standing bungalow</td>
<td>1750  505750</td>
<td>25%</td>
<td>379313,0</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Farm-residential building</td>
<td>354  318954</td>
<td>35%</td>
<td>207320,0</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>824704</td>
<td>586633,0</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Replacement cost of the primary school and kindergarten, with wear and tear taken into account, is PLN 586,633.

### VOLUNTARY FIRE BRIGADE STATION AT 42 WIEJSKA STREET

Fire brigade station, village recreation room, library.

Cubature Q – 4 500 m³

Replacement value was calculated - calculations were based on:

**Object No. 1161** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m³) – PLN 374.

<table>
<thead>
<tr>
<th>It.</th>
<th>Object Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; Tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Free-standing storied building</td>
<td>4500  1683000</td>
<td>35%</td>
<td>1093950,0</td>
<td></td>
</tr>
</tbody>
</table>

Replacement cost of the voluntary fire brigade station, with wear and tear taken into account, is PLN 1,093,950.

### BREAD HOUSE, 1 NOWY DWÓR STREET

Bread House Foundation run by Salvatorian Priests, Nieboczowy, 1 Nowy Dwór Street.

Replacement value was calculated - calculations were based on:

- *for item Nos. 1,2* - **Object No. 1112** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m³) – PLN 399.

<table>
<thead>
<tr>
<th>It.</th>
<th>Object Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; Tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Residential storied building with usable attic</td>
<td>1400  558600</td>
<td>60%</td>
<td>223440,0</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Auxiliary buildings</td>
<td>380  151620</td>
<td>25%</td>
<td>113715,0</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>710220</td>
<td>337155,0</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Replacement cost of the Bread House, with wear and tear taken into account, is PLN 337,155.
SPORT CLUB NIEBOCZOWY

Sport club with football fields and club building.

Area of football fields is 150 x 70 meters approx. Club building, area 24 x 16 m, includes cloakroom and showers.

Replacement value was calculated - calculations were based on:
- for item No. 1 - Object No. 5711 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of 1 m2 of field surface – PLN 69.
- for item No. 2 - Object No. 1751 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of the building usable area (m2 of usable area) – PLN 1821.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Football fields</td>
<td>10500</td>
<td>724500</td>
<td>507150,0</td>
<td>30%</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Club building</td>
<td>384</td>
<td>699264</td>
<td>489485,0</td>
<td>30%</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>1423764</td>
<td>996635,0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Replacement cost of the Sport Club, with wear and tear taken into account, is PLN 996,635.

3.5.2. Objects in Ligota Tworkowska

VOLUNTARY FIRE BRIGADE STATION

Cubature Q – 310 m³

Replacement value was calculated - calculations were based on: Object No. 1161 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m3) – PLN 374.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Free-standing storied building</td>
<td>310</td>
<td>115940</td>
<td>95071,0</td>
<td>18%</td>
<td></td>
</tr>
</tbody>
</table>

Replacement cost of the voluntary fire brigade station, with wear and tear taken into account, is PLN 95,071.

VILLAGE RECREATION ROOM

Recreation room with library corner.

Cubature of village recreation room Q – 1350 m³
Auxiliary building by the village recreation room.

Replacement value was calculated - calculations were based on:
- for item No. 1 - Object No. 1161 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m3) – PLN 374.
- for item No. 2 - Object No. 2537 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of the building usable area (m2 of usable area) – According to available materials – PLN 901.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object Description</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Recr. room bldg, storied, with usable attic</td>
<td>1350</td>
<td></td>
<td>504900</td>
<td>60%</td>
<td>201960,0</td>
</tr>
<tr>
<td>2</td>
<td>Auxiliary building</td>
<td>60</td>
<td></td>
<td>54060</td>
<td>60%</td>
<td>21624,0</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>558960</td>
<td></td>
<td>223584,0</td>
</tr>
</tbody>
</table>

Replacement cost of the village recreation room, with wear and tear taken into account, is PLN 223,584.

3.6. Cost of compensations for objects of cultural value.

3.6.1. Objects in Nieboczowy

CHURCH

Erected during 1928-31 (designed by J. Affa) - 68 Wiejska Street.

Replacement value was calculated - calculations were based on:
- for item No. 1 - Object No. 1481 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m3) – PLN 302.
- for item No. 2 - Object No. 1161 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m3) – PLN 374.
- for item No. 3 - Object No. 2537 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of the building usable area (m2 of usable area) – PLN 901.
- for item No. 4 - Object No. 2663 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of the building usable area (m2 of usable area) – PLN 1154.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object Description</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Church building</td>
<td>4200</td>
<td></td>
<td>1268400</td>
<td>25%</td>
<td>951300,0</td>
</tr>
<tr>
<td>2</td>
<td>Parish building</td>
<td>1900</td>
<td></td>
<td>710600</td>
<td>50%</td>
<td>355300,0</td>
</tr>
<tr>
<td>3</td>
<td>Auxiliary buildings</td>
<td>102</td>
<td></td>
<td>91902</td>
<td>60%</td>
<td>55141,0</td>
</tr>
<tr>
<td>4</td>
<td>Garages</td>
<td>72</td>
<td></td>
<td>83088</td>
<td>60%</td>
<td>50332,8</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>2153990</td>
<td></td>
<td>1378596,0</td>
</tr>
</tbody>
</table>

Replacement cost of the Church, with wear and tear taken into account, is PLN 1,376,596.
CEMETERY

Prices according to local market

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Q-ty</th>
<th>Exhumation Price</th>
<th>Price of Tombstone</th>
<th>Total</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Transport New site</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Earth graves</td>
<td>30</td>
<td>1200</td>
<td>100</td>
<td>1300</td>
<td>39000.0</td>
</tr>
<tr>
<td>2</td>
<td>Full terrazzo</td>
<td>225</td>
<td>1200</td>
<td>1000</td>
<td>2200</td>
<td>49500.0</td>
</tr>
<tr>
<td>3</td>
<td>Terrazzo frame</td>
<td>70</td>
<td>1200</td>
<td>800</td>
<td>2000</td>
<td>14000.0</td>
</tr>
<tr>
<td>4</td>
<td>Stone</td>
<td>45</td>
<td>1200</td>
<td>3000</td>
<td>4200</td>
<td>18900.0</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>370</td>
<td></td>
<td></td>
<td></td>
<td>863000.0</td>
</tr>
</tbody>
</table>

Cost of the cemetery (exhumation, transport, new site and tombstones) is PLN 863,000.
The above-presented cost does not cover construction of a new cemetery.

WAYSIDE SHRINES

Replacement value was calculated - calculations were based on:
Unit price of building cubature (m3) – PLN 497.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Replacement cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Cemetery shrine</td>
<td>180</td>
<td>89460</td>
<td>30%</td>
<td>62622.0</td>
</tr>
<tr>
<td>2</td>
<td>Shrine 1.5x2x3</td>
<td>9</td>
<td>4473</td>
<td></td>
<td>4473.0</td>
</tr>
<tr>
<td>3</td>
<td>Shrine 2x3.5x34</td>
<td>21</td>
<td>10437</td>
<td></td>
<td>10437.0</td>
</tr>
<tr>
<td>4</td>
<td>Shrine 1x0.8x2</td>
<td>1.6</td>
<td>795</td>
<td></td>
<td>795.0</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>105165</td>
<td></td>
<td></td>
<td>78327.0</td>
</tr>
</tbody>
</table>

Replacement cost of the wayside shrines, with wear and tear taken into account, is PLN 78,327.

CROSSES

5 crosses: 4 of stone and 1 of wood.

50% of the calculated mean value of above-mentioned shrines Nos. 2,3,4 was assumed.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Replacement cost</th>
<th>50% of repl. cost</th>
<th>Quantity</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Crosses</td>
<td>5235</td>
<td>2618</td>
<td>5</td>
<td>13090</td>
</tr>
</tbody>
</table>

Replacement cost of the crosses is PLN 13,090.
3.6.2. Objects in Ligota Tworkowska

**CHAPEL**

Chapel erected in 1902. Cubature Q = 350 m³ approx.

Replacement value was calculated - calculations were based on:
Unit price of building cubature (m³) - **PLN 497**.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Replacement cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Chapel</td>
<td>350</td>
<td>173950</td>
<td>30%</td>
<td>121765.0</td>
</tr>
</tbody>
</table>

Replacement cost of the chapel, with wear and tear taken into account, is **PLN 121,765**.

**CROSSES**

2 stone wayside crosses.

50% of the calculated value of shrines, item Nos. 2, 3, 4 above, was assumed.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Replacement cost</th>
<th>50% of repl. cost</th>
<th>Quantity</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Crosses</td>
<td>5235</td>
<td>2618</td>
<td>2</td>
<td>5236</td>
</tr>
</tbody>
</table>

Replacement cost of the crosses is **PLN 5,236**.

3.7. Costs of compensations for shopping-service buildings

3.7.1. Objects in Nieboczowy

**GROCERY**

Replacement value was calculated - calculations were based on:
Object No. 2721 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
Unit price of building cubature (m³) - **PLN 391**.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Grocery</td>
<td>480</td>
<td>187680</td>
<td>20%</td>
<td></td>
<td>150144</td>
</tr>
</tbody>
</table>

* no data available concerning this object – cubature assumed as that of the shop in Ligota Tworkowska.

Replacement cost of the grocery, with wear and tear taken into account, is **PLN 150,144**.
Appendix C, part 3

CAFÉ

Replacement value was calculated - calculations were based on:
**Object No. 2721** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.  
Unit price of building cubature (m³) – **PLN 391**.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Cafe</td>
<td></td>
<td>355</td>
<td>138805</td>
<td>5%</td>
<td>131865</td>
</tr>
</tbody>
</table>

Replacement cost of the café, with wear and tear taken into account, is PLN 131 865.

BAKERY

Replacement value was calculated - calculations were based on:
**Object No. 2721** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.  
Unit price of building cubature (m³) – **PLN 391**.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bakery</td>
<td></td>
<td>356</td>
<td>139196</td>
<td>25%</td>
<td>104397</td>
</tr>
</tbody>
</table>

Replacement cost of the bakery, with wear and tear taken into account, is PLN 104,397.

CRAFT WORKSHOPS - 3

Replacement value was calculated - calculations were based on:
**Object No. 2311** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.  
Unit price of the building usable area (m² of usable area) – **PLN 1146**.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Craft workshops</td>
<td>168</td>
<td>192528</td>
<td>134770</td>
<td>30%</td>
<td>134770</td>
</tr>
</tbody>
</table>

*no data are available concerning these objects – it was assumed that the craft workshops are housed in residential buildings. As an average area of the residential building is 142 m² it was assumed that area of a single craft workshop is 56 m² approx. (142 : 2.5 basement, ground floor, attic).*

Replacement cost of the workshops, with wear and tear taken into account, is PLN 134,770.
Appendix C, part 3

GRAVEL PIT

Replacement value was calculated - calculations were based on:
- for item No. 1 - Object No. 2412 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m3) – PLN 262.
- for item No. 2, 3 - Object No. 2311 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m3) – PLN 197.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Office building</td>
<td>648</td>
<td>169776</td>
<td>30%</td>
<td>118843,0</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Gravel pit with back-up facilit.</td>
<td>1092</td>
<td>215124</td>
<td>40%</td>
<td>129074,0</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Control room</td>
<td>90</td>
<td>17730</td>
<td>40%</td>
<td>10638,0</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>402630</td>
<td></td>
<td>258555,0</td>
<td></td>
</tr>
</tbody>
</table>

Replacement cost of the gravel pit, with wear and tear taken into account, is PLN 258,555.

BARS – 2

Replacement value was calculated - calculations were based on:
Object No. 2721 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m3) – PLN 391.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bars</td>
<td>710</td>
<td>277610</td>
<td>5%</td>
<td>263730</td>
<td></td>
</tr>
</tbody>
</table>

* no data are available concerning the object – cubature was assumed as that of the café in Nieboczowy.

Replacement cost of the bars, with wear and tear taken into account, is PLN 263,730.

RECREATIONAL CENTERS

The first one is the large tourist center. Recreational center “ Raj”.

