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KITALE-LESSERU MARICHPASS 158 KM A1 ROAD

RESETTLEMENT ACTION PLAN (RAP)

February 2015

REVIEW AND UDPATE
FINAL

SOUTH SUDAN-EA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT
(P131426)

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ACRONYMS AND ABBREVIATIONS

CBO	Community Based Organization
CRCC	County Resettlement and Compensation Committee
EIA:	Environmental Impact Assessment
ESIA	Environmental and Social Impact Assessment
ESMF:	Environment and Social Management Framework
ESMP	Environmental and Social Management Plan
FGD	Focus Group Meetings
GDP	Gross Domestic Product
HIV/AIDS	Human Immuno Deficiency Virus
LA	Land Act
LRCC	Locational Resettlement and Compensation Committee
MOF	Ministry of Finance/The National Treasury
NGO's	Non-Governmental Organizations
NLC	National Land Commission
OP	Operational Procedures
PAPs	Project Affected Persons
PIU	Project Implementation Unit
PRA	Participatory Rural Appraisal
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SCRCC	Sub County Resettlement Compensation Committee
SEBR	Socio-Economic Baseline Report
SIDA	Swedish International Development Cooperation Agency
SMP	Social Management Plan
STDs	Sexually Transmitted Diseases
SUP	Socially Uplifting Project
VRCC	Village Resettlement and Compensation Committee
WB	World Bank
KENHA	Kenya National Highway Authority
SS-EATTDFP	EAR Transport, Trade and Development Facilitation Project
PMT	Program Management Teams
MoTI	Ministry of Transport and Infrastructure
KICTA	Kenya ICT Authority
KRA	Kenya Revenue Authority
IDA	International Development Association
AU	African Union
NEPAD	New Partnership for Africa's Development
CPS	Country Partnership Strategy
ICT	Information and Communication Technology
PDO	Project Development Objective
DRC	Democratic Republic of Congo
GNI	Gross National Income
GDP	Gross Domestic Product
RPF	Resettlement Policy Framework

- GM Grievance Mechanism
- STD Sexually Transmitted Disease
- HIV Human Immuno Deficiency Syndrome
- AIDS Acquired Immuned Deficiency Syndrome
- PRA Participatory Rural Appraisal
- GER Gross Enrolment
- NLC National Land Policy
- SCRCC Sub County Resettlement and Compensation Committee
- LRCC Locational Resettlement and Compensation Committee
- VRCC Village Resettlement and Compensation Committee
- DC District Commissioner
- DO District Officer

EXECUTIVE SUMMARY

The Kenya National Highway Authority (KENHA) through East African Regional Transport, Trade and Development Facilitation Project (SS-EATTDFP) is in the process of rehabilitating the 158 KM long Lesseru – Kitale – Marich Pass Road located in Uasin Gishu, Trans Nzoia, and West Pokot Counties. The proposed road rehabilitation project will entail excavation of the existing road surface to pave way for fresh carpeting, horizontal alignment of narrow sections of the road within the road reserve, development of Lesseru and Kitale interchanges, construction of service roads at all major trading centres along the road corridor, construction of a truck lay bay (parking at Moi's Bridge), road realignment at Kamatira Hills section, evacuation of persons who have encroached into the road reserve and acquisition of land for road construction. These activities will lead to involuntary resettlement and land acquisition and thus necessitate the development of a Resettlement Action Plan (RAP).

Reason For RAP Review and Update

A Resettlement Action Plan was prepared in **February 2013** during the feasibility study for the project. This review and updated RAP report is prepared by independent consultants who are not part of the 2013 feasibility study teams to avoid bias and ensure independency. Also the review and update of the RAP report is occasioned by the fact that there has been a time lag since the RAP was completed and the situation on the ground may have changed.

This document presents the updated RAP for the rehabilitation of the 158 KM long Lesseru – Kitale – Marich Pass Road (=the Project). The Project will affect communities along the 158km corridor marked for rehabilitation specifically those on the Right of Way, and those occupying sections where the road will be re-aligned. The RAP has been established in order to ensure that any economic or physical displacement resulting from the Project, whether permanent or temporary is undertaken in a socially responsible manner and according to good international practice. Through the RAP, the Project will apply the relevant national legislations of Kenya's well as the relevant World Bank Policies:

- WB OP 4.12 "Involuntary Resettlement" (December 2001, revised February 2011)

STRUCTURE OF THE RAP

The RAP has been developed and the overview of outline is described in Table 1 below.

Table 1 Overview: Contents of the RAP

Chapter Outline	Executive Summary
One	Introduction
Two	Project Description
Three	International Policies and Requirements
Four	Legal and Institutional Context
Five	Project Impacts on Affected Communities
Six	Socio-Economic Baseline of Affected Communities
Seven	Valuation and Compensation
Eight	Grievance Mechanism
Nine	Consultations
Ten	Budget and Costs
Eleven	Implementation Arrangements

THE PROJECT

The aim of the proposed project is to enhance the road communication network in the SS-EATTDFP connecting Kenya and South Sudan in tandem with the requirements of Vision 2030. The proposed project has triggered the World Bank Operation Policy (OP) 4.12 on Involuntary Resettlement as a result of proposed land acquisitions at Lesseru, Moi's Bridge, Kitale, and Kamatira for the development of a public project and due to relocation of people that depend on it for their daily earnings including small business enterprises at Lesseru, Soy, Nangili, Matunda, Moi's Bridge, Kitale, Makutano among others. This calls for the development of this Resettlement Action Plan (RAP) before project implementation.

The overall objective of the RAP is to ensure that affected individuals, households and, affected and/or displaced communities are meaningfully consulted, have actively participated in the planning process and, are adequately compensated to the extent that at least their pre-displacement incomes or livelihoods have been restored or improved and, that the process is considered fair and transparent. The objective of the RAP is achieved through collections of key information on the Project Affected Persons (PAPs) pre-impact status so as to develop an entitlement matrix geared at restoring the livelihoods to the pre-impact status.

PROJECT COMPONENTS

Component 1: Upgrading Critical Road Infrastructure in the Recipient territory

This component includes support to KeNHA for upgrading approximately 258.1 km of part of the Nadapal-Eldoret Road in Kenya with the associated supervision costs. This caters for upgrading the following road sections: (a) Kalobeiyei River - Nadapal (88.1 km) bordering South Sudan, which includes upgrading about 26 km unpaved road involving reconstructing major structures; (b) between Lokitaung and Kalobeiyei River (80 km); and (c) between Lesseru and Kapenguria (91km), which is heavily trafficked and traverses an area with huge agriculture potential, yet the road conditions have deteriorated; as well as (d) replacement of critical bridges, including Kainuk Bridge at Muruni River. The civil works contracts for Kalobeiyei River–Nadapal, Lokitang–Kalobeiyei, and Kainuk bridge will have provisions for pastoralist roadside infrastructure construction, while all road upgrading contracts will have provisions for road side social amenities and HIV/AIDS prevention tasks.

Component 2: Facilitation of Regional Transport, Trade and Development.

This component supports promotion of sound transport, trade and development facilitation measures, increasing the efficiency of the corridor. This include:

Sub-component 2(a): Support to KRA for the implementation of transport, trade and development facilitation measures, including: (i) quality control and harmonization of customs and other border agencies procedures; (ii) establishing One Stop Border Post (OSBP) at the Kenya side of Nadapal/Nakodok, through a design-build (DB) arrangement; (iii) provision of advisory services and equipment for the strengthening of the cross-border management unit of KRA as well as promote effective coordination with other border agencies; (iv) Support to the implementation of an integrated border management system; (v) support to the implementation of the Memorandum of Understanding (MoU) between Kenya Customs and South Sudan Customs Services to exchange information and promote the use of common procedures; and (vi) ICT to ensure revenue collection and facilitate clearance and release of goods to help Kenya Customs comply with new transparency requirement of e-citizen registration, electronic collection of revenue and e- reporting of clearances and release of goods.

Sub component 2 (b): Support to KeNHA for the implementation of transport, trade and development facilitation measures, including: (i) enhancing social infrastructure and social services delivery, including Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS) prevention; (ii) corridor Road Safety assessment and implementation of pilot corridor Road Safety action plan along the corridor and promoting "The Safe System"; (iii) developing pilot pastoralist road side infrastructure that would help integrate the pastoralist communities along the parts of the corridor habited by Turkanas and Pokots in the

modern economy through provision of sites for services, clean water, extending electrification to selected centers, provision of market shades, milk cooler, slaughter houses, veterinary posts, livestock holding area in selected locations, and connecting community information centers with fiber connection; (iv) introduction of Intelligent Transportation Systems (ITS) through developing national and regional ITS Architectures; piloting highway ITS along selected regional corridors, road corridors in selected cities, selected junctions, etc.; introduction of tolling system in selected sections of roads; traffic data collection on the national road network, as well as establishing the institutional base for ITS management in KeNHA; and (v) preparing a strategic plan for the development of high capacity highways focused on regional transit corridors.

Component 3: Institutional Development and Program Management

Sub-component 3(a): Strengthening of KeNHA's and MoTI's institutional capacity through the provision of advisory services and training, including: (i) strengthening road design review capacity of KeNHA; and (ii) enhancing project management capacity of MoTI; and (iii) strengthening the capacity of the lead Road Safety Agency (the National Transport and Safety Agency). This may involve conducting needs assessment, road safety audits and strengthening enforcement capability.

PROJECT JUSTIFICATION

Kenya is a relatively large country with a land area of 580, 400 sq. km with an estimated population of 44.4 million, in 2013. The population was 31.25 million in year 2000 and has been growing at an annual rate of 2.6% p.a. Its GDP was estimated at US$ 44.1 billion in 2013 with considerable variation in past annual growth rates ranging from 0.6% in year 2000, 5.9% in 2005, 1.6% in 2008, to 5.3% in 2010. Gross National Income (GNI) per capita was $930 in 2013 using the Atlas method. Poverty rate has not much changed since the early 1990s: it was 45.9% in 2005 and 44.8% in 1992.

There are considerable regional variations in the development pattern of Kenya's economy, with the Turkana North County in which most of the project area is located has the highest incidence of absolute poverty with more than 80 percent of the population in that area living below the absolute poverty line compared to the national average poverty line indicator of 45.9 percent. The population living along the corridor in the Kenyan territory is predominantly pastoralist communities, Turkanas and Pokots deprived of basic social and economic services with limited or no access-to-access to economic opportunities. Life expectancy in Kenya has slowly increased from 53 years in 2005 to 61 years in 2012. Adult literacy rates have increased substantially from 74% in 2000 to 87% in 2009.

Services represent the largest share of the economy with 67% of GDP in 2010, agriculture accounting for 19% (the share was 32% in year 2000) with industry

representing 14% in 2010. However, in terms of employment and exports, agriculture is by far the most important sector with more than 80% in employment and more than 70% in export value derived from agriculture.

PROJECT BENEFICIARIES

The beneficiaries of the project will include: the pastoralist communities, farmers and businesses along the road corridor, road users (passengers and freight), tradable sectors of the economy, agriculture, mining and ultimately, consumers and producers both inside and outside the sub-region. The export processing facilities and pastoralist roadside infrastructure, the project will offer new job and income earning opportunities to the people in Turkana and West Pokot in Kenya and in Eastern Equatoria and eastern part of Central Equatoria states in South Sudan.

ICT users in north-western part of Kenya, as well as throughout South Sudan, government departments, the private sector, especially small and medium enterprises, and development partners will also benefit from the reduced costs for internet. Due to the poor state of this corridor the inhabitants are occasionally cut off from the rest of Kenya and South Sudan, particularly during the rainy season. Improvement of the corridor will also attract investment for export oriented agricultural development and mining in the project influence area.

Figure 1. Project Routing and Location Map - Country Scale

LEGAL AND POLICY BACKGROUND

The RAP has been prepared in compliance with the requirements of the relevant national legislation of the Republic of Kenya. The process and procedures of land acquisition for the Project will be principally governed by Kenya land laws including; Land Act 2012, Land Registration Act 2012, National Land Commission Act 2012 as well as the World Bank Involuntary Resettlement Policy (OP 4.12).

Articles 40 of the 2010 Constitution of the Republic of Kenya establish the fundamental principles of right to and protection of private property. In addition to the overarching principles stated in the Constitution, key legislation applicable to land management and expropriation in Kenya includes:

- Land Act 2012

- Land Registration Act 2012
- National Land Commission Act
- The Constitution of Kenya
- Valuation Act

The World Bank Group is the potential lender for the project. This document has therefore been prepared in accordance with WB requirements as stated in OP 4.12 "Involuntary Resettlement".

VALUATION METHODOLOGY

In Kenya, the Land Act stipulates that compensation value must be 'just'. This can be interpreted to mean that the value paid must include all the other miscellaneous expenses as well as disturbance to them. Specific guidelines for assessing or determining "just" compensation have not yet been developed. In this RAP, compensation will be based on replacement cost explained later in the document. Valuation for assets as outlined in this RAP involved field survey to collect data on the PAPs, land to be acquired, structures lost, trees, community assets and crops affected.

Valuation of structures: The replacement value of structures has been investigated during the Socio-Economic Baseline Survey. Structures in the project corridor are not numerous and were valued on case-by-case basis. Replacement costs was calculated based on actual cost of construction/re-establishment of a structure of at least equal quality as the affected structure.

Valuation for tress: Was undertaken on the basis of the requirements of Kenyan laws, which require that crops be valued based on the values provided by Ministry of Agriculture for crops and Kenya Forest Service for trees.

Valuation of land: The prevailing market rates for land was used in determining the compensation for loss of land.

THE CENSUS AND THE SOCIO-ECONOMIC STUDY

The census and the socio-economic study for the preparation of the RAP was undertaken in **February 2013** during the preparation of Feasibility Study, which included also the preparation of an Environmental and Social Impact Assessment (ESIA) and Resettlement Action Plan (RAP). However, following the requirement by the Bank that an independent review and update of the RAP be undertaken, a full census survey and socio-economic analysis including consultative meetings with all the different categories of PAPs was undertaken as part of the study.

Census Methodology

An original census survey was conducted and completed on 25th February 2013. An updated census to validate and update the original census was conducted in December 2014 by an independent consultant who was not part of the 2013 RAP/Feasibility Study.

This was a full census where the consultant and a team of research assistants traversed the project corridor with a view of validating all the PAPs eumerated in the original RAP by referring to the original census and updating the data as well as collecting any new PAPs who had moved into the project area post the February 2013 census and cut off date.

Cut-off Date

A cut-off date for the original RAP had been communicated to the affected communities during the fieldwork in 2013 and was set (**25th February 2013**). However a new cut off date (**31st December 2014**) was established during the process of review and update of this RAP due to the fact that additional PAPs were enumerated and was communicated to the PAPs.

The RAP process including census methodology used in the preparation of the original RAP is highlighted with a summary of the census approache that was used in collecting information from the PAPs. They included:

- Conducting public consultations/awareness creation;
- Registering the affected persons by name and other family details;
- Gathering demographic information on social-economic activities of the affected families;
- Recognizing any susceptible Project Affected Persons (PAPs) including women-headed household, physically and mentally challenged and the aged.
- Conducting inventory of all assets to be affected or damaged by the project, including details on land ownership and extent of land loss due to the land acquisition, actual land ownership, and not only in terms of land records.
- Valuation of the affected assets at full replacement value and determining any supplementary payments such as the unit price lists and itemized breakdowns of compensation offers and participation;
- Instituting valuation negotiations and devising grievance referral and redress procedures and mechanisms;
- Incorporation of external policies, procedures and institutional arrangements not covered by the Kenyan law;
- Developing a framework for monitoring and evaluation of the PAPs after resettlement;

- Developing a timeline and Budget for all RAP related activities.

In December 2014, as part of review and update of the RAP, a comprehensive census of Project-Affected Persons was carried out. This census included:

- The identification and inventory of all the **structures/residential** and **business,** including **institutions** whether government or private e.g. schools churches etc in the affected communities
- The identification and inventory of all **land** that will be acquired as a result of the project
- The inventory of all **trees** and **crops** in the project corridor,
- The census of Project-Affected People, including their personal details like identification numbers; age; area of domicile; type of loss (land, business or residential), occupation among others using a socio-economic questionnaire,

The census survey of the PAPs was done using a semi-structured household questionnaire. The questionnaire covered the households' baseline information on incomes and expenditures, identification details, age, occupational and livelihood pattern, use of resources, place of residence (County, Sub County and Village), and contact address, arrangements for use of common property, social organization, leadership patterns, community organizations, and cultural parameters. Photographs of the structures owned by PAPs were taken including the GPS coordinates as part of the census.

The census undertaken in December 2014 as part of the review and update of the RAP found **400** PAPs. The 2013 census had **325** PAPs

SUMMARY OF PROJECT IMPACTS

The overall impact of the project is moderate if not minimal in view of the fact that only **84.15 Acres** of land will be acquired and **16** households will be affected with majority being roadside vendors who ply their trade along the road corridor. An estimated **384 structures** (temporary, permanent, semi-permanent, makeshift), which are mainly temporary or semi-permanent, will be affected as is shown below.

Owing to the historical marginalisation, poor infrastructure, insecurity (safety concerns) and pursuit of services, communities along the project corridor have gravitated close to the road reserves to seek basic services e.g. water, schools, health facilities andcommerce and have established businesses on the road reserves more so targeting commutters and this explains the moderate number of existing PAPs along a road reserve.

An estimated **140 PAPs** are property/structure owners (landlords), **169 PAPs** are tenants, **and 75** PAPs are mobile roadside vendors with no fixed or temporary abode and **16** landowners.

All the PAPs will be relocated as a result of the project and this is because they have structures along the Right Of Way (ROW) other than the 16 landowners who are going to be relocated as a result of the need to re-align the route specifically in Moi's Bridge.

The project is establishing formal roadside markets along the project corridor where all the business entities and roadside vendors losing structures and income sources will be relocated so as to have a formal structure of conducting business away from the road reserve which is a hazard and risk. The intention of KENHA is to ensure that there are no mobile or permanent roadside vendors who present a risk and that instead the formal market centres become the point for vending by these entepreneurs.

The 16 landowners are the only category of PAPs with land out of the ROW and will be permanently displaced but have been provided for land for land or cash for land compensation including disturbance allowance and restoration support.

Land Acquisition

There will be impacts related to land take resulting from the rehabilitation of the Kitale-Lesseru-Marich Pass road corridor. Affected land includes private and public land. Land take will also lead to loss of structures, income and may result in the permanent change of land use and the termination of the present use of the landowners where road will be re-aligned as part of the rehabilitation.

In order to improve motorability on the road, interchanges have been proposed. The first interchange will be at Lesseru (also known as Maili Tisa) will affect several temporary structures constructed on the Ministry of Defense land. The Kitale interchanges will affect a private landowner, Weaver Bird High School, AIC Nuru Church and Ark Celebration Centre both located on the outskirts of Kitale town. Table 2 below shows the total land take as a result of the project and is not road reserve land but land to be acquired for the purposes of constructing proposed interchanges.

Table 2. Summary: Project Impacts in terms of land take

Description	Area (Acres)	
Land Ownership		
Government of Kenya	3.53	
Private land with different owners	80.62	
Total	**84.15**	

Loss of structures and income

The project will physically and economically displace PAPs who own structures in the proposed corridor (structure owners/landlords) include income that they derive from the rented structures while another set of PAPs will be economically displaced (tenants) as a result of loss of business structures that they rent in order to run their enterprises. All the PAPs tabulated in the table below other than the 11 institutions and 5 landowners are within the ROW and this means that they have encroached (squatters) on GOK land. They will receive compensation for structures and lost income including disturbance allowance but have no entitlement to land. Therefore, a total of 368 PAPs are considered to be squatters by encroaching on the ROW and will not be entitled for compensation for loss of land while 16 PAPs are out of the ROW and in effect will be compensated for structures and land due to acquisition of legally owned land.

Land needed for the 16 PAPs exist out of the ROW due to the need by the project to align some sections of the route for safety and design factors.

Table 3 Summary of Category of PAP

Town Centres	Number of Business Structures Affected	Number of Institutional Structures Affected	Number of Property Owners/Landlords Affected	Number of Business Tenants Affected	Number of Land Holders Affected	Number of Mobile Roadside Vendors
Matunda	45		23	22		
Soy	16	1	10	6		25
Moi's Bridge	5	2	2	3		35
Kamakut	8		1	7		
Nangili	8	1	1	7		
Nabusaka	3		3	3		
Fafarol	62	2	17	45		
Kibomet/Naisambu	30		12	18		
Taito	11		7	4		
Aruba	21		10	11		
Kongoni	3	3	5	14		
Maili Saba	19		1	2		15
Kipsaina	32		12	20		
Kesegon	38	2	32	6		
Simatwet	5		4	1		
Total	**384**	**11**	**140**	**169**	**5**	**75**

A total of 384 Project Affected Households, 11 public and communal institutions will be affected by the proposed road rehabilitation project. Of this number 16 PAPs will need to be permanently relocated because they are out of the ROW and will permanently lose land and structures on legally owned land. The remaining PAPs (368) are within the GoK's ROW and will be temporarily displaced until the market centres to be constructed under the project are built after which they will be relocated.

The road routing cuts across the major centres e.g. Moi's Bridge, Kipsaina, Soy, Farafol as highlighted in **Table 3** above. In these urban centres, commercial activities are predominantly situated along the road reserve and Right of Way (ROW), and hence the significant number of PAPs. The number of PAPs further increases with inclusion of mobile roadside vendors who are not resident in one particular centre and move from one centre to another.

This RAP has separately identified the vulnerable members, such as those who are too old or too ill to support themselves; children; physically challenged; and women headed households.

There will also be groups that meet the criteria of OP 4.10 VMGs in the project impact area and as such a social assessment is being undertaken to ensure that the anticipated impacts are mitigated and addressed in a culturally appropriate way as per the provisions of the VMGF/VMGP.

Category of Impact/Losses

The following category of impacts in relation to PAPs have been identified namely;-

- Loss of land only (land owners who are non encroachers and out of ROW)
- Loss of land and trees/crops
- Loss of land and business structures (land and property owners who are non encroachers and out of ROW)
- Loss of business structures (property owners and are encroachers/squatters within the ROW)
- Loss of income from persons renting permanent business premises along the project corridor (encroachers/squatters within the ROW)
- Loss of income from persons operating as mobile roadside vendors with temporary or no structures along project corridor

RESETTLEMENT AND COMPENSATION

Overall Approach

The RAP aims to ensure that all affected parties are compensated and assisted in restoring their livelihoods.

Overall objectives of the RAP are:

- Avoid or at least minimize involuntary resettlement
- Mitigate adverse social and economic impacts from land acquisition by:
    - Providing compensation for loss of assets at replacement cost; and
    - Ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected, and

- Improve or at least restore the livelihoods and standards of living of affected people.

- Provide additional targeted assistance and opportunities to improve or at least restore their income- earning capacity, production levels, and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected;
- Provide transitional support to affected people, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.

PRINCIPLES FOR COMPENSATION AND RESETTLEMENT

The key principles of this RAP are the following:

- All physically and economically displaced people will be offered an option between either a full resettlement package, including the compensation for land at full market cost and replacement value for structures, or land-for-land replacement, with compensation for lost structures and assets; -All PAPs preferred this principle and the option of receiving cash for their land, structures and other assets.

- Compensation and resettlement of project-affected people will be carried out in compliance with Kenyan legislation and WB OP 4.12;
  - PAPs were, are and will be informed, consulted and involved in decisions making during the course of RAP development, implementation and evaluation;
  - The Project will assist PAPs in restoring their affected livelihoods and will provide transitional assistance in order to restore livelihoods to at least their previous level;

The Project will provide for measures to inform beneficiaries of the pros and cons of cash versus land for land compensation so that PAPs make an informed choice. The project will also provide money management trainings and will monitor livelihood restoration implementation following compensation.

- The RAP implementation and–outcomes will be monitored and evaluated as part of a transparent process;
- Where Kenyan legislation is less favorable to PAPs than WB OP 4.12 requirements or does not apply at all, the latter shall apply.

Table 4. Entitlement Matrix

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
AGRICULTURAL LAND OWNERS	**TITLED LAND**: Land held under a registered title deed	Registered land (usually a physical	Hold a registered land that was	Replacement of lost land by agricultural land of similar

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
		person – one case in the Project-Affected Area) – INDIVIDUAL	registered with relevant Authorities prior to the Cut-Off Date	potential under similar tenure arrangements with formal registration in replacement land with the relevant land authorities; or, – Cash compensation for land or non- cash compensation of land (land for land), taking into account market values for land Cash compensation of all immoveable developments on the affected land, such as structures, etc.… - See below "Structures" , taking into account market values for structures and materials Cash compensation of standing crops – See below "Crops"
	UNTITLED LAND: Land held under customary ownership, and not registered. Customary land owners are those that own land from ancestral inheritance	Customary land owner (legally an unregistered), whether resident or non-resident– INDIVIDUAL	Hold, prior to the Cut-Off Date, an unregistered, customary land and be recognized as such	Replacement of lost land by agricultural land of similar potential under similar customary tenure arrangements; or Cash compensation for land or non- cash compensation of land (land for land), taking into account market values for land Cash compensation of all immoveable developments on the affected land, etc.… - See below "Structures", taking into account market values for materials Cash compensation of standing crops – See below "Crops"

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
	RENTED LAND: Land rights obtained temporarily as per a customary rental agreement	Tenant as recognized by the customary landowner and customary authorities whether resident or non-resident– INDIVIDUAL	Occupy land prior to the Cut-Off date as per a rental agreement recognized by the land owner and customary authorities	No compensation for the land itself Cash compensation to the owner of immoveable developments established by the owner and to the tenant of immoveable developments that were established by the tenant, such as structures, canals, soil improvement, etc.… - See below "Structures", taking into account market values for materials Cash compensation of standing crops – See below "Crops"
Category A: Permanent residents, also customary holders of agricultural land		Be recognized by local traditional authorities and the relevant resettlement committee as a permanent resident and a customary holders of agricultural land located in the Project-Affected Area at the cut-off date		- Resettlement house of similar or better quality on a resettlement plot (best practice) or cash compensation of the lost house at full replacement value, taking into account market values for housing - Replacement of lost land by agricultural land of similar potential under similar tenure arrangements near the resettlement site – No cash compensation of land if the household does not choose resettlement - Cash compensation of all immoveable developments on the affected agricultural land, such as structures, canals, soil improvement, etc.…, taking into account

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
				market values for materials - Cash compensation of standing perennial crops at replacement value and of non-perennial crops at market value - Moving allowance if the household vacates the Project-Affected Area at a given date - Livelihood restoration package
B: Permanent residents and tenants or sharecroppers of agricultural land		Be recognized by local traditional authorities as a non-permanent resident in the Project-Affected Area and as a customary land holder of agricultural land located in the Project-Affected Area for more than one year		- Cash compensation of the lost non-permanent house at full replacement value, taking into account market values for housing - Replacement of lost land by agricultural land of similar potential under similar customary tenure arrangements anywhere in the Area - Cash compensation of all immoveable developments on the affected agricultural land, such as structures, canals, soil improvement, etc.…, taking into account market values for materials - Cash compensation of standing perennial crops at replacement value and of non-perennial crops at market value - Moving allowance if the household vacates the Project-Affected Area at a given date - Livelihood restoration package
RESIDENTIAL LAND	**UNTITLED LAND**: Land held under	Customary land owner (legally an	Hold, prior to the Cut-Off	Replacement of lost residential land by resettlement