Replacement value was calculated - calculations were based on:
- for item No. 1, 2, 3, 4 - Object No. 1691 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m3) – PLN 406.
- for item No. 5 - Object No. 2311 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of the building usable area (m2 of usable area) – PLN 1146.
- for item No. 6 - Object No. 2141 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004. Unit price of building cubature (m3) – PLN 412.
Appendix C, part 3

<table>
<thead>
<tr>
<th>No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Office building</td>
<td>36</td>
<td>250</td>
<td>101500</td>
<td>15%</td>
<td>86275,0</td>
</tr>
<tr>
<td>2</td>
<td>Holiday cabins (7)</td>
<td>357</td>
<td>847</td>
<td>343882</td>
<td>25%</td>
<td>257912,0</td>
</tr>
<tr>
<td>3</td>
<td>Chalets</td>
<td>135</td>
<td>300</td>
<td>121800</td>
<td>50%</td>
<td>60900,0</td>
</tr>
<tr>
<td>4</td>
<td>Restaurant building</td>
<td>500</td>
<td>2500</td>
<td>1015000</td>
<td>30%</td>
<td>710500,0</td>
</tr>
<tr>
<td>5</td>
<td>Auxiliary buildings</td>
<td>50</td>
<td></td>
<td>57300</td>
<td>25%</td>
<td>42975,0</td>
</tr>
<tr>
<td>6</td>
<td>Hydrophore building</td>
<td>12</td>
<td>30</td>
<td>12360</td>
<td>30%</td>
<td>8652,0</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>1651842</strong></td>
<td></td>
<td><strong>405087,0</strong></td>
</tr>
</tbody>
</table>

The second center –
Replacement value was calculated - calculations were based on:
Object No. 1110 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
Unit price of the building usable area (m² of usable area) – PLN 1573.

<table>
<thead>
<tr>
<th>No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Recreational center</td>
<td>800</td>
<td></td>
<td>1258400</td>
<td>60%</td>
<td>503360,0</td>
</tr>
</tbody>
</table>

Recreational center in a brick building, usable area 800 m² approx. After the 1997 flood it was only a part of its operating functions that were restored. Currently the object is not used.

Replacement cost of the recreational centers, with wear and tear taken into account, is PLN 908,447.

3.7.2. Objects in Ligota Tworkowska

GROCERY

Replacement value was calculated - calculations were based on:
Object No. 2721 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
Unit price of building cubature (m³) – PLN 391.

<table>
<thead>
<tr>
<th>No.</th>
<th>Object</th>
<th>Area</th>
<th>Cubature</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Grocery</td>
<td>480</td>
<td></td>
<td>187680</td>
<td>20%</td>
<td>150144</td>
</tr>
</tbody>
</table>

Replacement cost of the grocery, with wear and tear taken into account, is PLN 150,144.

CRAFT WORKSHOPS - 2

Replacement value was calculated - calculations were based on:
Object No. 2311 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
Unit price of the building usable area (m² of usable area) – PLN 1146.
It. | Object | Area | Cubature | Replacement cost | Wear & tear | Repl. cost with wear & tear
---|--------|------|----------|-----------------|-------------|-----------------------------
1 | Craft workshops | 112 | 128352 | 30% | 89846

* no are data available concerning these objects – it was assumed that the craft workshops are housed in residential buildings. As an average area of the residential building is 142 m² it was assumed that area of a single craft workshop is 56 m² approx. (142 : 2.5 basement, ground floor, attic).

Replacement cost of the workshops, with wear and tear taken into account, is PLN 89,846.

Note: The above-presented replacement costs cover just the buildings (without land).

3.8. Cost of compensations for roads and transport areas.

Area of road S 5252 found within villages of Nieboczowy and Ligota Tworkowska is 29,168.1 m². Said length of the road includes traffic signing valued at PLN 5858.51 in total. In 2001 the road surface was replaced in Ligota Tworkowska for a total value of PLN 142,794.10.

Assumed data:
- street width complete with sidewalk and green strip: 10 m.
- length of streets: 2917 running meters
- road foundation: 10 cm.

Replacement value was calculated - calculations were based on:
  Unit price of 1m² of communal street surface – PLN 130.
- for item No. 2 - Object No. 7121 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
  Unit price of 1m of the line – PLN 97.
- for item No. 3 - Object No. 5578 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
  Unit price of 1m of network – Cena jednostkowa PLN 679.
- for item No. 4 - Object No. 5331 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
  Unit price of 1m3 broken-stone road foundation – PLN 165.55. (504700*0,1)

<table>
<thead>
<tr>
<th>It.</th>
<th>Object</th>
<th>Run. m.</th>
<th>Area</th>
<th>Unit price</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>RoadS5252</td>
<td>2.92</td>
<td>1300000</td>
<td>3796000</td>
<td>10%</td>
<td>3416400</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>External lighting line</td>
<td>2917</td>
<td>97</td>
<td>282949</td>
<td>10%</td>
<td>254654</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Storm-water drainage network</td>
<td>2917</td>
<td>679</td>
<td>1980643</td>
<td>10%</td>
<td>1782579</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Roads and other areas</td>
<td>50470</td>
<td>165.46</td>
<td>8350766</td>
<td>30%</td>
<td>5845536</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>14410358</td>
<td></td>
<td>11289189</td>
<td></td>
</tr>
</tbody>
</table>

Replacement cost of the transport areas, with wear and tear taken into account, is PLN 11,299,169.
2.9. Cost of compensations for power network.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>km</th>
<th>pc.</th>
<th>set</th>
<th>Unit price</th>
<th>Total price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Overhead line AFI 3x35</td>
<td>3.1</td>
<td></td>
<td></td>
<td>60000</td>
<td>186000</td>
</tr>
<tr>
<td>2</td>
<td>Overhead line AFI 3x70</td>
<td>4.4</td>
<td></td>
<td></td>
<td>73000</td>
<td>321200</td>
</tr>
<tr>
<td>3</td>
<td>Tr. station STS 160 kVA/20/0,4kV</td>
<td></td>
<td>1</td>
<td>30000</td>
<td>30000</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Tr. station STS 100 kVA/20/0,4kV</td>
<td></td>
<td>1</td>
<td>26000</td>
<td>26000</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Tr. station STS 75 kVA/20/0,4kV</td>
<td></td>
<td>1</td>
<td>24000</td>
<td>24000</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>L.V. overhead line</td>
<td>8.6</td>
<td></td>
<td></td>
<td>60000</td>
<td>516000</td>
</tr>
<tr>
<td>7</td>
<td>Lighting line</td>
<td>6.6</td>
<td></td>
<td></td>
<td>15000</td>
<td>99000</td>
</tr>
<tr>
<td>8</td>
<td>Service line</td>
<td>225</td>
<td></td>
<td></td>
<td>900</td>
<td>202500</td>
</tr>
<tr>
<td>9</td>
<td>Street lighting lamp fitting</td>
<td>220</td>
<td></td>
<td></td>
<td>400</td>
<td>88000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1492700</td>
</tr>
</tbody>
</table>

Replacement cost of the power network is PLN 1,492,800.


<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Run. m.</th>
<th>Pc.</th>
<th>Unit price</th>
<th>Replacement cost</th>
<th>Wear &amp; tear</th>
<th>Repl. cost with wear &amp; tear</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>PCV network, 160</td>
<td>2154</td>
<td>420</td>
<td>904680</td>
<td>10%</td>
<td>814212</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>PCV network, 110</td>
<td>5918</td>
<td>391</td>
<td>2313938</td>
<td>10%</td>
<td>2082544</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>PCV network, 90</td>
<td>1695</td>
<td>349</td>
<td>591555</td>
<td>10%</td>
<td>532400</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Steel network, 150</td>
<td>23</td>
<td>390</td>
<td>8970</td>
<td>10%</td>
<td>8073</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Steel networks, 90</td>
<td>1301</td>
<td>340</td>
<td>442340</td>
<td>10%</td>
<td>398106</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>PCV household connections, 50</td>
<td>1147</td>
<td>280</td>
<td>321160</td>
<td>10%</td>
<td>289044</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>PCV household connections, 32</td>
<td>2937</td>
<td>260</td>
<td>763620</td>
<td>10%</td>
<td>687258</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Well of 1990</td>
<td>1</td>
<td>2000</td>
<td>2000</td>
<td>10%</td>
<td>1800</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Well of 2004</td>
<td>1</td>
<td>2100</td>
<td>2100</td>
<td>10%</td>
<td>2100</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Galvanized household con., 25</td>
<td>120</td>
<td>210</td>
<td>25200</td>
<td>10%</td>
<td>22680</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Cast-iron pipeline, 200</td>
<td>150</td>
<td>430</td>
<td>64500</td>
<td>10%</td>
<td>58050</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Steel pipeline, 200</td>
<td>482</td>
<td>410</td>
<td>197820</td>
<td>10%</td>
<td>177858</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Steel pipeline, 100</td>
<td>82</td>
<td>190</td>
<td>15580</td>
<td>20%</td>
<td>12464</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Steel pipeline, 150</td>
<td>324</td>
<td>280</td>
<td>90720</td>
<td>10%</td>
<td>81648</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Steel pipeline, 100</td>
<td>424</td>
<td>190</td>
<td>80560</td>
<td>10%</td>
<td>72504</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>PCV pipeline, 225</td>
<td>415</td>
<td>220</td>
<td>91300</td>
<td>10%</td>
<td>82170</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Pass-through under tracks, 400</td>
<td>600</td>
<td>720</td>
<td>432000</td>
<td>10%</td>
<td>388800</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>Well of 1983</td>
<td>1</td>
<td>2000</td>
<td>2000</td>
<td>20%</td>
<td>1600</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>Wells of 1991</td>
<td>4</td>
<td>2000</td>
<td>8000</td>
<td>10%</td>
<td>7200</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Wells of 2004</td>
<td>2</td>
<td>2000</td>
<td>4000</td>
<td>10%</td>
<td>4000</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>6361843</td>
<td>5711711</td>
<td></td>
</tr>
</tbody>
</table>

Replacement cost of the water-pipe networks is PLN 5,711,711.

3.11. Costs that are not covered by this elaboration.

This elaboration does not cover:

- Value of household equipment or fittings;
- Value of farm machines or tools;
Appendix C, part 3

- Value of public support and transport costs of the displaced people;
- Value of the lost business or employment benefits;
- Costs of notarial deeds;
- Appraisal of real estates;
- Costs of telephone cables (as relevant data are not available).
4. Value of lands located within the reservoir.

Land coverage calculated for the planned reservoir is 2626.90 ha.

Current uses of the area of 2626.90 ha. that is to be used in construction of the planned reservoir are presented in the following table:

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Uses</th>
<th>Area acc. to records (ha.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Agricultural land,</td>
<td>1853.58</td>
</tr>
<tr>
<td>1.1.</td>
<td>Ploughland</td>
<td>1483.5</td>
</tr>
<tr>
<td>1.2.</td>
<td>Orchards</td>
<td>10.4</td>
</tr>
<tr>
<td>1.3.</td>
<td>Meadows</td>
<td>323.64</td>
</tr>
<tr>
<td>1.4.</td>
<td>Pastures</td>
<td>35.35</td>
</tr>
<tr>
<td>1.5.</td>
<td>Pastures for afforestation</td>
<td>1.05</td>
</tr>
<tr>
<td>2.</td>
<td>Forests</td>
<td>147.51</td>
</tr>
<tr>
<td>3.</td>
<td>Coppices</td>
<td>14</td>
</tr>
<tr>
<td>4.</td>
<td>Waters,</td>
<td>184.56</td>
</tr>
<tr>
<td>4.1.</td>
<td>Stagnant waters (ponds, lakes)</td>
<td>124.99</td>
</tr>
<tr>
<td>4.2.</td>
<td>Lotic waters (rivers)</td>
<td>59.57</td>
</tr>
<tr>
<td>5.</td>
<td>Ditches</td>
<td>24.84</td>
</tr>
<tr>
<td>6.</td>
<td>Mineral/aggregate excavations</td>
<td>16.74</td>
</tr>
<tr>
<td>7.</td>
<td>Transport areas,</td>
<td>53.39</td>
</tr>
<tr>
<td>7.1.</td>
<td>Roads</td>
<td>52.57</td>
</tr>
<tr>
<td>7.2.</td>
<td>Other transport areas</td>
<td>0.82</td>
</tr>
<tr>
<td>8.</td>
<td>Residential areas,</td>
<td>39.98</td>
</tr>
<tr>
<td>8.1.</td>
<td>Built-up areas</td>
<td>28.86</td>
</tr>
<tr>
<td>8.2.</td>
<td>Unbuilt areas</td>
<td>0.16</td>
</tr>
<tr>
<td>8.3.</td>
<td>Green areas</td>
<td>10.96</td>
</tr>
<tr>
<td>8.4.</td>
<td>Various areas</td>
<td>3.98</td>
</tr>
<tr>
<td>9.</td>
<td>Waste land</td>
<td>292.3</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>2626.9</td>
</tr>
<tr>
<td>No.</td>
<td>Uses</td>
<td>Area acc. to records</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------------------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(ha.)</td>
</tr>
<tr>
<td>1.</td>
<td>Agricultural lands</td>
<td>1853,58</td>
</tr>
<tr>
<td>2.</td>
<td>Forests</td>
<td>147,51</td>
</tr>
<tr>
<td>3.</td>
<td>Coppices</td>
<td>14</td>
</tr>
<tr>
<td>4.</td>
<td>Waters</td>
<td>184,56</td>
</tr>
<tr>
<td></td>
<td>of that:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>stagnant waters (ponds, lakes)</td>
<td>124,99</td>
</tr>
<tr>
<td></td>
<td>lotic waters (rivers)</td>
<td>59,57</td>
</tr>
<tr>
<td>5.</td>
<td>Ditches</td>
<td>24,84</td>
</tr>
<tr>
<td>6.</td>
<td>Mineral/aggregate excavations</td>
<td>16,74</td>
</tr>
<tr>
<td>7.</td>
<td>Transport areas</td>
<td>53,39</td>
</tr>
<tr>
<td>8.</td>
<td>Residential areas</td>
<td>39,98</td>
</tr>
<tr>
<td></td>
<td>of that:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8.1. built-up areas</td>
<td>28,86</td>
</tr>
<tr>
<td></td>
<td>8.2. unbuilt areas</td>
<td>0,16</td>
</tr>
<tr>
<td></td>
<td>8.3. green lands</td>
<td>10,96</td>
</tr>
<tr>
<td></td>
<td>8.4. various lands</td>
<td>3,98</td>
</tr>
<tr>
<td>9.</td>
<td>Waste lands</td>
<td>292,3</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>2626,9</td>
</tr>
</tbody>
</table>

**Item Nos. from 1 to 7, and 9.** Average price determined at the local market was assumed, calculated according to the real estates that were purchased so far – **27,000 PLN/ha.**

Values of orchards, meadows and pastures were determined as the ones that match value of the farmland.
In case of forests said values do not take into account benefits lost resulting from early felling of trees, while with orchards – value of the fruit-growing trees and bushes, complete with value of the lost benefits.

**Item Nos. 8.1. and 8.2.** Average price determined at the local market was assumed, calculated according to the real estates that were purchased so far – **100,000 PLN/ha.**

**Item Nos. 8.3. and 8.4.**
50% of the mean price determined at the local market was assumed, as specified under par. 8.1.8.2. – **50,000 PLN/ha.**
## 5. Cost Summary.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Residential buildings</td>
<td>63 316 380</td>
<td>32 298 468</td>
<td>95 614 848</td>
<td>53 016 380</td>
</tr>
<tr>
<td>2</td>
<td>Farm buildings</td>
<td>37 096 020</td>
<td>18 994 950</td>
<td>56 090 970</td>
<td>37 096 020</td>
</tr>
<tr>
<td>3</td>
<td>Livestock buildings</td>
<td>7 907 400</td>
<td>5 535 180</td>
<td>13 442 580</td>
<td>8 507 400</td>
</tr>
<tr>
<td>4</td>
<td>Garage buildings</td>
<td>1 614 088</td>
<td>1 220 408</td>
<td>2 834 496</td>
<td>2 014 088</td>
</tr>
<tr>
<td>5</td>
<td>School + kindergarten</td>
<td>824 704</td>
<td>586 633</td>
<td>1 411 337</td>
<td>924 663</td>
</tr>
<tr>
<td>6</td>
<td>Voluntary fire brigade station</td>
<td>1 683 000</td>
<td>1 093 950</td>
<td>2 776 950</td>
<td>1 003 050</td>
</tr>
<tr>
<td>7</td>
<td>Bread House</td>
<td>710 220</td>
<td>331 755</td>
<td>1 041 975</td>
<td>710 220</td>
</tr>
<tr>
<td>8</td>
<td>Sport Club</td>
<td>1 423 764</td>
<td>996 635</td>
<td>2 420 399</td>
<td>1 423 764</td>
</tr>
<tr>
<td>9</td>
<td>Voluntary fire brigade station</td>
<td>115 940</td>
<td>95 071</td>
<td>211 011</td>
<td>115 940</td>
</tr>
<tr>
<td>10</td>
<td>Village recreation room</td>
<td>558 960</td>
<td>223 584</td>
<td>782 544</td>
<td>558 960</td>
</tr>
<tr>
<td>11</td>
<td>Church</td>
<td>2 153 990</td>
<td>1 376 596</td>
<td>3 530 586</td>
<td>2 153 990</td>
</tr>
<tr>
<td>12</td>
<td>Cemetery</td>
<td>863 000</td>
<td>863 000</td>
<td>1 726 000</td>
<td>1 726 000</td>
</tr>
<tr>
<td>13</td>
<td>Wayside shrines</td>
<td>279 115</td>
<td>200 992</td>
<td>479 107</td>
<td>279 115</td>
</tr>
<tr>
<td>14</td>
<td>Crosses</td>
<td>18 326</td>
<td>18 326</td>
<td>36 652</td>
<td>18 326</td>
</tr>
<tr>
<td>15</td>
<td>Groceries</td>
<td>375 360</td>
<td>300 288</td>
<td>675 648</td>
<td>375 360</td>
</tr>
<tr>
<td>16</td>
<td>Café</td>
<td>138 805</td>
<td>131 865</td>
<td>270 670</td>
<td>138 805</td>
</tr>
<tr>
<td>17</td>
<td>Bakery</td>
<td>139 196</td>
<td>104 397</td>
<td>243 593</td>
<td>139 196</td>
</tr>
<tr>
<td>18</td>
<td>Craft workshops</td>
<td>320 880</td>
<td>224 616</td>
<td>545 496</td>
<td>320 880</td>
</tr>
<tr>
<td>19</td>
<td>Gravel pit</td>
<td>402 630</td>
<td>258 555</td>
<td>661 185</td>
<td>402 630</td>
</tr>
<tr>
<td>20</td>
<td>Bars</td>
<td>277 610</td>
<td>263 730</td>
<td>541 340</td>
<td>277 610</td>
</tr>
<tr>
<td>21</td>
<td>Recreational centers</td>
<td>2 910 242</td>
<td>2 191 898</td>
<td>5 102 140</td>
<td>2 910 242</td>
</tr>
<tr>
<td>22</td>
<td>Land development</td>
<td>36 938 889</td>
<td>19 807 964</td>
<td>56 746 853</td>
<td>36 938 889</td>
</tr>
<tr>
<td>23</td>
<td>Total: bldgs. + land development</td>
<td>160 068 519</td>
<td>85 834 510</td>
<td>245 903 029</td>
<td>160 068 519</td>
</tr>
<tr>
<td>24</td>
<td>Roads and others - surface</td>
<td>14 410 358</td>
<td>11 299 169</td>
<td>25 709 527</td>
<td>14 410 358</td>
</tr>
<tr>
<td>25</td>
<td>Power network</td>
<td>1 492 800</td>
<td>1 492 800</td>
<td>2 985 600</td>
<td>1 492 800</td>
</tr>
<tr>
<td>26</td>
<td>Water-pipe networks</td>
<td>6 361 843</td>
<td>5 711 711</td>
<td>12 073 554</td>
<td>6 361 843</td>
</tr>
<tr>
<td>27</td>
<td>Total, item Nos. 24-26</td>
<td>22 265 001</td>
<td>18 503 680</td>
<td>37 768 681</td>
<td>22 265 001</td>
</tr>
<tr>
<td>28</td>
<td>Total</td>
<td>182 333 520</td>
<td>104 338 190</td>
<td>286 671 710</td>
<td>182 333 520</td>
</tr>
</tbody>
</table>

### 5.2. Summary of land values

<table>
<thead>
<tr>
<th>No.</th>
<th>Lands, area more than 2626,9 ha</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>71 887 450</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL COST OF COMPENSATIONS** is **176 225 640**

The above-presented summary requires deduction of prices of already purchased real estates, i.e. PLN **408,492.20**.

**TOTAL COST OF COMPENSATIONS**, with costs of already purchased real estates, is **175 817 148**.
6. Costs of alternative resettlement places.

Costs of alternative resettlement locations were determined according to functional-land development concept applicable to selected land plots (areas) designed for building development.

The concept provides for:
- three residential building and service development options for area Lubomia-Paprotnik;
- two residential development options for area Syrynia-Dąbrowa;
- one farmstead development option for area Lubomia-Zagrody.

6.1. Area Lubomia – Paprotnik

Guidelines:
The projected number of residential buildings to be constructed as the single-family building development for residents who wait for reconstruction of the building development found in villages of Niebozczy and Ligota Tworkowska is 120 plots, assumed area 10-12 ares each.

6.1.1. Value of plots /land/:
An average price determined at the local market was assumed, calculated according to the real estates that were purchased so far – 10 PLN/m².

<table>
<thead>
<tr>
<th>No.</th>
<th>Land plots</th>
<th>Area m²</th>
<th>Price PLN/m²</th>
<th>Value 1 plot</th>
<th>No. Of plots</th>
<th>Value of 120 plots</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>120</td>
<td>1200</td>
<td>10</td>
<td>12000</td>
<td>120</td>
<td>1 440 000</td>
</tr>
</tbody>
</table>

6.1.2. Residential buildings:
Assumed average area of the residential building is 142 m² (similarly to stocktaking).
Our calculations are based on the current unit replacement cost „k” of the object, assumed in line with the Order by Head of Silesian Province on value of one calculation square meter of the residential buildings in the 4th quarter of 2004 and the 1st quarter of 2005, i.e. PLN 2505.00.

<table>
<thead>
<tr>
<th>No.</th>
<th>Object</th>
<th>Average area</th>
<th>Average replac. cost, PLN/m²</th>
<th>Replac. value 120 plots</th>
<th>No. Of plots</th>
<th>Value of 120 plots</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Residential bldgs.</td>
<td>142,00</td>
<td>2505</td>
<td>355 710</td>
<td>120</td>
<td>42 685 200</td>
</tr>
<tr>
<td>2</td>
<td>Cost of documentat.</td>
<td>assumed 10%</td>
<td></td>
<td>35 571</td>
<td>120</td>
<td>4 268 520</td>
</tr>
<tr>
<td>3</td>
<td>Development, service lines</td>
<td>assumed 30%</td>
<td></td>
<td>106 713</td>
<td>120</td>
<td>12 805 560</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td></td>
<td>497 994</td>
<td>120</td>
<td>59 759 280</td>
</tr>
</tbody>
</table>

6.1.3. Transport:
According to the concept – option 1 – length of roads:
- streets designed in tracks of existing roads: 2140.00 running meters;
- streets designed in new tracks: 2824.00 running meters;
sidewalks: 2533.00 m.
Assumed street width complete with sidewalks and green strip – 7m.
Assumed area of complete transport system – 5.2 ha.