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
	customary ownership and not registered	unregistered owner) – INDIVIDUAL	Date, an unregistered, customary land and be recognized as such by local customary authorities	residential land of similar size with formal recognition of ownership of the resettlement plot by the relevant administrative authorities; or, Cash compensation for land or non- cash compensation of land (land for land), taking into account market values for land Cash compensation of all immoveable developments on the affected land, such as structures, wells, etc.… - See below "Structures", taking into account market values for materials
STRUCTURES	**RESIDENTIAL HOUSES**: Inhabitable houses used as a permanent residence	Owner – HOUSEHOLD	Be the locally recognized owner of an inhabitable house permanently used as a residence	Resettlement house of similar or better quality on a resettlement plot and or Cash compensation of the lost house per Kenyan law at full replacement value, taking into account market values for housing
	NON RESIDENTIAL STRUCTURES: Non inhabitable house or other structure of any design	Owner - INDIVIDUAL	Be the locally recognized owner of a non residential structure	Cash compensation at full replacement value, taking into account market values for structure and materials
BUSINESS OWNERS INCLUDING ROADSIDE VENDORS (Squatters/Encroachers on ROW)	PAPS who own all types of structures (permanent or temporary) for businesses on GOK's ROW and are hence squatters/encroachers Structures (Permanent and Semi-permanent Buildings, Manyattas	Compensation for the entire structure at replacement cost as determined by the concerned appraisal committee without deduction for salvaged		Restorative compensation in accordance with the land Act. No compensation for land Restorative compensation includes disturbance allowance, severance and injurious affection

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
	Disruption of Various Private Businesses Mobile vendors who sell wares along the road corridor specifically in major centres but with no structures (permanent or temporary)	building materials.		Disturbance allowance is 15% of the market value of the cost of construction of affected structures Compensation for lost income for up to a period of 12 months
CROPS	**STANDING NON PERENNIAL CROPS**	Owner of the crop – INDIVIDUAL	Be the recognized owner of a standing crop and be unable to harvest it prior to land occupation by project	Cash compensation at full replacement value
	STANDING PERENNIAL CROPS	Owner of the crop – INDIVIDUAL	Be the recognized owner of a standing perennial crop	Cash compensation at full replacement value

LIVELIHOOD RESTORATION PROGRAM

Affected households are entitled to participate in and to benefit from the targeted set of livelihood restoration programs, which were developed for this RAP:

1) Business skills training and facilitation of access to alternative income generating activities
2) Financial training for the sustainable use of cash compensation (including training on the maintenance of a bank account, on small household investments, saving strategy and financial planning on the household level);
3) A Social Assessment is being undertaken for this project in order to determine PAPS priorities with regard to livelihood restoration, including building roadside amenities accessible from the road. The social assessment also identified way to improve livelihoods of women and youth in the following ways:In order to ensure the equal distribution of Project benefits to women, and to safeguard the rights of women in all aspects of the Project, women's participation will be secured by ensuring that women enjoy increased access via the improved markets, and social infrastructure and services. Attention will be given to markets at the border, rest stops (service centers), and export facilitating zones by providing safe and enhanced access to the market places, which will benefit more the rural women who represent the majority engaged in informal cross-border trade. The project has assessed specific demands of pastoralist women and based on the expressed interest of the women habitants along the corridor the project will develop a pastoralist road side market that provides basic facilities to process and market products of the pastoralist community.
4) Affected PAPs will be provided with priority consideration for construction employment especially casual labour or semi skilled labour.

GRIEVANCE MANAGEMENT

The project provides a simple and accessible, extra-judicial mechanism for managing grievances and disputes based on explanation and mediation by third parties. Each of the affected persons will be able to trigger this mechanism, while still being able to resort to the judicial system.

Grievance management will provide three tiers of amicable review and settlement, with the first one at the village level using customary rules. The second level will be RAP implementation committees and Sub County representatives in case the grievance cannot be solved on the first level. Finally, there will be the option for each complainant to resort to court (third level), in case there is no solution within the Project's grievance mechanism.

VULNERABLE PEOPLE

Vulnerable groups/people are defined as individuals, groups, households, or communities who by virtue of gender, locality, age, physical or mental disability, economic disadvantage, or social and cultural status may require additional support or assistance and will need help adjusting to changes introduced by the project.

Assistance will take the following forms, depending on vulnerable people's requests and needs:

- Assistance in the compensation payment procedure;
- Assistance in the post payment period to secure the compensation money;
- Assistance in moving: providing vehicle, driver and facilitation at the moving stage, providing services for disabled or inform persons during moving, and;
- Health care if required at critical periods;
- Moving and transition period.

In the context of the Project, vulnerable people include:

- Groups that meet OP 4.10. The road traverses through the arid and semi arid lands, which are mainly populated by groups that could meet the Bank's Operational Policy 4.10 on Indigenous Peoples. [1]
- Disabled persons, whether mentally or physically;
- Elderly people, particularly when they live alone;
- Households whose heads are children;
- Households whose heads are female, particularly widowed or repudiated and divorced women having to take care of their children, and who live with limited resources;
- People with serious medical conditions, particularly people living with HIV, AIDS and other chronic illnesses;
- Under the provisions of the RAP, vulnerable households will be provided with targeted assistance.

CONSULTATIONS

The overall goal of consultation and stakeholder engagement is to establish an on- going, accessible and constructive dialogue with potentially affected parties and other interested organizations and individuals, so that their views and concerns can be taken into account in decisions about the Project in accordance with international good practice.

[1] The Government of Kenya Commission on Revenue Authority is tasked with targeting resources to marginalized counties through the GoK's Equalization Fund The CRA has identified 14 counties as marginalized: Turkana, Mandera, Wajir, Marsabit, Samburu, West Pokot, Tana River, Narok, Kwale, Garissa, Kilifi, Taita Taveta, Isiolo and Lamu

In 2013 during the preparation of the original RAP, individual and group interviews with stakeholders were conducted in along the project areas. These interviews were conducted with the following stakeholder groups:

- Administrators and local representatives from the national government (Chiefs, Assistant Chiefs, Village Elders, County/Sub County Land Officer);
- County Executive Committee Members (Devolution and Governance; Youth Women and Sports);
- Representatives of local civil society associations (women, youth, etc.)

These interviews aimed to identify: (i) the status and recent developments in local economic conditions (trade, crafts, tourism, etc.); (ii) status and recent developments in infrastructures and services; (iii) project`s key stakeholders and representatives and on-going programs and local priorities.

Major meetings were held at Lounon market and Sakat village with local administration and community members due to the potential displacements of PAPs as a result of the realignment. Other meetings were held in Lesseru, Soy, Nangili, Matunda, Moi's Bridge, Kitale, Makutano, Chepareria and Ortum.

In **November-December 2014,** as part of review and update of the RAP, another census and enumeration exercise was conducted specifically to validate and verify the original census. The census exercise entailed adminstration of questionnaire to all the PAPs along the project corridor by research assistants recruited from the project area. A new cut off date of **31st December 2014** was established as the new data with a consensus arrived at with all PAPs that the old cut off date (**February 2013**) was null and void.

Consultations were also held with the County Government with the view of obtaining their views, advice and participation in defining the socio-economic impacts of the project and the most adequate mitigation measures to apply. This was also a particularly important step in terms of gaining a better understanding of resettlement impacts and planning possible synergies with rural development projects to find available land and propose restoration strategies.

In 2014, A total of **12** consultative meetings were held with **391** PAPs at different locations within the project corridor to first of all sensitize them about the project, inform them of the reason for update and reviewing of the RAP, agree on the dates for census survey and enumeration and seek their views and perception on the project. **Table 4** below outlines the locations and dates where the consultations were held.

Table 5 Consultations with Project Affected PAPs

Location	Venue	Date	Number of Participants
Chepareria Post Office	Chepareria Post Office	9th December 2014	**37**
Chepareria-Sebit	Parua location	7th December 2014	**27**
Marich	Marich Shopping Centre		**11**
Kapenguria-Kamatira	Kamatira Shopping Centre	8th December 2014	**10**
Kamatira-Kipkarus			**45**
Psigirio-Mmagei	Makutano Dispensary	8th December 2014	**37**
Sebit Shopping Centre	Sebit Shopping Centre	9th December 2014	**51**
Waitaluk	Waitaluk Shopping Centre	5th December 2014	**32**
Sirende	Sirende Shopping Centre	5th December 2014	**25**
Matisi	Matisi Shopping Centre	5th December 2014	**50**
Sinyereri-Kwanza	Sinyereri-Kwanza		**38**
Sitatunga -Kasaigat	Sitatunga -Kasaigat	6th December 2014	**28**
Total			**391**

In summary, there were no major issues and concerns raised by the PAPs who were generally supportive in a broad way of the project and appreciated the benefits the road would bring with it. Table 5 below shows the thematic issues raised consistently in all the 12 meetings and the responses.

Table 5. Summary of outcome of the PAP consultation

Issue	Response
How will private land be compensated and what will be process of compensation?	All affected person will have their any of their lost land valued and captured in the entitlement in a Resettlement Action Plan (RAP). The National Land Commission (NLC) will publish the approved list for compensation in the local dailies and thereafter if no contentions arise as to the ownership, payment will be made. Those with or without title deeds will also be compensated provided they have the relevant documentation to prove ownership. Payment will then be made after valuation and based on market value.
Who will be compensated? What process will be used to identify PAPs who ill be compensated and at what value?	Anybody impacted by the project will qualify for fair and just compensation based on market rates of land.
What will be compensated? We have planted trees on public land at Lord Keringet after Maili Saba. Will you compensate for loss of trees on public land too?	The road size on Waitaluk – Sirende is 40metres wide and any encroachment outside the 60metres into private land will be fully, fairly and justly compensated.
What is the correct size of road and will compensation be done on affected persons whose land would be encroached by the expansion of the road.	The road size on Waitaluk – Sirende is 40metres wide and any encroachment outside the 60metres into private land will be fully, fairly and justly compensated.
Community Benefits How will local communities benefits from employment and business opportunities offered by the project?	The Government will ensure that locals benefit from employment opportunity provided by the project particularly unskilled labour will be sourced locally. The contractor will ensure toilets are constructed for workers working on the road project and the project has

Will shades be provided at the following areas Karas, Kamatira, Tantana, Bendera and St. Mary's. We would like those ablution facilities are constructed for the road users to avoid travelers using the forests to relieve themselves?	a component for providing several roadside amenities including markets, rest stops among others
Timing of Compensation When will compensation be made?	Compensation will be done just before the project commences.
Design and Safety KENHA should consider erecting bumps at the Marich Pass trading Centre, Sigor Junction, Police area and Coastal. There is also need for a roundabout at Lelan. The economy of the population is largely dependent on small-scale businesses including boda bodas (passenger motor cycles) and there is need to incorporate them on the design to reduce the number of accidents.	Bumps were considered on various section of the road during the design stage. We will verify if the following additional sections can be considered during design review. More space will be created on the pavements and the road in town widened to facilitate boda boda motorcyclists. The design has factored this plus pedestrians use where necessary.
Project Start Date When is construction expected to begin?	Once the design review has been finalized, compensation made and procurement completed for the contractor, then construction will begin immediately.
Who is a Project Affected Person How shall we know that we are project-affected persons?	The project follows the current ROW. Those within the ROW will have to move and where we have new alignment or deviations from ROW, just and fair compensation will surely be made. Project Affected persons have already been informed of the same.
Cultural Concerns We have cultural trees at Bendera, will the project facilitate the cutting and transfer of this tree?	The project will facilitate the cost of transfer of cultural trees from Bendera to the site of choice of the community. All the accompanying costs will be compensated
Compensation Process and Mode What will be the mode of payment free of corruption?	KENHA will make payments through National Land Commission (NLC). Payments will be made payments to Project Affected Persons' (PAPS) bank accounts. This is expected to limit cases of corruption.
Entitlement for PAPs Will Government factor in a disturbance allowance due to inconveniences caused by resettlement?	Yes. Disturbance allowance of 15% of total valuation of assets will be factored in the compensation package to settle inconveniences caused by resettlement process.
Legal Framework What is the legality of compulsory land acquisition?	The Constitution of Kenya 2010 and Lands Act 2012 vested powers of Compulsory Acquisition on the government – NLC in particular, to compulsorily acquire land for development with just and fair compensation at market rates.
Land Tenure How will people settling on land without title deeds be compensated and whether those on government land will qualify for the same?	Anybody impacted by the project will qualify for fair and just compensation based on market rates of land. Efforts will be made to establish to exact ownership of the land from Land Department. However those on Government land would not be compensated but will be given some livelihood support.

MONITORING AND EVALUATION

Monitoring, evaluation and auditing are key components of the RAP and are an integral part of KENHA's responsibilities. These components have the following general objectives.

Monitoring

Monitoring looks at progress of resettlement and compensation and at specific situations of economic or social difficulties arising from the implementation of the compensation and resettlement process.

Auditing

Auditing looks at compliance and completion of the resettlement process.

Evaluation

Evaluation looks at outcomes, through an assessment of the short- mid- and long-term impacts of the compensation and resettlement process on affected households, their incomes and standards of living, the environment, housing etc.

Direct measurable results can include:

- Amounts of compensation paid in a given month
- Completion of cash payments and follow up of self-resettlement of affected people, prior to any construction activity
- Completion of physical relocation prior to any construction activity
- People completing livelihood restoration training courses

Monitoring will seek to document and investigate specific conflict or hardship situations arising from the implementation of the RAP. Monitoring keeps track of RAP implementation efficiency and indicates whether changes have to be made to make the program work more efficiently. Progress monitoring is done internally by the Project at a frequency determined by the RAP.

IMPLEMENTATION ARRANGEMENTS

Ministry of Transport and Infrastructure (MoTI) will be responsible for the overall coordination and implementation of the project in Kenya, as well as the implementation of the development facilitation interventions. The implementing entities will establish Program Management Teams (PMTs) assigning staff from within. KeNHA will focus on road corridor upgrading. Ministry of Transport and Infrastructure (MoTI), KeNHA and Kenya Information, Communication and Technology Authority (KICTA) all have experience in managing Bank supported projects and further TA to strengthening project implementation capacity will be provided under the project.