Replacement value was calculated - calculations were based on:
  Unit price of 1m² of the communal street surface – PLN 130.
- for item No. 2 - Object No. 7121 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
  Unit price of 1m of the line – PLN 97.
- for item No. 3 - Object No. 5578 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
  Unit price of 1m of the network – PLN 679.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object Run.</th>
<th>Area m²</th>
<th>Unit price</th>
<th>Replac. value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Streets and sidewalks</td>
<td>5,20</td>
<td>1300000</td>
<td>6760000</td>
</tr>
<tr>
<td>2</td>
<td>External lighting line</td>
<td>4964</td>
<td>97</td>
<td>481508</td>
</tr>
<tr>
<td>3</td>
<td>Storm-water drainage system</td>
<td>4964</td>
<td>679</td>
<td>3370556</td>
</tr>
<tr>
<td>4</td>
<td>Cost of docum. and supervision</td>
<td>10%</td>
<td></td>
<td>1061206</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td></td>
<td>11673270</td>
</tr>
</tbody>
</table>

6.2. Area Syrynia-Dąbrowa

Guidelines:
The projected number of the residential buildings to be constructed as the single-family building development for residents who wait for reconstruction of the building development found in villages of Nieboczowy and Ligota Tworkowska is 120 plots, assumed area 10-12 ares each.

5.2.1. Value of plots /land/:
An average price determined at the local market was assumed, calculated according to the real estates that were purchased so far – 10 PLN/m².

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Area m²</th>
<th>Price PLN/m²</th>
<th>Value 1 plot</th>
<th>No. Of plots</th>
<th>Value of 120 plots</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Land plots</td>
<td>1200</td>
<td>10</td>
<td>12000</td>
<td>1440 000</td>
</tr>
</tbody>
</table>
6.2.2. Residential buildings:
Assumed average area of the residential building is 142 m$^2$ (similarly to stocktaking).
Our calculations are based on the current unit replacement cost „k” of the object, assumed in line with the Order by Head of Silesian Province on value of one calculation square meter of the residential buildings in the 4th quarter of 2004 and the 1st quarter of 2005, i.e. PLN 2505.00.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Average area</th>
<th>Average replac. cost, PLN/m²</th>
<th>Replac. value</th>
<th>No. Of plots</th>
<th>Value of 120 buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Residential bldgs.</td>
<td>142,00</td>
<td>2505</td>
<td>355 710</td>
<td>120</td>
<td>42 685 200</td>
</tr>
<tr>
<td>2</td>
<td>Cost of documentat.</td>
<td>assumed 10%</td>
<td></td>
<td>35 571</td>
<td>120</td>
<td>4 268 520</td>
</tr>
<tr>
<td>3</td>
<td>Development, service lines</td>
<td>assumed 30%</td>
<td></td>
<td>106 713</td>
<td>120</td>
<td>12 805 560</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>497 994</td>
<td>120</td>
<td>59 759 280</td>
</tr>
</tbody>
</table>

6.2.3. Transport:
According to the concept – option 1 – length of roads:
- streets designed in tracks of existing roads: 1103 running meters;
- streets designed in new tracks: 1430 running meters;
Assumed street width complete with side walks and green strip – 7m.
Assumed area of complete transport system – 4.02 ha.

Replacement value was calculated - calculations were based on:
- for item No. 1 - **Object No. 5331** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
  Unit price of 1m² of the communal street surface – **PLN 130**.
- for item No. 2 - **Object No. 7121** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
  Unit price of 1m of the line – **PLN 97**.
- for item No. 3 - **Object No. 5578** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
  Unit price of 1m of the network – **PLN 679**.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Run. m.</th>
<th>Area</th>
<th>Unit price</th>
<th>Replace. value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Streets and sidewalks</td>
<td>4.02</td>
<td>1300000</td>
<td>5226000</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>External lighting line</td>
<td>2533</td>
<td>97</td>
<td>245701</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Storm-water drainage system</td>
<td>2533</td>
<td>679</td>
<td>1719907</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Cost of docum. and supervision</td>
<td>10%</td>
<td></td>
<td>719161</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>7910769</td>
<td></td>
</tr>
</tbody>
</table>
6.3. Area Lubomia-Zagrody

*Guidelines:*
The projected number of farmsteads for reconstruction of the building development found in villages of Nieboczowy and Ligota Tworkowska is 8 *farmsteads*.

### 6.3.1. Value of plots /land/:

**Assumed:**
- For a farmstead – an average price determined at the local market, calculated according to the real estates that were purchased so far – **2.7 PLN/m²**.
- For residing area – an mean price determined at the local market, calculated according to the real estates that were purchased so far – **10 PLN/m²**.
- Area: **598,000 m²** (single farmstead 66400 m² – of that: 1000 for building development).

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Land plots</th>
<th>Area, m²</th>
<th>Price, PLN/m²</th>
<th>Value, 1 f-stead</th>
<th>No. of f-steads</th>
<th>Value of 9 farmsteads</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Farmstead</td>
<td>65400</td>
<td>2.7</td>
<td>176580</td>
<td>9</td>
<td>1 589 220</td>
</tr>
<tr>
<td>2</td>
<td>Area for development</td>
<td>1000</td>
<td>10</td>
<td>10000</td>
<td>9</td>
<td>90 000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1 679 220</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 6.3.2. Residential buildings:

**Assumed average area of the residential building is 142 m²** (similarly to stocktaking).

Our calculations are based on the current unit replacement cost „kż” of the object, assumed in line with the Order by Head of Silesian Province on value of one calculation square meter of the residential buildings in the 4th quarter of 2004 and the 1st quarter of 2005, i.e. PLN 2505.00.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Average area</th>
<th>Average replacement cost, PLN/m²</th>
<th>Replacement value</th>
<th>No. of plots</th>
<th>Value of 9 buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Residential buildings</td>
<td>142.00</td>
<td>2505</td>
<td>355 710</td>
<td>9</td>
<td>3 201 390</td>
</tr>
<tr>
<td>2</td>
<td>Cost of document.</td>
<td></td>
<td></td>
<td>35 571</td>
<td>9</td>
<td>320 139</td>
</tr>
<tr>
<td>3</td>
<td>Development,</td>
<td></td>
<td></td>
<td>106 713</td>
<td>9</td>
<td>960 417</td>
</tr>
<tr>
<td></td>
<td>connections</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>497 994</strong></td>
<td></td>
<td><strong>4 481 946</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 6.2.3. Farm buildings:

**Assumed average area of the farm building - 195 m²** (similarly to stocktaking).

Replacement value was calculated - calculations were based on:
- **Object No. 2311** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
- Unit price of the building usable area (m² of usable area) – **PLN 1146**.
Appendix C, part 3

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Average area</th>
<th>Average replac. cost, PLN/m²</th>
<th>Replac. value</th>
<th>No. of buildings</th>
<th>Value of 9 buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Farm buildings</td>
<td>195,00</td>
<td>1146</td>
<td>22347</td>
<td>9</td>
<td>2 011 230</td>
</tr>
<tr>
<td>2</td>
<td>Cost of doc. &amp; superv.</td>
<td></td>
<td></td>
<td>22347</td>
<td>9</td>
<td>201 123</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td></td>
<td>245817</td>
<td>9</td>
<td>2 212 353</td>
</tr>
</tbody>
</table>

6.2.4. Livestock buildings:
Assumed average area of the livestock building - **380 m²** (similarly to stocktaking).
Replacement value was calculated - calculations were based on:
Object No. 2311 from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
Unit price of the building usable area (m² of usable area) – **PLN 1146**.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Average area</th>
<th>Average replac. cost, PLN/m²</th>
<th>Replac. value</th>
<th>No. of buildings</th>
<th>Value of 9 buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Livestock buildings</td>
<td>380,00</td>
<td>1146</td>
<td>435480</td>
<td>9</td>
<td>3 919 320</td>
</tr>
<tr>
<td>2</td>
<td>Cost of doc. &amp; superv.</td>
<td></td>
<td></td>
<td>43548</td>
<td>9</td>
<td>391 932</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td></td>
<td>479028</td>
<td>9</td>
<td>4 311 252</td>
</tr>
</tbody>
</table>

6.2.5. Garage buildings:
Assumed average area of the garage building - **38 m²** (similarly to stocktaking).
Replacement value was calculated - calculations were based on:
Unit price of the building usable area (m² of usable area) – **PLN 1036**.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Average area</th>
<th>Average replac. cost, PLN/m²</th>
<th>Replac. value</th>
<th>No. of buildings</th>
<th>Value of 9 buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Garage buildings</td>
<td>38,00</td>
<td>1036</td>
<td>39368</td>
<td>9</td>
<td>354 312</td>
</tr>
<tr>
<td>2</td>
<td>Cost of doc. &amp; superv.</td>
<td></td>
<td></td>
<td>3937</td>
<td>9</td>
<td>35 433</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td></td>
<td>43305</td>
<td>9</td>
<td>389 745</td>
</tr>
</tbody>
</table>

6.2.6. Transport:
Road length according to the concept:
- Streets designed in tracks of existing roads, including the unsurfaced ones: 1890 running meters.
- Assumed street width complete with side walks and green strip – 7m.
- Assumed area of complete transport system – 3 ha.

Replacement value was calculated - calculations were based on:
- **for item No. 1 - Object No. 5331** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
- Unit price of 1m² of the communal street surface – **PLN 130**.
- **for item No. 2 - Object No. 7121** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.
- Unit price of 1m of the line – **PLN 97**.
- for item No. 3 - **Object No. 5578** from Bulletin of prices of building objects, BCO, 2nd half-year of 2004.

Unit price of 1m of the network – **PLN 679**.

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Run. m.</th>
<th>Area</th>
<th>Unit price</th>
<th>Replac. value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Streets and sidewalks</td>
<td>3,00</td>
<td>1300000</td>
<td>3900000</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>External lighting line</td>
<td>1890</td>
<td>97</td>
<td>183330</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Storm-water drainage system</td>
<td>1890</td>
<td>679</td>
<td>1283310</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Cost of docum. and superv.</td>
<td>10%</td>
<td></td>
<td>536664</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>5903304</strong></td>
<td></td>
</tr>
</tbody>
</table>

6.4. **Summary of alternative resettlement locations.**

<table>
<thead>
<tr>
<th>It. No.</th>
<th>Object</th>
<th>Cost per 1 building/plot</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Lubornia-Paprotnik</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Plots</td>
<td>12 000</td>
<td>1 440 000</td>
</tr>
<tr>
<td>2</td>
<td>Residential buildings</td>
<td>497 994</td>
<td>59 759 280</td>
</tr>
<tr>
<td>3</td>
<td>Transport</td>
<td>11 673 270</td>
<td>72 872 550</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>69 110 049</strong></td>
</tr>
</tbody>
</table>

| **Syrynia-Dąbrowa** |                          |                          |         |
| 1       | Plots                       | 12 000                   | 1 440 000 |
| 2       | Residential buildings       | 497 994                  | 59 759 280 |
| 3       | Transport                   | 7 910 769                |         |
| **Total**|                            |                          | **69 110 049** |

| **Lubornia-Zagrody** |                          |                          |         |
| 1       | Plots                       | 186 580                  | 1 679 220 |
| 2       | Residential buildings       | 497 994                  | 4 481 946 |
| 3       | Farm buildings              | 245 817                  | 2 212 353 |
| 4       | Livestock buildings         | 479 028                  | 4 311 252 |
| 5       | Garage buildings            | 43 305                   | 389 745  |
| 6       | Transport                   | 5 903 304                |         |
| **Total**|                            |                          | **18 977 820** |
7. Final conclusions.

This elaboration is of a general character, and thus it cannot be used in direct negotiations related to purchase of real estate.
It is not an estimate impact assessment.
Cost of compensations was calculated according to the materials collected so far, without precise stocktaking in the field.

This elaboration does not cover:
- House equipment and fittings;
- Value of farm machines and tools;
- Value of public support and transport costs of the displaced people;
- Value of the lost business or employment benefits or locations of production of products and services;
- Costs of notarial deeds;
- Appraisal of real estates;
- Costs of compensations for ploughlands located off the reservoir bowl, belonging to owners covered by the purchase plan.

People entitled to compensation should be offered:
- assistance in their move;
- residential building or plot for erection of such a building, or – as the case may be – ploughlands of a combination of features (production potential, location benefits and other factors) that is equivalent to benefits offered by the old location, and
- formal-legal assistance in purchase of new real estate or erection of replacement real estates.

Many international institutions that finance investments projects remain governed by the fundamental rule applicable to compulsory taking-over of lands and other real estates in public ends, as well as to resettlement of people, requiring that appraisal of all losses is conducted, and a proper compensation is paid. This is to facilitate a situation where no person, no family or no community is not at least as well off as before their property was taken over and they were resettled to a new location.

In the Polish law the title of ownership of a land or a real estate vests in the owner the right to compensation for the loss caused by the order of compulsory purchase. Remaining people, for instance lease holders, other families who use the house, which belongs to ‘the owner of the fundamental rights’, or employees of a plant, who might lose their house or even all their means of livelihood, still not qualify for compensation even though they suffer some significant economic loss or lose the roof over their heads resulting from compulsory purchase.
5. PROCEDURES APPLICABLE TO CULTURAL GOODS.


5.1. [Historic Monument] Historic Monument – real estate or movable thing, its part or its groups made by man or related to his or her activity, constituting an evidence of historic epoch or event, being of a historic, artistic or scientific value that makes their preservation the matter of public interest (art. 3, par. 1, of the Act).

5.2. [Protection of Historic Monuments] Protection of historic monuments consists in particular in activities started by the public administration bodies, meant to:
   1. secure legal, organizational and financial conditions that facilitate lasting preservation of historic monuments, their management and their maintenance;
   2. prevent risks that might bring about damage to the value of historic monuments;
   3. prevent destruction and improper use of historic monuments;
   4. counteract theft, getting lost or illegal export of historic monuments;
   5. control preservation condition and use of historic monuments;
   6. take into account the protection tasks in general and regional planning, and in shaping of the environment (art. 4, of the Act).

5.3. [Care of Historic Monument] Care of historic monument exercised by its owner or holder consists in particular in securing the conditions that are conductive to:
   1. scientific research and documentation of historic monument;
   2. conducting of conservation, restoration and construction works required at historic monument;
   3. protection and maintenance of the best condition of both the historic monument and its surrounding;
   4. use of historic monument in a way that facilitates lasting preservation of its value;
   5. popularization and dissemination of knowledge of historic monument and its importance for history and culture.

5.4. [List of Objects Subject to Protection and Care] The following objects are subject to protection and care irrespective of their state of preservation:
   1. Immovable historic monuments that are in particular:
      a) cultural landscapes;
      b) urban, rural and building complexes;
      c) works of architecture and building;
      d) works of fortification building engineering;
      e) objects of technology, in particular mines, steelworks, power plants and industrial plants;

FLOOD CONTROL RESERVOIR RACIBÓRZ ON ODRA RIVER – IDENTIFICATION OF ALL CULTURAL GOODS AND DEVELOPMENT OF PROPER HANDLING PROCEDURE, DETERMINATION OF RELEVANT IMPACT AND ELABORATION OF THEIR PROTECTION PLAN
f) cemeteries;
g) parks, orchards and other forms of designed green;
h) sites that commemorate historic events or work of outstanding personages or institutions (art. 6, par. 1);

2. Movable historic monuments (their comprehensive list can be found under art. 6, par. 1, sub-par. 2, of the Act);

3. Archeological monuments that are in particular:
a) the field remains of the origin of history and historic colonization (their comprehensive list is presented under art. 6, par. 1, sub-par. 3, of the Act).

5.5 [Forms of Protection of Historic Monuments] Forms of protection of historic monuments are as follows:
1. registration in the register of historic monuments;
2. recognition as the monument of history;
3. establishment of heritage park;
4. deciding of protection in the local land development plan (art. 7 of the Act).

5.6 [Register of Historic Monuments] Register of historic monuments, hereinafter called "the Register", is kept for the historic monuments, found within area of the province, by the Provincial Conservator of Historic Monuments (art. 8, of the Act).

5.7 [Registration in the Register] Registration of an immovable historic monument in the Register takes place according to decision issued ex officio by the Provincial Conservator of Historic Monuments, or to request of the owner of immovable historic monument (art. 9, par. 1, of the Act).

Registration of an immovable historic monument in the Register is disclosed in the land and mortgage register of given real estate to request of the Provincial Conservator of Historic Monuments according to decision on registration of given historic monument (art. 9, par. 4, of the Act).

Decision on registration of immovable historic monument in the Register, taking place to request of the Provincial Conservator of Historic Monuments, constitutes ground for registration in the real estate register (art. 9, par. 5, of the Act).

Information about registration in the Register is announced in the official gazette of the province to request of the Provincial Conservator of Historic Monuments (art. 9, par. 6, of the Act).

Registration of a movable historic monument in the Register takes place according to decision issued by the Provincial Conservator of Historic Monuments to request of the owner of given historic monument (art. 10, par. 1, of the Act).

Starost, acting in agreement with the Provincial Conservator of Historic Monuments, is free to place a sign on the immovable historic monument registered in the Register, informing that given historic monument is subject to protection (art. 12, par. 1, of the Act).

5.8 [Heritage park with immovable historic monuments that are characteristic for the local building and colonization tradition]

President of the Republic of Poland acting to request of the minister of competence in the matters of culture and national heritage can issue decree to recognize as the monument of history an immovable real estate registered in the Register, or a heritage park of particular value for the culture, identifying in the process its limits (art. 15, par. 1).
Minister of competence in the matters of culture and national heritage can address the World Heritage Committee with a request of recording of the historic monument in the "List of National Heritage", to facilitate that way protection of the historic monument according to Convention on the World Cultural and Natural Heritage adopted in Paris on November 16, 1972 (Journal of Law of 1976, No. 32, item Nos. 190 and 191) (art 15, par. 4).

Following consultation with the Provincial Conservator of Historic Monuments the communal council can establish a heritage park meant to protect cultural landscape and preserve the lands that stand up in terms of landscape values, with immovable historic monuments that are characteristic for the local building and colonization tradition (art. 16, par. 1, of the Act).

The resolution identifies name of the heritage park, its limits, method of protection and bans and restrictions that are discussed later in this elaboration (art. 16, par 2, of the Act).

Head of rural commune (mayor, president of city), acting in consultation with the Provincial Conservator of Historic Monuments, elaborates the heritage park protection plan that is subject to approval by the communal council (art. 16, par. 3, of the Act).

To implement tasks related to protection of heritage park the communal council can establish a separate structural unit for management of the park (art. 16, par. 4, of the Act).

Heritage park that goes beyond territorial boundaries of a commune can be established and managed according to consistent resolutions of communal councils (association of communes) of the communes where the park is to be established (art. 16, par. 5, of the Act).

Elaboration of the local land development plan is obligatory for the areas where the heritage park is established (art 16, par. 6, of the Act).

Bans and restrictions can be decided for the heritage park area or its part, concerning:
1. conducting of building works and industrial, agricultural, animal farming, commercial or service activities;
2. change of method of use of the immovable historic monuments;
3. placement of boards, inscriptions, advertising announcement and other marks of no relation to protection of the heritage park, save for road signs and those that concern public order and safety;
4. storage or disposal of wastes.

5.9 [Protection of historic monuments] Protection and care of historic monuments is taken into account in elaboration and updating of the concept of the national-level planning, development strategy of provinces, provincial land development plans, analyses and studies concerning county-level planning, development strategy of communes, studies of conditions and directions of communal planning and local land development plans (art. 18, par. 1, of the Act).

Concepts, strategies, analyses, plans and studies that are discussed under art. 18, par. 1:

1. take into account in particular the national program of protection and care of historic monuments;
2. determine in particular solutions required to prevent risks faced by historic monuments, combined with securing of their protection in implementation of investment projects, and restoration of their best state;
3. determine in particular function and rules of land development, taking into account care of historic monuments (art. 18, par. 2, of the Act).
Study of conditions and directions of the communal planning and the local land development plan take into account in particular the protection of:
1. immovable historic monuments registered in the Register, including their surrounding;
2. other immovable historic monuments found in the communal records of historic monuments;
3. heritage parks (art. 19, par. 1, of the Act).

Should the commune have its communal program of care of historic monuments, its establishments are taken into account in the study and the plan that are discussed under art. 19, par.1, of the Act ( art. 19, par. 2, of the Act ).

Study and plan that are discussed under art. 19, par. 1, decide as required the conservator's protection zones that cover lands where restrictions, bans and orders decided by the plans are in effect, meant to secure protection of historic monuments found in given area (art. 19, par. 3, of the Act).

Draft land development plans of provincial and local levels, and their amendments, are subject to agreement with the Provincial Conservator of Historic Monuments ( art.20 of the Act ).

Records of historic monuments constitute ground for elaboration of programs of care of the historic monuments by provinces, counties and communes ( art. 21 of the Act ). General Conservator of Historic Monuments keeps national records of historic monuments in a form of file cards of historic monuments found in the provincial records of historic monuments ( art. 22, par. 1, of the Act ).

Provincial Conservator of Historic Monuments keeps provincial records of historic monuments in a form of file cards of historic monuments found in the province ( art. 22, par. 2, of the Act ).

Head of rural commune ( mayor, president of city ) keeps communal records of historic monuments in a form of file cards of historic monuments found in the commune, covered by provincial records of historic monuments ( art. 22, par. 4, of the Act ).

5.10 [ Management of historic monuments, conducting of studies, works, and other activities at historic monuments ]

Use in utilitarian ends of the immovable historic monument registered in the Register requires holding by its owner or holder of:
1. conservation documentation that determines preservation condition of historic monuments and potential of its adaptation, with its historic function and value taken into account;
2. program of management of the historic monument and its surrounding agreed with the Provincial Conservator of Historic Monuments, with the matter of display of its value taken into account ( art. 15, par. 1, of the Act ).

To meet the above-discussed requirements the Provincial Conservator of Historic Monuments is obliged to make available free of charge to the owner or holder of historic monument the required copies of said documentation ( art. 25, par. 2, of the Act ).

Responding to request of owner or holder of historic monument the Provincial Conservator of Historic Monuments presents in writing his or her recommendations that define method of use of the historic monument, its protection, required conservation works, and also admissible changes that can be introduced in given historic monument ( art. 27, of the Act ).
Natural person or structural unit, that plans to finance construction works at the historic monument registered in the Register or covered by the conservator protection according to establishments of the local land development plan, is obliged to cover the costs of archeological studies and their documentation, should such studies be required in context of protection of archeological monuments ( art 31, par. 1, of the Act ).

5.11 [ Works at immovable historic monuments requiring permit of the Provincial Conservator of Historic Monuments ]

Permit of the Provincial Conservator of Historic Monuments is required in reference to:
1. conducting of conservation, restoration or construction works at the historic monument registered in the Register;
2. conducting of construction works in vicinity of historic monument;
3. conducting of conservation studies at historic monument registered in the Register;
4. conducting of architectural studies at historic monument registered in the Register;
5. conducting of archeological studies;
6. relocation of movable historic monument registered in the Register;
7. permanent relocation of movable historic monument registered in the Register, done with disturbance of the traditional interior decoration of the rooms where the historic monument is found;
8. division of immovable historic monument registered in the Register;
9. change of the purpose of immovable historic monument registered in the Register;
10) embarking on other activities that might lead to damage to the substance or change of the appearance of historic monument registered in the Register ( relevant comprehensive list can be found under art. 36, par. 1, of the Act ).

Provincial Conservator of Historic Monuments is free to make issuing of the permit that allows embarking on activities discussed under item Nos. 6, 9, 11 above on conducting, to the cost of the applicant, of the required conservation, architectural or archeological studies. Copy of results of the studies is delivered free of charge to the Provincial Conservator of Historic Monuments ( art 36, par. 4, of the Act ).

Permits concerning the above-mentioned works are issued to request of the natural person or structural unit that holds legal title, which allows use of the historic monument registered in the Register, resulting from the property right, perpetual usufruct, permanent management, limited property right or obligation relationship ( art. 36, par. 5, of the Act ).