KRA will have the overall responsibility of implementing the trade facilitation measures on the Kenyan side. Kenya Revenue Authority (KRA) has been implementing trade facilitation measures related activities under the EATTFP supported by the World Bank, and it is familiar with the Bank's procurement and financial management guidelines and procedures. The project will provide TA to strengthen the capacity of KRA. The KICTA will be the primary partner for the ICT component to be implemented to enhance connectivity using fiber optics. KICTA has been implementing the Kenya Transparency and Communications Infrastructure Program since 2007, and recently benefited from a second tranche of additional financing, so has experience of working with the World Bank.

Ministry of Transport and Infrastructure

The Ministry of Transport and Infrastructure is the implementing agency for this project under the KENHA. MoTI will mobilize funds from Government of Kenya (GoK) i.e. National Treasury for resettlement and compensation purposes of this RAP.

Kenya National Highways Authority /PMT

The implementing entities will establish PMTs assigning staff from within. The Environment and Social Interest Unit within KENHA will be responsible for the management of the RAP implementation including;

Management of RAP Implementation

- Compensation process
- Ensure and monitor overall social and environmental due diligence within RAP implementation (national requirements, lenders requirements)
- Ensure the grievance committees are established and working;
- Establishing Resettlement and Compensation Committees;
- Monitoring

Communication and Coordination

- Overall coordination with County Government and local administration and MOTI with regard to the Project's social and environmental issues

County Governments of West Pokot, Trans Nzoia and Uasin Gishu

- The County Executive Committee/staff shall contribute with their expertise, their capacity and competence to the implementation of the RAP, corresponding to the different technical areas they represent (i.e. water, environment, social assistance, youth and women).

Grievance Redress and Resettlement Committees

The resettlement committees are partners on the local level for RAP implementation, especially for:

- Compensation process

- Identification of vulnerable people on the household level, information of on special concerns of vulnerable people in their community, organize meetings and with and visits of vulnerable people
- Involvement in monitoring procedures, especially in monitoring of land dynamics, of progress of livelihood restoration measures and of compensation disbursement
- Involvement into the grievance mechanism on the village level

Sub County Resettlement and Compensation Committees (SCRCCs), Location Resettlement and Compensation Committees (LRCCs) and Village Resettlement and Compensation Committees (VRCCs) will be established in every sub county, location and village affected by the project.

This RAP recommends the first level of grievance or conflict redress on land related issues as a result of this project to be handled by the Village Resettlement and Compensation Committees.

In every affected village there will be a Village Resettlement and Compensation Committees and the membership will include:

- The sub locational chief,
- Assistant chiefs,
- One project affected youth,
- One project affected woman,
- One project affected male
- A representative of vulnerable groups,
- A CBO in the location.
- Business representative.

There will be a Mediation Committee at the Sub County level to handle grievances that cannot be resolved by the village committee and membership will include:

- One representative of the National Administration; - National Government
- One representative of County Administration; - County Government
- Land Officer
- Representatives of Resettlement and Compensation Committees at location level.
- One representative from KENHA acting as an observer;
- One representative of the construction contractor, acting as an observer
- Three representatives of the affected people, amongst them at least one woman, chosen i.e. from community based organizations, elders, customary authorities.

In case this mechanism will not allow an amicable agreement to be reached, the complainant or the defendant can resort to Justice (and could at any time).

BUDGET

Based on the Land Act and OP.4.12, the RAP consulting team came up with cost estimates for the RAP at current market price replacement costs for assets aimed at restoring livelihoods to pre-project level. As mentioned earlier, it is important to note that the Land Act does not expressly include costs related to relocation. However, for this RAP, a 15% disturbance and relocation assistance was included to the budget. The relocation assistance will cater for economic, social and physical disturbance caused to a PAP. The estimated cost and budget for the RAP is **Kenya Shillings Five Hundred Sixty One Million, Ninety Two Thousand, One Hundred and Eighteen (Ksh. 561, 092,118.4). The RAP will be financed by the Government.**

Table 6. Summary of Budget for RAP

Item	**Approx. Value (Kshs)**	**Addition (20%)**	**Estimated Total Value (Kshs)**	**15% Statutory allowance**	**Total Value (Kshs)**
Structures Values	235,516,233	4,710,324	240,226,557	36,033,983	276,260,540
Land Values	45,712,370	9,142,474	54,854,844	8,228,226	63,083,070
Tree Values	2,001,500	400,300	2,401,800	360,270	2,762,070
One year loss in livelihood (businesses)	82,592,800	16,518,560	99,111,360	14,866,704	113,978,064
Sub-Total					**456,083,744**
Estimated expenses of KeNHA and Other Relevant Government Agencies					20,000,000
Estimated expenses of Uasin Gishu County CRAPC					10,000,000
Estimated expenses of Trans Nzoia County CRAPC					7,000,000
Estimated expenses of West Pokot County CRAPC					12,000,000
Financial Management Training & Counseling for PAPs					5,000,000
Sub-Total					**54,000,000**
Total					**510,083,744**
Miscellaneous Expenses (10%)					**51,008,374**
GRAND TOTAL					**561,092,118.4**

RAP IMPLEMENTATION SCHEDULE

The activities related to the Project are expected to commence in 2016 by which time the PAPs are expected to have moved from the site. It is expected that before July 2016, all the PAPs will have been fully compensated in line with the findings of the

RAP study and that all the grievances arising will have been resolved in order to pave way for the project execution.

CHAPTER ONE

1 INTRODUCTION

1.1 Project Overview

This document presents the Resettlement Action Plan (RAP) for Lesseru-Marich Pass Road Rehabilitation Project. The Kenya National Highways Authority (KENHA) through EA Regional Transport Trade and Development Facilitation Project (SS-EATTDFP) is in the process of rehabilitating the 155 Km long Lesseru - Kitale–Marich Pass Road located in Uasin Gishu, Trans Nzoia, and West Pokot Counties.

The proposed road rehabilitation project will entail excavation of the existing road surface to pave way for fresh carpeting, horizontal alignment of narrow sections of the road within the road reserve, development of Lesseru and Kitale interchanges, construction of service roads at all major trading centres along the road corridor, construction of a truck lay bay (parking at Moi's Bridge), road realignment at Kamatira Hills section, evacuation of persons who have encroached into the road reserve and acquisition of land for road construction. These activities will lead to involuntary resettlement and land acquisition (physical displacement) as well as economic displacement and thus necessitate the development of a Resettlement Action Plan (RAP).

This document presents the Resettlement Action Plan (RAP) for the rehabilitation of the 158 KM long Lesseru–Kitale–Marich Pass Road (the Project). The Project will affect communities along the 158km corridor marked for rehabilitation. The RAP has been established in order to ensure that any economic or physical displacement resulting from the Project, whether permanent or temporary is undertaken in a socially responsible manner and according to good international practice. Through the RAP, the Project will apply the relevant national legislations of Kenya's well as the relevant World Bank Policies:

- WB OP 4.12 "Involuntary Resettlement" (December 2001, revised February 2011)

1.2 Project Information

The Government Kenya has received a credit from the International Development Association (IDA) towards the cost of the East Africa Regional Transport Trade And Development Facilitation Project SS-EATTDFP. Parts of the credit have been allocated to rehabilitate the Lesseru-Marich Pass road, linking Kenya and Sudan and

forming one of the backbones of Corridor 3 of the high priority trans-national road corridors under the East African Community Road Network.

The trade flows through the main seaports in Eastern Africa are dominated by imports, which represent about 80 percent of the total trade volume, while export trade constitutes only about 20 percent. An assessment carried out to identify the development potential along the regional corridors in eastern and southern Africa shows that the exportable items from the region are currently limited and focused on mining products, including export of oil from South Sudan.

Intra-regional trade is also at a very low level. This imbalance demands harnessing all export development potential in which the improvement of the proposed road, trade facilitation measures, extension of the fiber-optic cable from Eldoret to Juba, developing export processing zones and road side pastoralist market, and simplification of import-export processes, could play a catalytic role. The anticipated development will also facilitate intra-regional trade, including exports of South Sudan's agricultural products to markets in the sub-region.

Kenya is endowed with agricultural land, animal resources, minerals and abundant tourism potential, which remain to be developed in the northern part of the country. The corridor helps the promotion of export based growth in the north-western part of Kenya by facilitating the development of: (a) agriculture and livestock (fisheries in Lake Turkana, and livestock and dairy products from pastoralist communities); (b) irrigated agriculture in the Turkwel and Wei Wei river basins; and (c) tourism. It will also support the extraction of recently discovered petroleum reserves and the integration of the region with the rest of Kenya and the outside world. Whereas, geographically, the South Sudan states of Eastern Equatoria and Southern Jongulei are the closest areas to sea ports and the agricultural market in the neighboring countries. Moreover, the immense potential of agriculture and mineral exploitation makes this part of South Sudan a prime area for attracting foreign investment.

The development potential along the corridor in South Sudan includes: (a) agriculture production (forestry, fishery, tea, coffee, cereals, live-animal and animal products); (b) cement and lime industry; and (c) mining of gold and semi-precious stones. There is a potential of enhanced petroleum extraction and the benefits of extending high-speed internet access to Juba and several state capitals. The improved corridor will also facilitate the delivery of social and administrative services as well as promotion of commercial services, including storage facilities and roadside businesses.

A significant portion of the road transport infrastructure in the sub-region is currently in poor condition. Fuel and logistical costs are high due to inefficient customs clearances and limited competition in the transport market. The road

transport network in Kenya is the largest in terms of size compared to the other countries in East Africa. The classified network totals almost 160,900 km. In South Sudan only 4,000 km of the 17,000 km classified roads are all-weather gravel roads. The Juba- Nadapal/Nakodok-Eldoret corridor is the safest and cost effective corridor connecting land locked South Sudan to port of Mombasa.

The average travel time between Mombasa and Juba through Nadapal/Nakodok is 5 to 8 days, while via Nimule, and Kaya (border between South Sudan and Uganda), it is 6 to 9 days, and 7 to 11[2] days, respectively.

The Kenya-Uganda railway accounts for only about four percent of the cargo handled through the port of Mombasa. Plans exist for extending several railway lines, for example, the extension of the Port Sudan-Wau line to Juba and Gulu to merge with the operational railway at Tororo. There is an oil pipeline running between Mombasa and Eldoret with a spur to Kisumu (Lake Victoria) in Western Kenya and serving several East African countries.

The creation of an efficient trade and development corridor, enhancing the use of Information and Communication Technology (ICT) for internet connectivity and road management, as well as improving the access to market for the pastoralist communities will help the poor population living along the project corridor to have access to economic opportunities and basic services, which is consistent with the Bank's twin goal of reducing extreme poverty and enhancing shared prosperity.

The proposed project is aligned with and supports the core pillars of the Africa Strategy[3], mainly the competitiveness and employment pillar, by improving the business environment and reducing transport and telecommunication costs. The proposed project is consistent with the objectives of the World Bank Regional Integration Assistance Strategy for Sub-Saharan Africa (RIAS 2008).

The project is also aligned with the regional integration initiatives of the African Union (AU)/New Partnership for Africa's Development (NEPAD) The inclusion of the ICT connectivity component also fits well with the commitment of the World Bank and the African Development Bank on the transformative effect of ICTs in Africa (eTransform Africa, 2012).

The World Bank 2014, Kenya Country Partnership Strategy (CPS) for the period FY2014-18 recognizes that Kenya takes a lead role in facilitating regional trade, investments and flow of skills across borders. Therefore there is a need to tackle the current obstacles, which include remedying major transport corridors. The project

[2] Asebe, 2012, South Sudan logistics and trade bottlenecks supported by the World Bank
[3] Africa's Future and the World Bank's Support to It, March 2011

supports Vision 2030 that is to transform Kenya into a middle-income country by 2030, and foresees significant new transport sector infrastructure investments.

1.3 Objective

The objective of the Project is to enhance regional connectivity and integration of Kenya with its Eastern Africa neighboring countries, and South Sudan's access to seaports.

The proposed project contributes to the overarching goal of facilitating and lowering the cost of intra-regional trade to support regional cooperation and integration of economies in the sub-region. This project will contribute to the twin pillars of the Project Development Objective (PDO), regional connectivity and integration, principally integrating the economies of the sub region, through improving the physical road and ICT links as well as creating efficient and safe trade corridor, along the Juba-Eldoret corridor that would help boost export oriented agricultural development in the north western part of Kenya and south eastern part of South Sudan, endowed with abundant natural resources, and lower the cost of intra-regional trade.

The physical and trade facilitation measures of this project will support the efforts of Kenya and South Sudan to make this corridor a development corridor through lowering the cost of transportation, facilitating the development of export processing areas and developing road side markets.

This project beyond its contribution to facilitating growth in the poverty stricken part of the two countries, it will help integrate with the national and sub-regional economy the vulnerable pastoralist population (especially women and youth) living along the corridor through the development of a pastoralist road side infrastructure, which is in the heart of the Bank's twin objective of reducing extreme poverty and enhancing shared prosperity, by helping to change the livelihood of pastoralist women-The Poorest of the Poor. This project will also help instill innovative road management systems through introducing for the first time Intelligent Transportation System (ITS), which helps to increase efficiency and safety of the transportation services along the busiest East African transit corridors and Kenya's arterial urban and rural corridors.

1.4 Justification For Project

The countries in the Eastern Africa sub-region, including Kenya, Uganda, Tanzania, Burundi, Rwanda, Ethiopia, eastern Democratic Republic of Congo (DRC), and South Sudan recorded an average annual economic growth rate of about 5 percent over the last decade. The sub-region is potentially a large regional market of over 200 million people. Relatively poor transport links between these countries, the less than satisfactory performance of the ports of Mombasa and Dar-es-Salaam, the high

cost of internet access in many parts of the region, the poor state, or non-existence of fiber optic links, cumbersome trade facilitation procedures and requirements, and a range of technical, political and policy-related factors create obstacles and increase costs to the movement of goods, people, information services, and act as a major impediments on intra- and inter-regional trade, contributing to the under development of the sub-region.

Kenya is a relatively large country with a land area of 580 400 sq. km with an estimated population of 44.4 million, in 2013. The population was 31.25 million in year 2000 and has been growing at an annual rate of 2.6% p.a. Its Gross Domestic Product (GDP) was estimated at US$44.1 billion in 2013 with considerable variation in past annual growth rates ranging from 0.6% in year 2000, 5.9% in 2005, 1.6% in 2008, to 5.3% in 2010. Gross National Income (GNI) per capita was $930 in 2013 using the Atlas method. Poverty rate has not much changed since the early 1990s: it was 45.9% in 2005 and 44.8% in 1992.

There are considerable regional variations in the development pattern of Kenya's economy, with the Turkana North County in which most of the project area is located has the highest incidence of absolute poverty with more than 80 percent of the population in that area living below the absolute poverty line compared to the national average poverty line indicator of 45.9 percent. The population living along the corridor in the Kenyan territory is predominantly pastoralist communities, Turkanas and Pokots deprived of basic social and economic services with limited or no access-to-access to economic opportunities. Life expectancy in Kenya has slowly increased from 53 years in 2005 to 61 years in 2012. Adult literacy rates have increased substantially from 74% in 2000 to 87% in 2009.

Services represent the largest share of the economy with 67% of GDP in 2010, agriculture accounting for 19% (the share was 32% in year 2000) with industry representing 14% in 2010. However, in terms of employment and exports, agriculture is by far the most important sector with more than 80% in employment and more than 70% in export value derived from agriculture.

1.5 Project Beneficiaries

The beneficiaries of the project will include: the pastoralist communities, farmers and businesses along the road corridor, road users (passengers and freight), tradable sectors of the economy, agriculture, mining and ultimately, consumers and producers both inside and outside the sub-region. The export processing facilities and pastoralist roadside infrastructure, the project will offer new job and income earning opportunities to the people in Turkana and West Pokot in Kenya and in Eastern Equatoria and eastern part of Central Equatoria states in South Sudan. ICT users in north-western part of Kenya, as well as throughout South Sudan, government departments, the private sector, especially small and medium

enterprises, and development partners will also benefit from the reduced costs for internet. Due to the poor state of this corridor the inhabitants are occasionally cut off from the rest of Kenya and South Sudan, particularly during the rainy season. Improvement of the corridor will also attract investment for export oriented agricultural development and mining in the project influence area.

1.6 Objectives of The RAP

The RAP has been developed based on the principles of the Resettlement Policy Framework (RPF) for SS-EATTDFP which was prepared based on the Kenyan Laws and the World Bank Involuntary Resettlement OP 4.12 to ensure that the project affected persons (PAPs) of the Project will not be negatively affected and if so, there are proper measures to mitigate those impacts. To this end the main objectives of this RAP in accordance with the RPF are:

- Minimize involuntarily taking of the land and impact on livelihoods through modification in design as much as possible; and
- If there are some impacts, then put mechanisms in place under this RAP to assist the PAPs in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-project level.

1.7 Guiding Principles For The RAP

The RAP has been prepared in full compliance with the RPF prepared for the SS-EATTDFP and as such the implementer of the RAP, will adhere to the following guiding principles as outlined in the RPF.

- All PAPs will be (have to be) identified and recorded as early as possible, preferably at project investment identification stage, in order to protect those affected by the project and prevent an influx of illegal encroachers, squatters, and other non-residents who will wish to take advantage of such benefit.
- Involuntary resettlement and land acquisition will be avoided where feasible, or minimized, where it cannot be eliminated.
- Measures to address resettlement will ensure that project affected people are informed about their options and rights pertaining to resettlement, are included in the consultation process and given the opportunity to participate in the selection of technically and economically feasible alternatives. They will also be provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project investments.
- PAPs will be assisted in their efforts to ideally improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or levels prevailing prior to the beginning of the project implementation, whichever is higher.

- PAPs will be meaningfully consulted and will participate in planning and implementing of Project.
- Particular attention will be paid to the needs of vulnerable groups among those displaced; especially those below the poverty line, the landless, the elderly, women and children, orphans, marginalized groups and the ethnic minorities or other displaced persons who may not be protected through the Kenyan laws. The objective is to provide whatever additional assistance may be necessary to restore pre-project living standards.
- Projected affected persons if resettled will be supported to integrate economically and socially into host communities so that adverse impacts on host communities and vice versa are minimized. To this end, appropriate patterns of social organization will be promoted and existing social and cultural institutions of PAPs supported to the greatest extent possible.
- The compensation of the PAPs must be completed prior to the implementation of the roads rehabilitation Project.
- This RAP applies to all PAPs regardless of the total number affected, the severity of the impact and whether or not they have legal title to the land. Informal or customary tenure is to be treated in the same manner as formal, legal titles.
- Where involuntary resettlement and land acquisition are unavoidable, resettlement and compensation activities will be conceived and executed as sustainable development programs, providing resources to give PAPs the opportunity to share project benefits.

1.7.1 STEPS UNDERTAKEN DURING RAP PREPARATION

- Adapting the Grievance Mechanism (GM) in the RPF to ensure affordable and accessible procedures for grievances address mechanisms for third party settlement of disputes arising from resettlement including judicial resources and, community and traditional settlement mechanism;
- Analyzing and evaluating of potential project impacts through identification of the PAPs, estimating their number and evaluating the impacts of the project on them through the census and socioeconomic study undertaken for the preparation of the RAP.
- Assessing the appropriate organizational framework for implementing resettlement including identification of agencies responsible for delivery of resettlement measures and provision of services, to ensure appropriate coordination between agencies and sub County government involved in implementation of the project and the RAP;
- Collecting and reviewing relevant Kenyan laws and regulations for compensations and resettlement and comparing the same with World Bank safeguard policy OP 4.12 on Involuntary resettlement and proposing measures to bridge the gaps;

- Conducting a socio- economic census survey of the Project Affected Persons (PAPs) using a semi-structured household questionnaire. The questionnaire covered the households' baseline information on incomes and expenditures, occupational and livelihood pattern, use of resources, arrangements for use of common property, social organization, leadership patterns, community organizations, and cultural parameters;
- Costing and budgeting for all RAP related activities including among others, land acquisition costs, livelihood restoration costs of the PAPs, assistance to vulnerable groups, etc.;
- Developing an implementation schedule covering all resettlement activities from preparation through implementation including target dates for the achievement of expected benefits to those who need to be resettled;
- Identifying all categories and number of project affected persons (PAPs) regardless of land ownership status.
- In accordance with the RPF, elaborating monitoring plan of resettlement activities which will be undertaken by the implementing agency, supplemented by independent monitors as considered appropriate to ensure complete and objective information collection on the RAP implementation and the outcome for resettlement activities.
- Preparing the inventory list of the potential project affected persons. This list include land owners, business operators, institution owners;
- Recommending compensation and livelihood assistance programmes for the PAPs as well as developing the entitlement matrix, livelihoods restoration options and proposed livelihood programs for vulnerable groups;
- Taking an inventory of the affected assets and livelihood activities.

1.7.2 Project Social Documentation

This document will be submitted to the World Bank, and to Kenya Government entities having jurisdiction over the management of social issues related to resettlement.

CHAPTER TWO

2 DESCRIPTION OF THE PROJECT

The project entails rehabilitating the 158 KM long Lesseru–Kitale–Marich Pass Road located in Uasin Gishu, Trans Nzoia, and West Pokot Counties. The proposed road rehabilitation project will entail excavation of the existing road surface to pave way for fresh carpeting, horizontal alignment of narrow sections of the road within the road reserve, development of Lesseru and Kitale interchanges, construction of service roads at all major trading centres along the road corridor, construction of a truck lay bay (parking at Moi's Bridge), road realignment at Kamatira Hills section, evacuation of persons who have encroached into the road reserve and acquisition of land for road construction.

2.1 Project Location

The proposed project traverses through four agriculturally rich Counties namely Uasin Gishu, Trans Nzoia and West Pokot. The project design was reviewed and changed to minimize the number of PAPs. This was meant to minimize the costs of resettlements and to enhance the process towards realization of the project goal. The road reserve is maintained at 40m while the realignment is occasioned by the dangerous gradient of the section that records high number of accidents. The accidents result to loss of lives, loss of properties and delay of several hours to the road users resulting to serious economic damage.

2.1.1 Uasin Gishu County

Uasin Gishu County is a highland plateau and covers an area of 3,345.2 KM2. Altitude falls gently from 2,700m above sea level at Timbaroa in the East to about 1,500m above sea level at Kipkaren in the west.

The county can roughly be divided two broad physiographic regions, with Eldoret (2,085m) forming the boundary between the regions. The topography is higher in the east and declines towards the western borders. The plateau terrain in the county allows easier construction of infrastructure such as roads and use of modern machinery for farming. The county is in the Lake Victoria catchment zone and therefore all the rivers from the county drain in Lake Victoria. Major rivers in the county include: Sosiani River, Kipkaren River, Kipkuner River, Nderuget River, Daragwa River and Sambu River.

The county is divided into three zones namely, the upper highlands, upper midlands and lower highlands. Land use pattern in the county have been greatly influenced by these zones as they determine the particular climatic conditions of the area. The county experiences a high and reliable rainfall, which is evenly distributed throughout the year. The average rainfall ranges between 624.9mm-1560.4mm it

occurs between the month of March and September with two distinct peaks in May and August. The areas with relatively higher rainfall are found in Ainabkoi, Kapsaret and Kesses divisions whereas Turbo, Moiben and Soy Divisions receive relatively lower amount of rainfall. The dry spells begin in the month of November and ends in February.

Administratively, the county is divided into three sub-counties namely Eldoret East, Eldoret West and Wareng. The county is further comprised of six divisions namely Soy, Turbo, Kesses, Kapseret, Ainabko and Moiben, which are further sub-divided into fifty-one locations and ninety-seven sub-locations.

According to the 2009 Population and Housing Census, the population of the county was 894,179. This population is projected to increase to 1,002,153 in 2012 consisting of 503,211 males and 498,942 females. The population is projected to rise further to 1,123,165 and 1,211,853 in 2015 and 2017 respectively.

The county has an average land holding of 5 hectares in rural areas and a quarter of a hectare within Eldoret town. The proportion of the population in the county that can read and write is 91 per cent. According to the last Kenya Intergraded Household Budget Survey 2005/2006, the population living below poverty line in the county is 49.0 percent, which translates to 487,744 persons or 52,299 households. The overall absolute poverty level was estimated at 49 per cent in 2013 up from 47.6 in 2003. HIV prevalence in the county reduced from 7.4 percent in 2007 to 4.5 percent in 2012. While malaria incidences stood at 20.9 percent in 2012.

2.1.2 West Pokot County

About 76km of the road traverses the West Pokot County and will present residents with an opportunity of increased trading and reduction of accidents at Kamatira Hills. The county covers an area of about 9,169.4km2 stretching a distance of 132km from north to south.

The county is characterized by a variety of topographic features. In the southeastern part are cherangani Hills with an altitude of 3370m above sea level. On the north and northeastern parts are the dry plains, with an altitude of about 900m above sea level. Landscapes associated with this range of altitude include spectacular escarpments of more than 700m above sea level. The high altitude areas have high agricultural potential while medium altitude areas lie between 1500m and 2100m above sea level and receive low rainfall in addition to being predominantly pastoral land. The low altitude areas include Alale, Kacheliba, Kongelai, Msol and parts of Sigor.

The main rivers in the county are suam, Kerio, Weiwei and Muruny. Cherangani Hills is the main source of Muruny and Weiwei Rivers while Mount Elgon is the main source of River suam. River Muruny, Kerio and Weiwei drain northwards

into Lake Turkana while small rivers join and drain into River Nzoia, which drains into Lake Victoria.

The main forest in the county is Cherangani Hills. The un-gazetted forest, which forms part of the Cherangani Hills in Lelan, covers an area of 20,857 ha. The un-gazetted forest covers an area of 15,719ha and consists of rain forests block scattered all over the county. These are natural forests dominated by tree species like cedar (juniperous procera) and bamboo (Aredinaria alpine) plantation forest covers an area of 662 ha of which 1.2 ha are indigenous and the rest exotic.

The county has a bimodal type of rainfall, long rains fall between April and august while the short rains fall between October and February. There is however great variation of rainfall received in the county. The lowland receives 500mm per annum while the high lands receive 1600mm per annum.

The population of the county as at 2012 was estimated at 573,726 persons of which 285,587 are males and 288,139 are females giving a sex ratio 100:101. The county inter-censual growth rate is 3.6 per cent compared with the national average of 3.0 per cent.

2.1.3 Trans Nzoia County

The county is generally flat with gentle undulations rising steadily towards Mt. Elgon to the north-west with an altitude of 4,313m above sea level. Most parts of the county is a plateau with gentle undulations rising steadily towards Mt. Elgon. On average, the county has an altitude of 1,800m above sea level. The altitude drops gradually to 1,400m above sea level towards the north. Because of the hilly nature, the northwest and eastern parts of the county have difficulty in transport and communication especially during the rainy season when the roads are sometimes impassable.

The natural forest cover occurs in Mt. Elgon and Cherangany catchment, which is within protected area. However, continued human pressure has significantly impacted negatively on the catchment. The county has a highland equatorial kind of climate. Rainfall is fairly well distributed throughout the year.

The slopes of Mt. Elgon to the west receive the highest amount of rainfall while the region bordering West Pokot County receives the least. The county experiences bi-modal rainfall pattern. The long rains fall from April to June, while the short rains fall from July to October.

The county is made up of three administrative sub-counties, namely Trans Nzoia West, Trans Nzoia East and Kwanza, which are further subdivided into eight divisions and 38 locations. The 2009 National Population and Housing Census enumerated a total of 818,757 persons in Trans Nzoia County, of these, 407,172 were

male and 411,585 were female. The population for the county in 2012 was projected to be 912,602 (454,077 males and 458,525 females). The population is projected to increase to 1,016,625 persons in 2015 and 1,092,583 persons by the year 2017.

Trans Nzoia County had a population density of 328 persons per square kilometer. The mean holding size of land is 1.5 acres for small-scale farmers and 200 acres for large-scale farmers. Increased land subdivision into smaller units has considerably reduced the mean holding size of land for small-scale farmers.