Provincial Conservator of Historic Monuments issues decision on stopping of works conducted without his or her permit or in a way that deviates from the scope and conditions identified in the permit, concerning:
- construction works conducted at historic monument registered in the Register, or in its surrounding;
- other activities that are discussed under art. 36, par. 1 ( relocation of movable historic monument registered in the Register, done with disturbance of traditional interior decorations seen in the rooms where said historic monument is found;
- division of immovable real estate registered in the Register ( art. 43, of the Act ).

5.12 [ Risks faced by immovable historic monument – procedure ]

Where risk to immovable historic monument registered in the Register appears, consisting in potential of its destruction or damage, the Starost, acting to request of the
Appendix C, part4

Provincial Conservator of Historic Monuments, is free to issue decision on preservation of given historic monument in a form of temporary seizure pending clearing of said risk (art. 50, par. 3, of the Act).

If clearing of the risk is not feasible the historic monument can be expropriated by the Starost to benefit of the State Treasury or commune of territorial competence determined according to location of the historic monument, in response to request of the Provincial Conservator of Historic Monuments, according to procedure and rules stipulated by the real estate management regulations (art. 50, par. 4, sub-par. 2, of the Act).

5.13 [Financing rules applicable to care of historic monuments]

In the line of care of historical monument the natural person or structural unit that holds legal title attached to the historic monument, resulting from the property right, perpetual usufruct, permanent management, limited property right or obligation relationship, proceeds with financing of conservation, restoration and construction works conducted at said historical monument (art. 71, par. 1, of the Act).

Care of historical monuments, including financing of conservation, restoration and construction works at the historical monuments, where local government unit holds legal title attached to the historical monument, is one of the own tasks of said unit (art. 71, par. 2, of the Act).

According to the rules and procedure stipulated by separate regulations the conservation, restoration and construction works conducted at historical monuments held by structural units that are recognized as those of the public finance sector are financed from funds assigned accordingly by disposer of the budgetary funds, or by the local government unit said structural units are subordinated to (art. 72 of the Act).

Natural person, local government unit or other structural unit that is recognized as holder of historical monument registered in the Register, or as an entity that holds historical monument in permanent management, is free to apply for a target subsidy from the State Budget for co-financing of conservation, restoration or construction works conducted at given historical monument (art. 73 of the Act).

Minister of competence in the mattes of culture and protection of national heritage, or Provincial Conservator of Historical Monuments are free to grant subsidy to the above-mentioned persons or units according to a contract executed with said persons or units (art. 75 of the Act).

Subsidy addressed to conservation, restoration and construction works can cover funds required in:
1) elaboration of technical and conservation expert opinions;
3) elaboration of conservation documentation;
7) protection, preservation and consolidation of the substance of historical monument;
8) structural stabilization of component parts of historical monument, or their reconstruction according to the scope required in preservation of said historical monument (relevant comprehensive list can be found under art. 77 of the Act).

According to stipulations found under art. 6, par. 1, of the Act, recognized as the immovable historical monuments subject to protection and care irrespective of the state of their preservation are also cemeteries (Act of January 31, 1959 on Cemeteries and Burial of the Deceased – hereinafter called the Act on Cemeteries (i.e. Journal of Law, 2000, No. 23 item No. 295).
5.14 [ Establishment and closure of cemetery in charge of a religious community ]  
According to the Act of January 31, 1959 on Cemeteries and Burial of the Deceased – hereinafter called the Act on Cemeteries (i.e. Journal of Law, 2000, No. 23, item No. 295) an establishment or extension of a cemetery in charge of religious community (and this kind of cemetery is the one found in Nieboczywy), that can take place at a site assigned to this end in the local land development plan, is decided by the competent church authorities following their obtaining of relevant consent of the competent sanitary inspector (art. 1, par. 3 of the Act on Cemeteries).

Similar situation is the case with closure of cemetery in charge of religious community – relevant decision remains with the competent church authority, and it is taken after competent sanitary inspector is consulted (art. 1, par. 5, of the Act on Cemeteries).

5.15 [ Use of cemetery site in other ends ]
If the cemetery site used to be or still is a property of Catholic Church or other church or religious community then issuing of decision on use of cemetery site in other ends requires consent of the competent authority of given church or religious community (art. 6, par. 2, of the Act on Cemeteries).

Decision on use in other ends of the cemetery site that used to be or still is a property of Catholic Church or other church or religious community is issued after consulting with authorities of given church or religious community, concerning method of marking and commemoration of the post-cemetery site (art. 6, par. 3, of the Act on Cemeteries).

5.16 [ Conditions that govern use of cemetery site in other ends ]
Use of cemetery site in other ends is allowed solely under condition that provides for preservation of mementos of historical, archeological or artistic value. Said mementos can be transferred to a proper location under consent of the Provincial Conservator of Monuments. If cemetery or its part is registered in the register of historical monuments, then use of the site in other ends requires consent of the minister of competence in the matters of culture (art. 6, par. 4).

In cases that are justified by special public objectives the agency of competence decided according to location of cemetery is free to apply of the competent minister of public administration for exemption from the requirement of obtaining of the consent that is discussed under item No. 2. (art. 6, par. 5, of the Act on Cemeteries).

5.17 [ Exhumation of corpses before change of the use of cemetery ]
With the new use of cemetery site the remains of corpses found at the site should be transferred to another cemetery to the cost of land buyer or new user of land (art. 6, par. 7, of the Act on Cemeteries).

5.18 [ Grounds for exhumation of corpses ]
Exhumation of corpses and remains can be carried out:
1. to a justified request of the persons empowered to bury the corpses, according to a permit issued by the competent sanitary inspector;
2. to order issued by the prosecutor or court;
3. according to decision issued by competent sanitary inspector, if the cemetery site is assigned to use in other ends (art. 15, par. 1, of the Act on Cemeteries)
In the above-mentioned cases the corpses and remains should be buried anew in another location. Expropriation of cemetery site required that the cost of exhumation is borne by buyer of the site (art. 15, par. 2, of the Act on Cemeteries)

Corpses of people who died of contagious diseases (their list is decided by the minister of competence in health matters) are not allowed to be exhumed in cases discussed under par. 1, sub-par. 1 of the Act on Cemeteries before lapse of 2 years from death (art. 15, par. 3, of the Act on Cemeteries)

5.19 [ Supervision of compliance with the Act ]

Supervision of compliance with regulations of the Act on Cemeteries and Burial of the Deceased, and with executive regulations of said Act remains with the starosts, heads of rural communes, mayors (presidents of cities) and sanitary inspectors of territorial competence (art. 21, par. 1, of the Act on Cemeteries)

5.20 [ Procedures applicable to cultural goods – practical aspects ]

The first classified cultural good found in the area of the planned investment is the Church of religious community – Roman Catholic Parish at the Józef Opiekun's Church, erected during 1928 – 1932.

Procedure applicable to this case consists first of all in:
- inspection meant to determine technical condition of the object;
- determination if its relocation (in part or as a complete object) is feasible;
- contacting owners (in this case the competent church authorities) to decide further proceeding;
- presentation of demolition / relocation plan of given cultural good (if feasible);
- appraisal of the object;
- execution of agreement concerning possible demolition;
- execution of agreement concerning procedure to be applied in reference to cultural goods found inside the Church (e.g. altars);
- (finally) elaboration a complete documentation of the object - description + photo,

Another group of cultural goods found at the site of the planned investment are the crosses.

First one should determine (check to see) who is the owner of said crosses as all works conducted at cultural goods, such as:
- transfer of immovable historic monument;
- division of immovable historic monument;
- change of purpose of immovable historic monument;
- or other activities that might lead to damage of the substance or change of appearance of historic monument,

require permit of the Provincial Conservator of Historic Monuments.

And this permit is issued to request of natural person or structural unit that holds legal title, which facilitate use of historic monument registered in the Register, resulting from the property right, perpetual usufruct, permanent management, limited property right or obligation relationship.

If risk is faced by immovable historic monument registered in the Register, while said risk (and this is the case with the project that provides for construction of the reservoir) can lead to its destruction or damage the Provincial Conservator of Historic Monuments.
applies to the Starost for issuing of decision on temporary protection of the historic monument by way of its temporary seizure pending elimination of the risk.

But first of all one should:
- check technical condition of the objects;
- determine if their relocation is feasible (in parts of as complete objects);
- contact owners in this context;
- present them the plan of relocation of given good (if feasible);
- specify destination location;
- possibly agree this matter with competent church authorities;
- execute agreement concerning possible demolition;
- appraise the object;
- elaborate complete documentation of the object: description + photo.

Procedure applicable to cultural goods called „wayside shrines” is similar to that applied in case of „crosses”.

Procedure applicable to cemeteries is governed by the Act of January 31, 1959 on Cemeteries and Burial of the Deceased. Use of the cemetery site in other ends (issuing of relevant decision on this matter) requires consent of the competent authority. Cemetery in Nieboczowy is the one in charge of religious community and thus it is the church authority that decides in this case (after consulting with the competent sanitary inspector).

Decision on use of cemetery site, held by the Catholic Church, in other ends is issued after the competent authority is consulted on the method of marking and commemoration of the post-cemetery site. Said use of cemetery site in other ends is admissible provided mementos of historic, archeological and artistic value are preserved. They can be transferred to a proper location according to a permit issued by the Provincial Conservator of Historic Monuments. Should the cemetery be registered in the Register of historic monuments the use of its site in other ends would require consent of the minister of competence in the matters of culture.

It should be noted that with the new use of the cemetery site the remains of corpses found at the site should be transferred to another cemetery to the cost of site buyer or new user.

6. ELABORATION OF THE PROTECTION PLAN

6.1. [Protection of cultural goods] Protection of cultural goods is meant to facilitate their preservation, proper maintenance and publicly advisable use or making-available in scientific, didactic and educational ends so that they serve the avenues of education, popularization of knowledge and art, while constituting a permanent element of the cultural development and active component of the contemporary public life (art 3, par. 1, of Act on Cultural Goods). Protection of cultural goods consists in prevention of their destruction, damage, devastation, loss or export, in facilitation of conditions of their lasting preservations, in elaboration of scientific documentation, keeping of their records, their registration, and their maintenance, restoration and reconstruction according to scientific rules (art. 3, par. 2, of the Act on Cultural Goods).
According to the Act of 23.07.2003 on Protection of Historic Monuments and Care of Historic Monuments (Journal of Law, No. 162, item No. 1568 – hereinafter called the Act) the protection of historic monuments and their care is taken into account in elaboration and updating of the concept of the national-level planning, development strategy of provinces, analyses and studies of the county-level planning, development strategy of communes, studies of conditions and directions of communal planning, and local land development plans. Concepts, strategies, analyses, plans and studies:

1) take into account the national program of protection and care of historic monuments;
2) determine solutions required to prevent risks faced by historic monuments, combined with securing of their protection in implementation of investment projects, and restoration of their best state;
3) determine function and rules of land development, taking into account care of historic monuments.

Study of conditions and directions of the communal planning and the local land development plan take into account in particular protection of:
1. immovable historic monuments registered in the Register, including their surrounding;
2. other immovable historic monuments found in the communal records of historic monuments and heritage parks.

Study of conditions and directions of communal planning – Commune Lubomia: Establishments of the Study – Development objectives and directions of communal planning, July 2001, identifies the following three categories of the objects that constitute the cultural goods:

1. Objects registered in the Register of Historic Monuments of Silesian Province;
2. Cultural goods covered by requests of their registration in the Register of Historic Monuments of Silesian Province;
3. Objects of cultural values that attracted conservator's interest.

According to study of conditions and directions of communal planning – Commune Lubomia, and according to stipulations of the Act of July 6, 2001 on Establishment of the Long-Term Plan “Program for Odra River – 2006”, the area of Ligota Tworkowska and Nieboczowy was assigned to construction of the planned flood control reservoir “Racibórz Dolny” that in the early stage is to remain an empty reservoir, to be later transformed into the multi-function one. Statutory obligation that provides for construction of the reservoir, resulting from necessary compliance with flood control requirements, brings about postulated elaboration of the historic-conservator's documentation of the building development found in the area of villages of Nieboczowy and Ligota Tworkowska, covering among others stocktaking of historic building development found at the road that runs along the Odra River bed.