The KIHBS 2005/2006 on literacy shows 76.8% of the population aged 15 years and above can read, while 14.6% cannot read. The County's HIV prevalence rate was 5.3% - which shows it has declined from 7% in 2002 to 5.3% in 2012. From the Basic Report on Wellbeing 2008, the absolute poverty index for the county is 49.5%, while the food poverty is 6.2%.

2.2 Scope of The RAP

The Resettlement Action Plan (RAP) was prepared based on the feasibility design undertaken by engineering consultants recruited by KENHA and focused along the 158km corridor targeted for rehabilitation between Lesseru to Marich Pass.

2.3 Objectives Of The RAP

The RAP has been developed based on the principles of the RPF for SS-EATFDP which was prepared based on the Kenyan Laws and the World Bank Involuntary Resettlement OP 4.12 to ensure that the project affected persons (PAPs) of the project will not be negatively affected and if so, there are proper measures to mitigate those impacts. To this end the main objectives of this RAP in accordance with the RPF are:

a) *Minimize involuntarily taking of the land and impact on livelihoods through modification in design as much as possible; and*

b) *If there are some impacts, as it is the case of this Project, then put mechanisms in place under this RAP to assist the PAPs in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-project level.*

2.4 Steps Undertaken During RAP Preparation

1. Analyzing and evaluating of potential project impacts through identification of the PAPs, establishing their number and evaluating the impacts of the project on them through the census and socio-economic study undertaken for the preparation of the RAP.
2. Identifying all categories and number of project affected persons (PAPs) regardless of land ownership status.
3. Taking an inventory of the affected assets and livelihood activities.

4. Preparing the inventory list of the potential project affected persons. This list include land owners, structure owners, roadside vendors (mobile and permanent), tenants, vulnerable groups, locations and photos of the affected structures;
5. Conducting a socio- economic survey of the Project Affected Persons (PAPs) using a semi-structured household questionnaire. The questionnaire covered the households' baseline information on incomes and expenditures, occupational and livelihood pattern, use of resources, arrangements for use of common property, social organization, leadership patterns, community organizations, and cultural parameters;
6. Collecting and reviewing relevant Kenyan laws and regulations for compensations and resettlement and comparing the same with World Bank safeguard policy OP 4.12 on Involuntary resettlement and proposing measures to bridge the gaps;
7. Adapting the Grievance Mechanism (GM) in the RPF to ensure affordable and accessible procedures for grievances address mechanisms for third party settlement of disputes arising from resettlement including judicial resources and, community and traditional settlement mechanism;
8. Assessing the appropriate organizational framework for implementing resettlement including identification of agencies responsible for delivery of resettlement measures and provision of services, to ensure appropriate coordination between agencies and sub County government involved in implementation of the project and the RAP;
9. Developing an implementation schedule covering all resettlement activities from preparation through implementation including target dates for the achievement of expected benefits to those who need to be resettled;
10. Costing and budgeting for all RAP related activities including among others, land acquisition costs, livelihood restoration costs of the PAPs, assistance to vulnerable groups, etc.;
11. Recommending compensation and livelihood assistance programmes for the PAPs as well as developing the entitlement matrix, livelihoods restoration options and proposed livelihood programs for vulnerable groups;
12. In accordance with the RPF, elaborating monitoring plan of resettlement activities which will be undertaken by the implementing agency, supplemented by independent monitors as considered appropriate to ensure complete and objective information collection on the RAP implementation and the outcome for resettlement activities.

CHAPTER THREE

3 SOCIO-ECONOMIC BASELINE CONDITIONS

The following sections provide a summary of methodology and results used to characterize socio-economic baseline conditions in the project area prior to the proposed project.

3.1 Summary of Socio-Economic and Census Survey Methodology

Data used to establish socio-economic baseline conditions were derived from field surveys conducted in the project area during the feasibility study when preparation of the ESIA and RAP was undertaken. There were two broad data objectives for the socio-economic baseline assessment.

1. Establish a robust characterization of general pre-project socio-economic conditions against which future changes can be measured, and
2. Enable the following key issues to be addressed during project implementation:

    - Issue No. 1: Physical and economic displacement of PAPs from the proposed project;
    - Issue No. 2: Loss of structures used for residential housing, commercial enterprises,.
    - Issue No. 3: Effects from an influx of migrants to the area, anticipated as a public response to perceived economic opportunity, leading to a number of issues including the following:

        - Inflation and resulting social tension due to economic disparities
        - Increased social pathologies such as crime and prostitution
        - Decreased access to existing services and infrastructure
    - Issue No. 4: Increased risk of STDs including HIV/AIDS as a result of increased movement through the project area, especially from truck traffic during the construction.
    - Issue No. 5: Economic marginalization of resident population if skilled labor and professional positions are assigned to a better-educated group of non-residents.

The survey team employed the following methods:

- Quantitative Household Survey
- Participatory Rural Appraisal (PRA)
- Focus Group Discussions (FGD)

- Key-Informant Interviews (KII)

Applying this suite of methods assures that several distinct perspectives are offered on the socio-economic conditions in the project area and that a mix of both qualitative and quantitative results is produced.

3.2 Overview of the Socio-Economic Study Area

3.2.1 Project Background and Description

The study road corridor commences at Leseru junction of Eldoret – Kitale (B2) and Eldoret–Malaba (A104) about 10KM from Eldoret Town centre. The GPS Coordinates of Lesseru (KM 00) are: 35O 11′ 46.151″N and 0O 36′ 23.175″E and Marich Pass (KM 158) are 35O 26′ 47.803″N and 1O 32′ 2.867″E. It is a two-way single carriageway with notable ratting and worn out surface in most of the sections. The road is generally rural as it traverses agricultural settlements and numerous urban centers. It is also characterized by a variety of physical and biological environment features comprising of rivers, wetlands, forests, steep slopes, arid and semiarid areas as well as areas of special social and cultural interest.

The road corridor traverses four counties in two distinct climatic and ecological zones. The road plays a major trunk transport link between A104 at Lesseru junction (Eldoret) via B2 to A1 at Kitale constituting the Northern Corridor towards Northern Kenya, Sudan and Ethiopia. The road corridor traverses three counties namely;

(i) Uasin Gishu County
(ii) Trans Nzoia County
(iii) West Pokot County.

Apart from Kitale and Kamatira Hills sections where land will be acquired for the proposed road realignment, the proposed road rehabilitation will be limited within the existing 40 metres wide road reserve. The road between Lesseru and Marich Pass may be divided into the following three sections based on the current road condition;

(i)	Lesseru – Kitale	59 km
(ii)	Kitale – Kapenguria	43 km
(iii)	Kapenguria – Marich Pass	65 km

Total road length 158 km

The road section between Lesseru and Kitale is in fair condition but shoulders have been completely eroded in most areas. Between Kitale and Kapenguria is also in fair condition with a few potholes on the carriageway. The most damaged section is between Kapenguria and Marich Pass, which is in poor condition with most areas being beyond routine maintenance operations.

3.2.1.1 Lesseru – Kitale Road Section

This section of the project road was constructed to bitumen standards some 20 years ago, and was not adequately maintained; despite a continuous increase in the traffic volume and loading. The observed traffic volumes were found to high and mainly consisting of heavy good vehicles on their way to southern Sudan, busses and pick-ups serving regional traffic demand. The section between Lesseru and Moi's Bridge has recently been overlaid with asphalt and is now in a reasonable state of repair but is beginning to show signs of early distress. The project road traverses flat terrain characterised by swampy areas between km 0+000 and km 5+000. The road starts off at lesseru and traverses a low-lying marshy section for the first 5km.

Within this project section five existing major structures, bridges at km's 1+000, 11+000, 21+000, 28+000 and 29+000, and number of minor drainage structures, mostly of pipe culverts, were observed. The major structures are generally in a very good condition. The minor drainage structures are structurally in good condition but are mostly affected by siltation problems.

The project area is partly located in a volcanic formation, therefore construction material sources; especially base course materials are abundant. Brownish and reddish brown soils (lateritic soil) are the common sub-grade materials along the project road, which are also used as embankment material for the construction of the existing road. Excavation of hard rock for chippings could be a problem as all hard material found during the site trip was not fulfilling construction requirements. There are few traffic signs throughout the project road and most are damaged and partially covered concrete guide posts randomly stick-out around some horizontal curves.

3.2.1.2 Kitale - Kapenguria Road Section

The project road section is approximately 40km long and starts at Kitale and ends at Kapenguria town in the West Pokot County. The project road was constructed as a bituminous surfaced road some 20 years ago, and was hardly maintained; despite the increase in the traffic served by the road. The observed traffic volumes were found to be relatively lower and mainly consisting of heavy good vehicles on their way to southern Sudan, busses and pick-ups serving regional traffic demand.

The road section is generally in a fair to good condition and substantial repair works will only be needed on some sections. The road width does not seem to meet the requirements for future traffic and shoulders and drainage systems will need urgent maintenance and repair.

The road starts at Kitale and traverses mainly rolling terrain up to Makutano at km 23+000. The road then traverses hilly terrain leading on to Kapenguria at approximately km 40+000.

Within this project section only one existing major structure, a bridge at km 1+000, and a number of minor drainage structures, mostly of pipe culverts, were observed. The major structure is generally in a very good condition. The minor drainage structures are structurally in good condition but are mostly affected by siltation problems.

The project area is partly located in a volcanic formation, therefore construction material sources, and especially base course materials are abundant. Brownish and reddish brown soils (lateritic soil) are the common sub-grade materials along the project road, which are also used as embankment material for the construction of the existing road. Excavation of hard rock for chippings could be a problem as all hard material found during the site trip was not fulfilling construction requirements.

There are few informatory road signs and traffic sign throughout the project road and even directions to major National Parks are not given. The few existing signs are damaged and partially covered concrete guide posts randomly stick-out around some horizontal curves. Beside Makutano town at the northern section, Kesogon village in the middle section and Kitale at the end of the project section a lot of settlements are encountered along the project road.

Pavement condition
The pavement condition can be classified as fair to good. Only in some areas with severe drainage failures the condition is worse, e.g. km 12+500, 18+500, 21+500, 29+000 and 32+000. At all these sections transversal drainage systems are under dimensioned or silted and surface water has entered into the road embankments and washed away the slopes.

3.2.1.3 Kapenguria – Marich Pass Road Section

The project road section is approximately 65km long and starts at Kapenguria town and ends at Marich Pass at the B4 road junction in the West Pokot. The project road was constructed as a bituminous surfaced road some 20 years ago and did not receive regular maintenance despite increasing traffic volumes and loading particularly during the relief operations in South Sudan, by United Nations Agencies. While on the reconnaissance site visit actual traffic volumes were observed to be extremely low and mainly consisting of heavy goods vehicles on transit to South Sudan.

The first 16 km from Kapenguria town have received some emergency maintenance mainly pothole patching but the pavement appears to be in poor state. The section ahead is in very poor state with some sections having suffered complete pavement failure.

Within this project section only two existing major structures, bridges, and number of minor drainage structures, mostly of pipes culverts, were observed. The major structures are generally in a very good condition. The minor drainage structures are structurally in good condition but are mostly affected by siltation problems.

At km 31+000 a bridge collapsed and has been replaced with a twin cell box culvert, approximately 2x3.0x3.0m. At km 53+000 a triple culvert was completely silted a couple of years ago and as a result the following heavy rains have completely washed away the existing road embankment. The MoR at that time installed a light Bailey+ Bridge for light vehicles and a concrete paved drift for heavy goods vehicles at that time, as an emergency measure. The Bailey bridge was officially closed for heavy goods vehicles but with little control of traffic the light Bailey Bridge was abused and consequently collapsed under a heavy traffic loading. For the last 40km, the route corridor follows the Morun River gorge and south of Sebit the road traverses hilly terrain characterized by steep gradients and sharp bends.

The project area is partly located in a volcanic formation, therefore construction material sources; especially base course materials are abundant. Brownish and reddish brown soils (lateritic soil) are the common sub-grade materials along the project road, which are also used as embankment material for the construction of the existing road. Excavation of hard rock for chippings could be a problem as all hard material found during the visit did not appear to meet construction requirements.

Only the Morun River running parallel to the project road can permanently be used as a water source for the proposed construction work. South of km 40 extraction of construction water could become a problem as this area seems to dry out during dry season and even during our site visit within the rainy season most of the riverbeds appeared dry. However quality sand might be found in the riverbeds.

There are very few existing traffic signs throughout the length of project road. But damaged and partially covered concrete guide posts randomly stick-out around some horizontal curves. Other than Kapenguria town at the southern end of the project section and Ortrum at km 36 only a few villages and settlements were encountered along the project road.

The project site is located in the western part of the country. The road section described in this section follows first the gorge of the Morun River. The bottom of

the valley is very narrow and only few but highly productive agricultural activities were noted from Marich Pass to Ortum. Further south extensive agricultural activities appear to be suffering from the lack of water as irrigation systems are often deteriorated or completely missing.

Extensive deforestation took place in the late 70'ies through the 90'ies and agricultural activities can now also be noted up to the top of the hills resulting in vast erosion, unstable slopes and landslides. Finally the deforestation combined with poor maintenance has led to the deterioration of the road drainage system resulting in the undermining of the wearing courses and the collapse of the road surface. The geologic formation in the vicinity of km 60+000 consists of planar rock formations characterised by slippages that pose great danger to road users particularly in the rainy season. The design in this area will need to incorporate effective methods to stabilise the rock outcrops.

Based on the observations made during the field visits the pavement condition of the entire section of the road between Kapenguria and Marich Pass is in poor state owing largely to poor subsoil drainage.

3.2.2 ADMINISTRATIVE SETTING

The Lesseru – Kitale – Marich Pass road is located in the 3 counties of Uasin Gishu, Trans Nzoia and West Pokot. The total area for the counties is 18,043.8 km², where West Pokot has the largest area of 9,169 km² followed by Uasin Gishu with 3,345 km², and Trans Nzoia having 2,496 km². The road starts in Kiplobe Location, Uasin Gishu County before crossing Nzoia River where it enters Trans Nzoia County and terminates 164 kms at Ortum location in West Pokot. There are various administrative centers along the project road including Trans Nzoia County headquarters (Kitale) and Police station (Km. 64), West Pokot county headquarters (Kapenguria) and Makutano Police Station (Km. 86) and Morpus Assistant Chief's Office (Km. 134) among the many others.