6. FINAL CONCLUSIONS

The above-mentioned document presents:

FLOOD CONTROL RESERVOIR RACIBÓRZ ON Odra RIVER – IDENTIFICATION OF ALL CULTURAL GOODS AND DEVELOPMENT OF PROPER HANDLING PROCEDURE, DETERMINATION OF RELEVANT IMPACT AND ELABORATION OF THEIR PROTECTION PLAN
identification of cultural goods found within the planned “Racibórz Dolny“ reservoir site;
- procedures applicable to protection of historic monuments and their care;
- rules that should be complied with in all other activities that are related to operations that concern relocation of immovable historic monuments, new purpose of immovable historic monument, and embarking on activities that might lead to damage of substance or change of appearance of historic monument.

It should be noted that this elaboration was based on:

1. Decision of the Head of Silesian Province, ref. No. PR – AB. II/ID/ 7111/93/04, dated 05.07. 2004, concerning location of the RACIBÓRZ flood control reservoir on Odra River;

The document was supplemented (to become more detailed) by the information from the current elaborations and study, and by data collected during site visit of 20.10.2004.

The referred-to regulations and cultural goods are presented as of the current day, and they can change during implementation of the investment project.

This concerns in particular the cultural goods, as currently the Silesian Conservator of Historic Monuments is in progress of his identification and recording of historic monuments found in that area.

This work requires its continuation in agreement with the Silesian Conservator of Historic Monuments; it is possible that it will go on also during period of the investment project implementation.

This elaboration does not necessarily cover all the objects (cultural goods) as it was not possible to proceed with their stocktaking in the field.

Said stocktaking will be necessary during the next stages of the investment process; relevant procedures are specified in this elaboration.
Dear Residents,

The Racibórz Reservoir Project is about to reach its crucial stage. We do know that your leaving the lands required by the planned reservoir is the decision that is both traumatic and difficult. To be prepared comprehensively in each individual family the decision requires time and prudence. A calm talk is one of the most important conditions when it comes to solving of a difficult situation. And for this everyone needs an objective and true information. We want to provide this information so that everybody finds the solution that is to offer to his or her close ones the dignified life in a new place.

What are the facts?

(1) On July 5, 2004 the Head of the Province issued location decision that opens way to construction of the Reservoir in this area. The Project is a long-expected investment that is to protect hundreds thousand people against large flood. The reservoir is to give people safety, normal family life and work without feeling of a permanent threat.

(2) A part of the residents appealed against the location decision: 159 applications were received by the Minister of Infrastructure who upheld the decision taken by Head of the Province. 18 appeals were lodged at the final instance, i.e. at the Supreme Administrative Court – they are yet to be examined. This however does not stop realization of the Project that is implemented according to the decision of July 5, 2004.

(3) A gradual sale of households in the two villages takes place. RZGW has already bought most of the households in Ligota Tworkowska. Intensive negotiations are held in Nieboczowy where 8 more households were bought. Terms of the purchase are seen as attractive ones and thus more households become interested in sale of land and real estates.

Our proposals

(1) In March 2005 a special website will be opened – www.xyx.pl. You will be able to find there the current information concerning the Racibórz Reservoir Project. The website was designed in a way that offers to all the chance of asking a question of interest or presenting opinion.

(2) „New Nieboczowy”. Establishment of the new village depends exclusively on your interest. Special funds were assigned to this project. Three possible locations will be presented in the land development plant that is to be (was) (?) approved by the Communal Council of Commune Lubomia in the first quarter of 2005. www.xyx.pl website is to serve also the purpose of consultations concerning this matter.

(3) It shall be allowed that important objects, like church in Nieboczowy or cemetery, are moved to the location of your choice. New Nieboczowy might prove to be the best location here.
(4) You will be offered all possible assistance by both the Commune Lubomia and the RZGW in Racibórz. This assistance concerns legal consulting, meetings with real estate surveyors, and also other matters you report.

(5) All of us should take care of the lot of people who are lonely, sick, have no aid offered or are in a difficult material status. This is why we ask even now that you report all such cases to us – by mail, through Internet or directly. Having enough time we are able to arrange for a proper assistance required by such people or even families.

We do hope that 2005 and the next years will the ones of agreement that is to facilitate our collaboration. We are confident that with such a spirit we are able to achieve (incomplete sentence in the Polish original – transl.)

We want to assure you that we will make all efforts to see that each individual resident of Nieboczowy and Ligota Tworkowska is harmed as least as possible by the big construction that is to change for better the life in our region.
Dear Residents,

The Racibórz Reservoir Project is about to reach its crucial stage. We do know that your leaving the lands required by the planned reservoir is the decision that is both traumatic and difficult. To be prepared comprehensively in each individual family the decision requires time and prudence.

A calm talk is one of the most important conditions when it comes to solving of a difficult situation. And for this everyone needs an objective and true information. We want to provide this information so that everybody finds the solution that is to offer to his or her close ones the dignified life in a new place.

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We do hope that 2005 and the next years will the ones of agreement that is to facilitate our collaboration. We are confident that with such a spirit we are able to achieve (*incomplete sentence in the Polish original – transl.*)

We want to assure you that we will make all efforts to see that each individual resident of Nieboczowy and Ligota Tworkowska is harmed as least as possible by the big construction that is to change for better the life in our region.
Wrocław, 05 sierpnia 2004 rok

Pan Jerzy Swatoń

Minister Środowiska

Szanowny Panie Ministrze,

Pragnę poinformować, że Wojewódzki Fundusz Ochrony Środowiska i Gospodarki Wodnej we Wrocławiu popiera działania podjęte przez Wojewodę Śląskiego w celu pozyskania terenów pod budowę zbiornika przeciwpowodziowego Racibórz. Zadanie to jest priorytetowe wśród działań ujętych w Rządowym „Programie dla Odry 2006”.

Zbiornik Racibórz ma zapewnić bezpieczeństwo przeciwpowodziowe dla wielu miejscowości w rejonie górnej i środkowej Odry (m.in. Raciborza, Kędzierzyna Koźla, Opola, Brzegu, Krapkowic, Oławy, Wrocławia, Brzegu Dolnego, aż po Odrę graniczną).

PrzedsieBiecie, będące aktualnie w fazie przygotowania do Funduszu Spójności, jako jedynie zadanie przeciwpowodziowe, wspólnie z Wrocławskim Węzłem Wodnym, ma szansę na uzyskanie środków z Unii Europejskiej.

Z tego względu działania Wojewody Śląskiego uważam na bardzo istotne i społecznie ważne.

Z poważaniem

[signature]

Do wiadomości:
1. Pełnomocnik Rządu ds. „Programu dla Odry 2006”, Wojewoda Dolnośląski - Pan Stanisław Łopatowski
2. Wojewoda Śląski-Pan Lechosław Jarzębski
3. Pan Józef Stadnicki - Dyrektor Regionalnego Zarządu Gospodarki Wodnej w Gliwicach

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Szanowny Pan

Lechosław Jarzebski
Wojewoda Śląski

Zarząd Powiatu Kędzierzyńsko-Kozielskiego zapoznał się z treścią decyzji o ustaleniu lokalizacji zbiornika przeciwpowodziowego Racibórz na rzece Odrze w województwie Śląskim.

Członkowie Zarządu pozytywnie ustosunkowali się do przewidywanej inwestycji. Będzie ona realizowana w ramach zadań zawartych w działaniu „Program dla Odry – 2006”, którego założeniem jest zbudowanie systemu zintegrowanej gospodarki wodnej dorzecza Odry, uwzględniającej potrzeby zabezpieczenia przeciwpowodziowego, ochrony czystości wód i środowiska przyrodniczego, a także rozwój gospodarczy regionów nadodrzańskich.

Budowa zbiornika Racibórz pozwoli na bardzo istotne ograniczenie negatywnego wpływu wód wezbraniowych rzeki Odry na terenach powiatu Kędzierzyńsko-Kozielskiego.

W pełni popieramy realizację tego bardzo ważnego przedsięwzięcia.
Burmiestrz Miasta Kuźnia Raciborska

W imieniu mieszkańców gminy Kuźnia Raciborska oraz
w ten sposób dziękuję Panu Wojewodzie za wydanie decyzji o ustaleniu lokalizacji zbiornika przeciwpowodziowego Racibórz na rzece Odrze w woj. Śląskim.

Decyzja ta jest wielkim krokiem przybliżającym zmaterializowanie wieloletnich wizji zapewnienia pełnej ochrony przeciwpowodziowej mieszkańcom gmin położonych nad górną i środkową Odrą.

Jest on zgodna z oczekiwaniami samorządu gminnego wyrażonym w Uchwale Rady Miejskiej w Kuźni Raciborskiej z dnia 28.04.2004r.
Mieszkańcy naszej gminy, mając w pamięci doznania z powodzi 1997 roku, przyjmują Pana decyzję ze szczególnym zadowoleniem.

Wyrażam przekonanie, że ta trudna inwestycja przy szerokim poparciu i zdeterminowaniu organów decyzyjnych ma szansę sprawnej realizacji. Cel do osiągnięcia jest wielki.

Dziękuję Panie Wojewodzie.
Wojewoda Śląski w zastępstwie wójta gminy Lubomia wydał 5 lipca 2004 r. Decyzję o ustaleniu lokalizacji zbiornika przeciwpowodziowego Racibórz na rzece Odrze w województwie śląskim. Dla gmin, których losy od wieków związane są z rzeką Odrą, które doświadczyły skutków tragicznej powodzi w 1997 roku jest to chwila historyczna. Zbiornik ten jest najważniejszym elementem „Programu Odra 2006.” Jego budowa jest warunkiem pełnej ochrony przeciwpowodziowej mieszkańców nad górnią i środkową Odrą.

Dlatego Zarząd Powiatu Raciborskiego w pełni popiera działania Wojewody Śląskiego i liczy, że ta inwestycja mająca wiele znaczenie dla bezpieczeństwa przeciwpowodziowego mieszkańców tego regionu ale i mogącą mieć decydujący wpływ na lokalny rynek pracy doczeka się wreszcie realizacji.

STAROSTA

Heinrich Sieglinck
Wojewoda Opolski

ŚR I-MS-0711-29/04

Pan
Krzysztof Opawski
Minister Infrastruktury
ul. Chałubińskiego 4/6
00-928 Warszawa

W związku z podjęciem przez Wojewodę Śląskiego decyzji o lokalizacji zbiornika przeciwpowodziowego „Racibórz” na rzece Odrze przedkładam swoje stanowisko w sprawie.

Z uwagi na bardzo duże znaczenie zbiornika „Racibórz” dla województwa opolskiego w pełni popieram projekt jego budowy.

Głównym zadaniem tego zbiornika będzie zmniejszenie częstotliwości powodzi i powodowanych przez nie strat w obszarze doliny rzeki Odry oraz ochrona zdrowia i życia mieszkańców miast od Raciborza do Wrocławia.

Dzięki projektowanej pojemności powodziowej zbiornika znacznie obniżone zostaną przepływy w korycie rzeki poniżej zbiornika, co pozwoli zwiększyć efektywność utrzymania wody w międzywału i w istniejącym systemie ochrony przeciwpowodziowej. Zbiornik ma za zadanie również opóźnienie czasu wystąpienia kulminacji w przekroju, przy ujściu Nysy Kłodzkiej do Odry zmniejszając prawdopodobieństwo nałożenia się dwóch fal powodziowych, co było przyczyną znacznych szkód w roku 1997.

Mając na uwadze fakt, że budowa zbiornika „Racibórz” jest inwestycją celu publicznego, o istotnym znaczeniu dla wielu tysięcy ludzi wyrażam pełne poparcie dla jej realizacji.

Dyrektor Wydziału

gr inż. Eugeniusz Zawadzka

Otrzymują:
1) Minister Infrastruktury
ul. Chałubińskiego 4/6
00-928 Warszawa
2) Przewodniczący Komisji Ochrony Środowiska
ul. Wiejska 6
00-920 Warszawa

a/a

Wystano dnia ...

podpis ..................
Parametry techniczne zbiornika:
- pojemność powodziowa - 185 mln m³,
- rzędna piętrzenia max. -195,20 m n.p.m,
- rzędna korony zapór - 197,50 m n.p.m,
- trapezowy przekrój zapór ziemnych na długości 22,65 km - w tym:
  zapora czołowa 4,0 km,
  zapora lewobrzeżna - 9,5 km,
  zapora prawobrzeżna - 9,15 km,
- powierzchnia zbiornika - 26,3 km².