Political Units

The project road traverses five constituencies namely Eldoret North, Sabaoti, Cherangani, Kapenguria and Kacheliba. The county assembly wards traversed by the project road include Moiben, Turbo, Soy, Kapenguria, Chepareria and Kacheliba. The project road connects and is the access route to Trans Nzoia and West Pokot county and administrative headquarters; police stations and national government offices. Rehabilitation of the road will therefore enhance access to various services offered by these offices including security.

Demographic Trends

From the Kenya Population and Housing Census 2009 report, the population of the three counties stood at 2,225,626 people comprising of 1,110,993 males and 1,114,633

females. The total female population is higher than that of males owing to high male emigration to other counties and towns in search of employment and business opportunities. The average household size in the three counties is 4.8. The average annual population growth rate was 4.2 per cent against the national average of 3.0 per cent. West Pokot has the highest population growth rate of 5.2% while Trans Nzoia has the lowest of 3.6% per annum. **Table 5** below summarizes the counties' population by gender and annual growth rates according to the Kenya Population and Housing Census 2009 report as well as the 2017 population projections:

Table 7. County Populations

County	Population (2009)					
	Male	Female	Total	No. of Households	Population growth rate (%)	Population projection by 2017
Uasin Gishu	448,994	445,185	894,179	202,291	3.8	1,211,853
Kakamega	797,112	863,539	1,660,65	398,709	2.5	2,028,325
Trans Nzoia	407,172	411,585	818,757	170,117	3.6	1,092,023
West Pokot	254,827	257,863	512,690	93,777	5.2	771,180
Total	**1,908,105**	**1,978,172**	**2,225,626**	**864,894**	**3.75**	**5,103,381**

Source: 2009 Kenya Population and Housing Census.

On average 22.4% of the project counties' population total population live in urban areas while 87.6% live in rural areas. Uasin Gishu County has the highest number of urbanized population at 38.6% followed by Trans Nzoia has 20.4% and Kakamega with 15.2%. West Pokot has the lowest urban population of 8.3%. Kitale town has the highest population of 106,187; followed by Kapenguria with a population of 34,046.

Settlement Patterns and Housing Conditions

Settlement patterns are influenced by ecological and climatic factors including land fertility, rainfall amount and type of farming practiced and crops grown as well as number and intensity of economic activities and access to services (administrative, health and education). For example, cash crops such as tea and coffee attract a high population because residents have a higher preference for cash crops farming compared to food crops. Another reason for clustered settlement is the growth of towns such as Moi's bridge, Matunda, Kitale and Kapenguria where there are many migrant workers and business people.

The above factors have led to emergence of two types of settlements in the counties including clustered and scattered settlements. Clustered settlement patterns are commonly found around towns and farm estates (where workers have common residential quarters) as well as insecurity zones mainly in the drier parts of West Pokot.

Trans Nzoia County has the highest population density of 328 persons per km2 and West Pokot has the lowest of 56 persons per km2. The rapidly increasing population will provide market for transportation services in the area thereby making the project road even more viable for construction. In the drier parts of Pokot County, the semi-pastoral Pokots live in settlements scattered across the plains. Each settlement consists of an extended family group with the eldest man serving as the leader.

Land Tenure and Land Use

Land Tenure is a system through which land rights are determined and documented while land disposition is the act through which ownership and use may change from one party to another. Different tenure systems exist in Kenya. In general, land in Kenya is classified as government land, private land or trust lands. Trust land refers to land held in trust by the county government on behalf of the residents.

Uasin Gishu, Kakamega and Trans Nzoia Counties has a land tenure system such that there is trust land and leasehold (99 years) in urban centres. There is also leasehold tenure in the rural part of the county where Africans bought the large farms owned by the White Settlers while other parts of the County are under freehold land tenure system. The combination of the tenure systems offers both opportunities and constraints. Areas under freehold tenure pose difficulties in enforcing regulations on land. However, the trust land areas provide the County Governments with sufficient land for future location public facilities and infrastructure.

West Pokot County has insecure Land tenure system where only 11 per cent of the farmers in the county have title deeds. Land adjudication needs to be addressed to increase tenure security and minimize frequent land conflict in the county. Land adjudication will create incentive for improved land management and increased production as well as enable farmers to access credit facilities. Land reforms are critical for successful implementation of projects identified in the integrated plan. The general land use in West Pokot is characterized by grassland, shrubs and woodlands with scattered human settlements. Other significant land use features include;

- Institutional presence along the corridor including, schools and churches, etc.
- Markets and small scale trading activities at some points along the route,
- Public amenities such as Provincial Administration offices

Public Utilities and Infrastructure

Public utilities include roads, water, telecommunication and other facilities. The distribution and access to public utilities along the project corridor are as presented in the table below:

Table 8. Access To Public Utilities

Access to Infrastructure	Uasin Gishu	Kakamega	Trans Nzoia	West Pokot
Improved water (% households 2009)	88.9	76.1	76.7	37.2
Improved sanitation (% households 2009)	98.0	122.1	96.0	32.8
Electricity (% households 2009)	27.9	5.6	8.9	2.6
Paved roads (as % of total roads)	7.6	4.9	9.3	7.1
Good/fair roads (as % of total roads)	50.6	54.1	50.0	58.1

Source: Kenya County Fact Sheet 2011

Transport, Information And Communication

The counties covered by the proposed road project are observed to have well defined infrastructure networks totalling to four airports/airstrips, 148kms of railway (though it is currently not in use) and 7,136.74km of roads. A summary of road distribution in the project counties is presented in the Table below;

Table 9. Infrastructure In The Project Counties

County	Airports and airstrips	Railway Lines	Roads		
			Bitumen	Gravel	Earth
Uasin Gishu	3	179	310	549	377
Trans Nzoia	2	33	142.8	341.9	778.02
Kakamega	0	1		323.8	2,67.3
West Pokot	0	0	151	349	697
Total	5	212	603.8	1239.9	1852.02

Despite having extensive road network coverage, most feeder roads are rugged and impassable, making it hard to communicate and move produce from the rural areas to the markets. The rugged nature of the roads also leads to high vehicle maintenance costs which ultimately translating into high transport costs. With rehabilitation of the road, there may be need to improve interior service roads to the benefit of the area even as the road serves international interest. The cost of travel along the project road varies from KShs. 2 – 4 per kilometer depending on availability of transport, delays on the road, diversity of means of travel and road conditions. Thus the road project will reduce the cost of travel especially delays on the road.

The mobile phone coverage stands at 95 percent in Uasin Gishu and Trans Nzoia but lower at 605 in West Pokot County. The counties except West Pokot are also well served with fixed telephone lines though their use has rapidly declined. Other communication facilities in the area include post offices, cyber-cafes and private

courier services. With rehabilitation of the road, communication networks and investments is expected to speed up due to easiness of accessibility.

10,001 to 15,000	1	0.2
20,001 to 30,000	1	0.2
40,001 to 50,000	2	0.5
50, 001 to 100, 000	4	1
Above 100,000	18	4.3
No response	391	93.3
Total	**419**	**100**

The average yearly expenditure is 63,240 Ksh, but varied greatly among the population. The median is approximately 44,132 Ksh, which includes 10% who indicated that they had no expenditures at all during the period concerned.

3.3.1.3 Household Earnings Per Month

79 per cent of the affected households earn less than Ksh.10, 000 per month. 15 per cent earn between Ksh.10, 000 and Ksh. 20, 000 per month, and only 6 per cent earn more than Ksh.20, 000 per month.

3.3.1.4 Household Composition And Sizes

The average household size in the area is 4 members of whom the majority is less than 19 years old and 3 above 55 years old.

3.3.1.5 Land Ownership

Land ownership in the Counties of Uasin Gishu and West Pokot is communal or Trust Land where the Counties hold land in trust for the communities.

3.3.1.6 Ethnic Composition of PAPs

The ethnic composition of the PAPs is summarized in the table below:

Table 15. The ethnic composition of the PAPs

ETHNIC GROUP	COUNTY			TOTAL	% of RESPONDENTS
	UASIN GISHU	TRANS NZOIA	WEST POKOT		
Kalenjin	90	21	-	111	12.04
Pokot	-	-	193	193	20.93
Kikuyu	70	56	2	128	13.88
Luhyia	106	89	-	195	21.15
Kisii	36	19		55	5.96
Others	156	80	4	240	26.04
TOTAL	458	265	199	922	100

3.3.1.7 HIV/Aids

The question on HIV/AIDS was not answered. However, from secondary data, the HIV prevalence in the Uasin Gishu County stood at 4.5 per cent in 2012, having reduced from 7.4 per cent in 2007, while the HIV prevalence rate for Trans Nzoia

County was 5.3% in 2012 having declined from 7% in 2002. In West Pokot County, the HIV prevalence rate in 2008 was 3.6 per cent, among expectant mothers the prevalence rate stood at 2.5 per cent.

Health expenditures are about 2% of income in the project area with none of the PAPs having any form of medical insurance apart from the PAPs.

Education costs per year were less than 7% of total expenditures. Other expenditures include purchases of necessary items such as salt, soap, candles and payments for contract labor.

About 0.15% of annual income is spent on seed and fertilizer. Very small amounts are spent on ceremonial costs such as weddings, funerals and providing assistance to relatives. Sources of loans are very limited, especially, where 60% had no one from whom they could borrow money. When in need, many people sell their possessions, such as bicycles, livestock, or clothing; and then take on agricultural labor jobs to repurchase these items.

The most common household equipment is a mobile phone 76.4% followed by radio (60.6%), bicycle (32%), television (27.9%). Others are motorcycle, cars, and generator in that order.

Table 16. Type of Household Equipment

Household equipment	Yes		No		No Response		Total	
	F	%	F	%	F	%	n	%
Bicycle	134	32	235	56.1	50	11.9	419	100
Motorcycle	18	4.3	351	83.8	50	11.9	419	100
Truck	-	-	369	88.1	50	11.9	419	100
Car	15	3.6	354	84.5	50	11.9	419	100
Canoe	1	0.2	368	87.8	50	11.9	419	100
Boat	2	0.5	367	87.6	50	11.9	419	100
Mobile	320	76.4	49	11.7	50	11.9	419	100
Tractor	2	0.5	366	87.4	51	12.2	419	100
Water pump	17	4.1	351	83.8	51	12.1	419	100
Radio	254	60.6	114	27.2	51	12.2	419	100
Television	117	27.9	251	59.9	51	12.2	419	100
Generator	6	1.4	361	86.2	52	12.4	419	100
Mosquito nets	281	67.1	69	16.5	69	16.5	419	100

3.4 Access to Public Services

3.4.1 Water and Sanitation Supply

In general the quality of water used for household purposes in the project area is extremely poor. 79.4% of the households use pit latrines without septic tanks as toilets

Table 17. Access to Drinking Water

Access to drinking water	Yes		No		No Response		Total	
	F	%	F	%	F	%	n	%
Traditional well at home	2	0.5	365	87.1	52	12.4	419	100
Borehole at home	24	5.7	344	82.1	51	12.2	419	100
House with a water tap	48	11.5	320	76.4	51	12.2	419	100
Access to public water taps outside the house	27	6.4	340	81.1	52	12.4	419	100
Access to water sources or borehole outside the house	36	8.6	332	79.2	51	12.2	419	100
Access to surface water	6	1.4	362	86.4	51	12.1	419	100
Rain water	2	0.5	366	87.4	51	12.2	419	100
River Water	227	54.2	142	33.9	50	11.9	419	100

Table 18. Access to Sanitary Facilities

Sanitary facilities	Yes		No		No Response		Total	
	F	%	F	%	F	%	n	%
Flush toilets in the house	22	5.3	344	82.1	53	12.6	419	100
Latrine with septic tanks	29	6.9	338	80.7	52	12.4	419	100
Latrine without septic tanks	312	74.5	58	13.8	49	11.7	419	100
Public toilet outside the house	10	2.4	358	85.4	51	12.2	419	100
None	-	-	356	85	63	15	419	100

3.4.2 Energy

The PAPs use kerosene mostly for lighting as shown in the table below (60.6%) followed by electricity from the national grid at 19.3%. Firewood and charcoal are the most used forms of energy for cooking 47% and 25% followed by paraffin and gas and finally electricity in that order.

Table 19. Type of Lighting in Households

Type of lighting	Yes		No		No Response		Total	
	F	%	F	%	F	%	n	%
Electricity (Public utility)	81	19.3	288	68.7	50	11.9	419	100
Electricity (Power generator)	18	4.3	351	83.8	50	11.9	419	100
Kerosene lamp/Lantern	254	60.6	115	27.4	50	11.9	419	100
Wood	5	1.2	365	87.1	49	11.7	419	100
Candle	4	1	366	87.4	49	11.7	419	100
None	1	0.2	369	88.1	49	11.7	419	100

Others	4	0.2	366	87.4	49	11.7	419	100

Table 20. Type of Cooking Energy in Households

Type of lighting	Yes		No		No Response		Total	
	F	%	f	%	F	%	n	%
Electricity	11	2.6	359	85.7	49	11.7	419	100
Paraffin	69	16.5	301	71.8	49	11.7	419	100
Charcoal	105	25.1	265	63.2	49	11.7	419	100
Gas	41	9.8	329	78.5	49	11.7	419	100
Firewood	197	47	173	41.3	49	11.7	419	100
Other	5	1.2	364	86.9	50	11.9	419	100

3.4.3 Health Services

Health authorities indicated that HIV/AIDS is visible; it manifests through other diseases, such as tuberculosis, AIDS may not be recognized as an underlying cause. There is a relatively low prevalence of Sexually Transmitted Diseases (STDs); high-risk behavior was described as uncommon, suggesting that HIV/AIDS is unlikely to become a highly significant issue for the project.

3.4.3.1 Aids Awareness

The results of a focused survey on AIDS awareness reveal that most people in the area know about AIDS and are aware of its possible causes. As a method against HIV infection, the most common suggestion was fidelity to one's spouse, use of protection and abstinence.