Okres budowy zbiornika „Racibórz Dolny” - 6 lat.

Zrealizowanie zbiornika „Racibórz Dolny” w powyższym zakresie pozwoli w zdecydowany sposób zwiększyć stopień ochrony przed powodzią na obszarze doliny Odry od granicy państwa z Republiką Czeską do Brzegu Dolnego (na odcinku rzeki Odry o długości 264 km), z wpływem aż po Wrocław.

Przedmiotowa inwestycja jest celowa, społecznie uzasadniona, pomimo konieczności przeniesienia z terenu czaszy zbiornika 704 mieszkańców.

Inwestor bezpośredni - RZGW w Gliwicach w trakcie opracowywania dokumentacji realizacyjnej dołoży wszelkich starań by rozwijania techniczne choć w części zrekompensowały mieszkańcom wsi Nieboczowy i Ligota Tworowska konieczność przesiedleń.

Jednocześnie pragniemy podkreślić, że Minister Środowiska (właścicy w sprawach środowiska oraz w sprawach gospodarki wodnej) nie jest organem uzgadniającym decyzję o ustaleniu lokalizacji inwestycji celu publicznego, stąd powyższa opinia nie zostaje wydana w trybie przepisów art. 106 Kpa.
większych ośrodków miejskich (Racibórz, Koźle, Opole, Wrocław) bez konieczności radykalnej ingerencji w historycznie ukształtowany system ochrony przeciwpowodziowej tych ośrodków.

Zwracam się do Pana Ministra z uprzejmą prośbą o wsparcie działań Wojewody Śląskiego w celu realizacji tak ważnego dla celu publicznego zadania inwestycyjnego.

PEŁNOMOCNIK RZADU

ds. „Programu dla Odry 2006”

Stanisław Łopatowski

Do wiadomości:

1. Pan Lechosław Jarzębski, Wojewoda Śląski
2. Pan Józef Stadnicki, Dyrektor Regionalnego Zarządu Gospodarki Wodnej w Gliwicach
3. Pan Lech Poprawski, Prezes Wojewódzkiego Funduszu Ochrony Środowiska i Gospodarki Wodnej we Wrocławiu
4. Pan Ryszard Kosierb, Dyrektor Regionalnego Zrządu Gospodarki Wodnej we Wrocławiu
5. Pani Joanna Gustowska, Dyrektor Dolnośląskiego Zarządu Melioracji i Urzadzeń Wodnych
Uwzględniając znaczenie „zbiornika przeciwpowodziowego Racibórz na rzece Odrze” gorąco popieram starania Wojewody Śląskiego w celu pozyskania terenów pod budowę zbiornika i jego realizację.


„Zbiornik Racibórz” ma zapewnić bezpieczeństwo przeciwpowodziowe dla wielu miejscowości w rejonie górnej i środkowej Odry. Ocenia się, że zbiornik ten we współpracy z systemem zbiorników na Nysie Kłodzkiej wpłynie w sposób radykalny na obniżenie kulminacji fali powodziowej Odry od Raciborza do Wrocławia w stopniu umożliwiającym utrzymanie wymiarów istniejących obwałowań i ochronę wszystkich
Stanowisko Rady Gminy Cisek
w sprawie konieczności budowy
zbiornika przeciwpowodziowego „Racibórz Dolny”
Załążnik nr X1/23/2004 z dnia 9 listopada 2004 r.

Załążnik do uchwały Rady Gminy Cisek
Nr XVIII/73/2004 r. z dnia 16 kwietnia 2004 r.

Rada Gminy Cisk wyraża głębokie zaniepokojenie wobec braku podjęcia konkretnych działań w przedmiocie realizacji budowy zbiornika przeciwpowodziowego „Racibórz Dolny”, inwestycji ujętej w rządowym programie "Odra 2006" jako zadania priorytetowego.

Od katastrofalnej powodzi w 1997 roku minęło ponad 6 lat. W tym okresie wykonano wiele prac remontowych i inwestycyjnych zabezpieczających tereny nadodrzańskie przed niszczącym żywiołem powodziowym. W chwili obecnej, między innymi w naszej gminie, kontynuowana jest budowa obwałowa rzeki Odry. Przygotowywana jest dokumentacja techniczna na dalsze etapy budowy obwałowań. Zaangażowanie prac i środków finansowych w to przedsięwzięcie jest ogromne i nie może zostać zmarnowane. Dlatego też przeraza nas brak jakiegokolwiek postępu w pracach związanych z budową zbiornika przeciwpowodziowego „Racibórz Dolny”.

Budowa obwałowań rzeki Odry ma sens tylko przy jednoczesnej budowie zbiornika przeciwpowodziowego. Równolegle realizacja budowy obwałowań instytucji stwarza szansę stworzenia właściwego systemu obrony przeciwpowodziowej terenów gmin nadodrzańskich od Raciborza do Wrocławia. Brak zbiornika przeciwpowodziowego „Racibórz Dolny” nie gwarantuje prawidłowej ochrony przed powodzią dla gmin nadodrzańskich, a wręcz stworzyć może nie przewidziane w skutkach zagrożenia dla życia i zdrowia zamieszkałych tu ludzi oraz zniszczenia ich dobytku wypracowywanego przez wiele pokoleń.

Rada Gminy Cisek domaga się od dysponentów środków finansowych oraz od władz odpowiedzialnych za ochronę przeciwpowodziową wydania odpowiednich decyzji zmierzających do realizacji budowy zbiornika przeciwpowodziowego „Racibórz Dolny”.

Rada Gminy Cisek wnosi do władz Państwa Polskiego o godne i sprawiedliwe wynagrodzenie finansowe wszystkich właścicieli nieruchomości przewidzianych do wysiedlenia z terenów budowy przyszłego zbiornika przeciwpowodziowego „Racibórz Dolny”.

Rada Gminy Cisek oczekuje, że budowa zbiornika „Racibórz Dolny” zostanie potraktowana przyjaznie przez władze odpowiedzialne za ochronę przeciwpowodziową w naszym kraju, co pozwoli ją w trybie pilnym rozpocząć i zrealizować a przez to uniknąć tragedii powodzi, jakieś już nie jeden raz doświadczali mieszkańcy nadodrzańskich gmin.

Oczekujemy podjęcia w tym temacie szybkich i konkretnych decyzji.
Stanowisko Rady Gminy w Popielowic
w sprawie konieczności budowy zbiornika przeciwpowodziowego „Racibórz Dolny"
Załącznik do uchwały Rady Gminy w Popielowic
Nr XIV/123/2004 z dnia 28 kwietnia 2004r.

Mając na względzie bezpieczeństwo mieszkańców Gminy Popielów jak i innych miejscowości położonych w rejonach rzeki Odry zagrożonych powodzią, zwracamy się z apelem do przedstawicieli rządowej, samorządów, społeczeństw lokalnych, instytucji i organizacji o przyspieszenie prac związanych z rozpoczęciem budowy zbiornika przeciwpowodziowego Racibórz Dolny.

Zbiornik przeciwpowodziowy Racibórz Dolny ma zapewnić skuteczną ochronę przeciwpowodziową Doliny Odry na odcinku od Raciborza do Wroclawia. Przeprowadzone obliczenia wskazują, że zbiornik zapewni zredukowanie przepływów katastrofalnych do wielkości, które przy współdziałaniu projektowanego zbiornika i istniejącego systemu ochrony przeciwpowodziowej nie będą zagrażały aglomeracjom miejskim i zabudowaniom wiejskim położonym wzdłuż rzeki Odry w województwach śląskim, opolskim i dolnośląskim.


Jestem zaniepokojeni tym, iż przeciagają się prace związane z remontem wałów przeciwpowodziowych a budowa zbiornika Racibórz Dolny, który miał być priorytetową inwestycją programu Odra 2006, nie została w ogóle rozpoczęta. Z informacji, które uzyskaliśmy wynika, że przeciagające się rozmowy z mieszkańcami terenów przeznaczonych pod budowę zbiornika, uniemożliwiają rozpoczęcie wszelkich prac budowlanych i skorzystanie ze środków unijnych z europejskiego Funduszu Spójności, przeznaczonych na finansowanie tego przedsięwzięcia.

Zdajemy sobie sprawę z tego, że mieszkańcy terenów przeznaczonych do wysiedlenia stoją przed trudną życiową decyzją. Jednakże tak długo jak nie będzie zbiornika przeciwpowodziowego na rzecz Odrze, dorobek życiowy wielu ludzi może zostać zabrany przez kolejną „wielką wodę”. Nie zapominajmy o tym, że zagrożony jest nie tylko majątek ale również życie ludzkie, które jest największą wartością. W powodzi roku 1997 zginęło kilkadziesiąt osób.

Rada Gminy w Popielowic oczekuje, że budowa zbiornika „Racibórz Dolny” zostanie potraktowana priorytetowo przez władze odpowiedzialne za ochronę przeciwpowodziową w naszym kraju i że w najbliższym czasie zostaną podjęte decyzje, które umożliwią rozpoczęcie tej tak ważnej dla całego społeczeństwa inwestycji.
Uchwała Nr X1/23/04
Zgromadzenia Związku Gmin Śląska Opolskiego
z dnia 9 listopada 2004 r.

w sprawie wyrażenia poparcia

da stanowiska Rady Gminy Cisiek i stanowiska Rady Gminy w Popielowie

w sprawie konieczności budowy zbiornika przeciwpowodziowego „Racibórz Dolny”

Na podstawie § 8 pkt 6 Statutu Związku Gmin Śląska Opolskiego (Dziennik Urzędowy Województwa Opolskiego z 1997 r. Nr 15 poz. 90) Zgromadzenie uchwala, co następuje:

§ 1

Zgromadzenie Związku Gmin Śląska Opolskiego w imieniu 48 gmin zrzeszonych w Związku udziela poparcia dla stanowiska Rady Gminy Cisiek w sprawie konieczności budowy zbiornika przeciwpowodziowego „Racibórz Dolny”, stanowiącego załącznik nr 1 do niniejszej uchwały.

§ 2

Zgromadzenie Związku Gmin Śląska Opolskiego w imieniu 48 gmin zrzeszonych w Związku udziela poparcia dla stanowiska Rady Gminy w Popielowie w sprawie konieczności budowy zbiornika przeciwpowodziowego „Racibórz Dolny”, stanowiącego załącznik nr 2 do niniejszej uchwały.

§ 3

Wykonanie uchwały powierza się Zarządowi Związku.

§ 4

Uchwała wchodzi w życie z dniem podjęcia.

PRzewodniczący Zgromadzenia
Związku Gmin Śląska Opolskiego

[Podpisanie]
dotyczy: sprawy lokalizacji budowy zbiornika przeciwpowodziowego

„Racibórz Dolny” na rzece Odrze.

Na podstawie przesłanych do zaopiniowania materiałów studialnych zbiornika przeciwpowodziowego „Racibórz Dolny” - pismo z dnia 01.06.2004 r. znak - RR-AG.V/ID/7111/93/04 oraz dotychczas wykonanych opracowań:
- „Koncepcji programowo-przestrzennej budowy zbiornika Racibórz Dolny” opracowanej przez: Hydroprojekt Warszawa - 1998 r.,
- jak również w związku z ustawą z dnia 6 lipca 2001 r. o ustanowieniu programu wieloletniego „Program dla Odry 2006”, Ministerstwo Środowiska opiniuje pozytywnie zamierzoną lokalizację budowy zbiornika „Racibórz Dolny”.

„Koncepcja programowo - przestrzenna budowy zbiornika Racibórz Dolny”, została zaakceptowana w listopadzie 1999 roku przez Ministra Środowiska.

Opracowane w 2003 roku „Studium Wykonalności...” uściśliło przyjęte w „Koncepcji...” zakres rozwiązań technicznych, akceptując w pełni pierwotną lokalizację zbiornika.