3.5 Opinions and Expectations Related With Project

The Participatory Rural Appraisal (PRA) and Focus Group Discussions (FGD) included a number of questions and elements directed at assessing public opinions and expectations for the project. Additional, significant input was also received through the public consultation exercise conducted as part of ESIA conducted in 2013. In summary however, it can be stated that individual expectations of the project relate with employment to an overwhelming degree.

Approximately 75% of the population answered directly that they did not fear anything about the project. However, majority of the population expressed concerns about loss of income from roadside vending activities as a result of the proposed project.

Compensation: One of the major concerns of the households was whether there would be compensation for loss of income by the project. Majority of the PAPs along project site and especially roadside vendors preferred cash compensation as shown in the tables and figures below.

Table 21. Type of Compensation preferred in case of displacement from Structures

Type of compensation preferred	Frequency	Percent
Resettlement by the project in a new place of residence	28	6.7
Resettlement by the project in a new place of residence outside of the project area	20	4.8
Cash compensation for loss of structures and land	371	88.5
No response		
Total	**419**	**100**

Table 22. Type of Compensation Preferred due to displacement from Fields

Type of compensation preferred	Frequency	Percentage
Construction of infrastructure by the project making it possible to maintain farming on current agricultural lands	1	0.2
Replacement fields on new agricultural lands	16	3.8
Monetary compensation for the value of part of agricultural plots lost to the project	121	28.9
No response	281	67.1
Total	**419**	**100**

3.6 Awareness of the Project

84% of the PAPs interviewed are aware of the Project as is shown in the figure below.

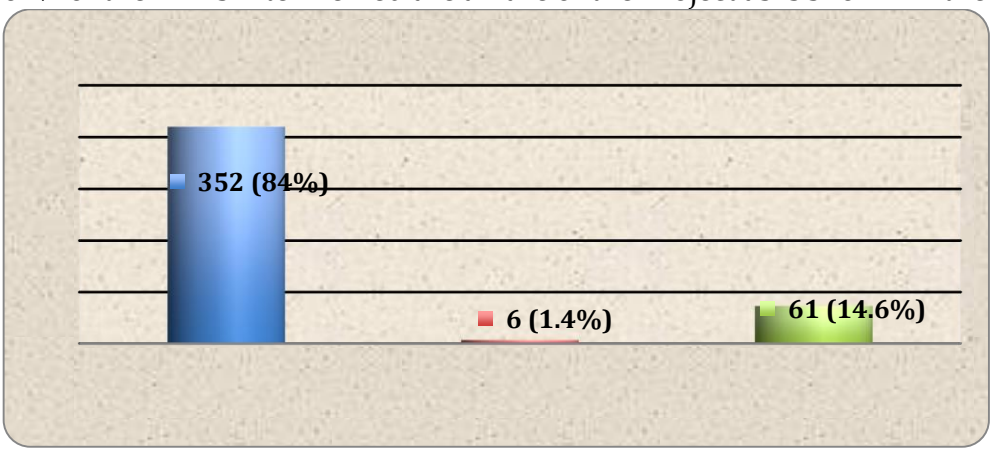

Figure 2. Project Awareness

Awareness that land could be affected: Over 75% of the PAPs interviewed were aware that the land where they were conducting their activities especially road side vendors would be acquired since they were in the road reserve as a result of the project as is shown in the figure below.

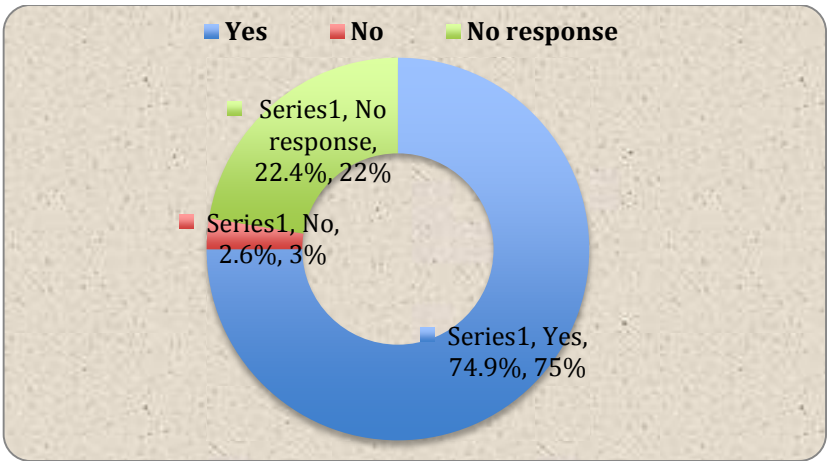

Figure 3. PAPs Project Awareness

3.7 Source of Information about the Project

The PAPs have been aware about the proposed project for 2 years (informed about project during feasibility study and preparation of original RAP) and mentioned the following as sources where they derived information about the project namely;

1) Local Authorities/County Government
2) National Government
3) Neighbors
4) Family Members

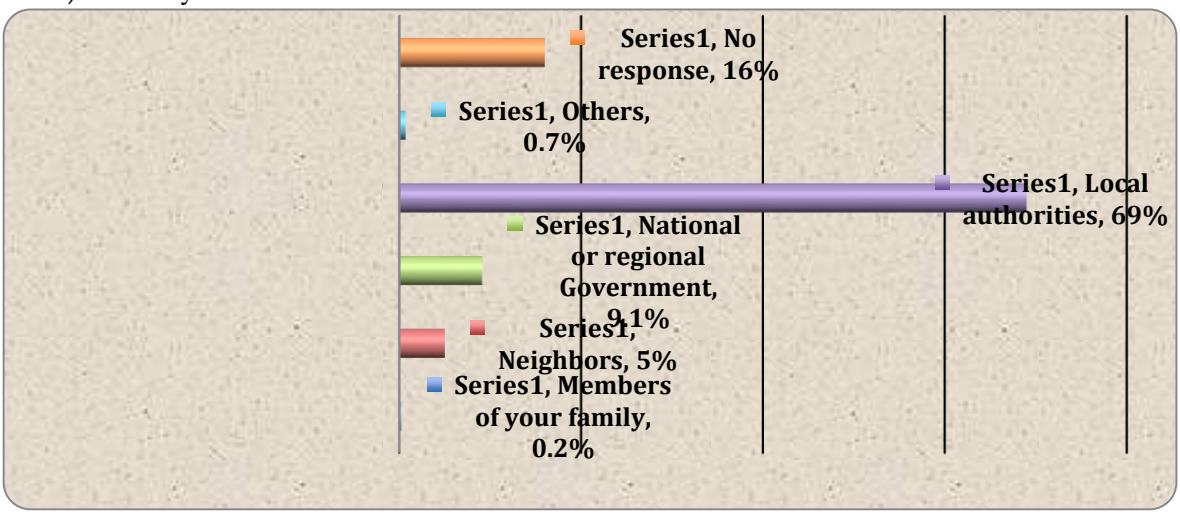

Figure 4. Main source of Information about Project

CHAPTER FOUR

4 LEGAL AND REGULATORY FRAMEWORK

The chapter sets out the legal operating environment for acquisition of land as anticipated in the implementation of the project. The chapter highlights major issues related to Kenyan land legislation with regards to involuntary resettlement in this RAP. It provides a brief overview of the Kenya land policy, and the Kenya's constitutional provisions related to land use, planning, acquisition, management and tenure, and more specifically the legislations related with land expropriation or acquisition, land valuation and land replacement. The chapter also compares the Kenyan legislation with the World Bank provisions on resettlement, highlighting gaps and making recommendations to fill up gaps.

Table 21 below summarizes the relevant legal framework in Kenya applicable to this project in regard to resettlement.

Table 23. Summary of relevant resettlement legal statutes applicable to the Project

Legal Framework	Functional Relationship to Resettlement
Constitution of Kenya 2010	Constitution of Kenya 2010 recognizes individuals' right to acquire and own property provided they are citizens of the country in article 40. However, Article 66 of the same Constitution provides for the State to regulate the manner in which these rights may be curtailed for the benefit of the general public. Article 47 of the Constitution provides for administrative action to override the individual rights but the victim has to be given written reason for the action taken that undermines the right.
The Land Act 2012 Laws of Kenya	It is the substantive law governing land in Kenya and provides legal regime over administration of public and private lands. It also provides for the acquisition of land for public benefit. The government has the powers under this Act to acquire land for projects, which are intended to benefit the general public. The projects requiring resettlement are under the provision of this Act.
Land Registration Act, 2012	The law provides for the registration of absolute proprietorship interests over land (exclusive rights) that has been adjudicated or any other leasehold ownership interest on the land. Such land can be acquired by the state under the Land Act 2012 in the project area.
National Land Commission Act 2012	The act establishes the National Land Commission with the purpose of managing public land and carrying out compulsory acquisition of land for specified public purposes.

The Land Adjudication Act Chapter 95 Laws of Kenya	Provides for ascertainment of interests prior to land registrations under the Land Registration Act 2012 through an adjudication committee that works in liaison with adjudication officers.
The Valuers Act 532	The act establishes valuers registration board, which has the responsibility of regulating the activities and conduct of registered valuers in accordance with the provision of the act.

4.1 The National Land Policy

The National Land Policy ("NLP" or "Policy")[4] was adopted in August 2009 with the aim of providing an overall framework for new legislation and defining key measures required to address critical issues such as land administration, access to land, land use, and restitution related to historical injustices and an outdated legal framework. The NLP addresses constitutional issues such as compulsory acquisition and development control.[5] Section 45 of the NLP defines compulsory acquisition as "the power of the State to extinguish or acquire any title or other interest in land for a public purpose, subject to prompt payment of compensation."[6]Under the current Constitution,[7] the Land Act 2012 empowers the National Land Commission (under the guidance of Minister for Lands) to exercise the power of compulsory acquisition on behalf of the State.[8] Similarly, the NLP empowers the National Land Commission to compulsorily acquire land.[9]

According to the NLP, the exercise of compulsory acquisition in the past has been conducted with abuses and irregularities.[10] The NLP therefore calls for a revision of such power and requires the GoK:

- To review the law on compulsory acquisition to align it with the new categories of land ownership (public, private and community land);[11]
- To harmonize the framework for compulsory acquisition to avoid overlapping mandates;[12]

[4] *Sessional Paper No. 3 of 2009 on National Land Policy* (referred to as the "National Land Policy" in this report) was adopted in August 2009 by the Ministry of Lands. Available at http://www.lands.go.ke/index.php?option=com_content&task=view&id=238&Itemid=48, accessed May 25, 2011.
[5] Development control is the power of the State to regulate the property rights in urban and rural areas and is derived from the State's responsibility to ensure that the use of land promotes the public interest.
[6] *Sessional Paper No. 3 of 2009 on National Land Policy*, § 45.
[7] The Constitution of Kenya, 1963, was replaced in 2010.
[8] Land Act, § 6, 2012.
[9] *Sessional Paper No. 3 of 2009 on National Land Policy*. §233(d).
[10] *Id. at* Chapter 3.2.1.1, article. 46.
[11] *Id.* at Chapter 3.2.1.1, article. 47(a).
[12] *Id.* at Chapter 3.2.1.1, article. 46 and 47(b). Under the previous Constitution, Chapter IX (Trust Land), Art. 18, the President and local authorities had the power to set apart Trust Land for the purposes of the Government of Kenya or any corporate body established by an Act of Parliament, or companies which shares are held on behalf of the GoK and for extraction of minerals and oils. This power does not exist under the new Constitution. Under the Government Lands Act, the President has special powers with regards to government land, and he may exercise these powers through the Commissioner of Lands. (Government Lands Act, Chapter 280, §3.)

- To establish compulsory acquisition criteria, processes and procedures that are efficient, transparent and accountable;[13]
- To institute legal and administrative mechanisms for the exercise of the power of compulsory acquisition by the State through the National Land Commission;[14] and
- To confer pre-emptive rights on the original owners or their successor in title where the public purpose or interest justifying the compulsory acquisition fails or ceases.[15]

4.2 The Constitution of Kenya

The Constitution of Kenya, 2010,[16] protects the sanctity of private property rights and states that no property can be compulsorily acquired by the Government except in accordance with law.[17] Article 40(3) states:

> *"The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation–results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that –*
>
> *(i) Requires prompt payment in full, of just compensation to the person; and*
> *(ii) Allows any person who has an interest in or right over, that property a right of access to a court of law.*[18]

The Constitution empowers the state to exercise the authority of compulsory acquisition. Land Act 2012 (LA) designates the National Land Commission (NLC) as the agency empowered to compulsorily acquire land.[19] Article 40 of the Constitution provides that the state may deprive owners of property only if the deprivation is "for a public purpose or in the public interest," which includes public buildings, roads, way leaves, drainage, irrigation canals among others. The state's exercise of this power is left at the discretion of NLC, and requires the state to make full and prompt payment of "just compensation" and an opportunity for appeal to court.

Article 40(3)(a) refers to acquisition and conversion of all kinds of land in Kenya (private, public, community land and foreign interests in land). The Constitution further provides that payment of compensation shall be made to "occupants in good

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[13] *Sessional Paper No. 3 of 2009 on National Land Policy*, Chapter 3.2.1.1, § 47(c).
[14] *Id.* at Chapter 3.2.1.1, p. 47(d).
[15] *Id.* at Chapter 3.2.1.1, §47(e).
[16] The Constitution of Kenya, 2010, was adopted by the Government of Kenya on 27 August 2010. The full text is available at http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution/Constitution_of_Kenya2010.pdf, accessed May 25, 2011.
[17] Constitution of Kenya, art. 40.
[18] Id.
[19] The Land Act, 2012 The Government of Kenya, Section 8.

faith" of land acquired by the state who do not hold title for such land.[20]An occupant in good faith is a "bona fide" occupant. On the other hand, under the Constitution, those who have acquired land illegally are not regarded as deserving any compensation.[21]

In addition to Article 40, Chapter Five of the Constitution is relevant to compulsory acquisition. This chapter, entitled "Land and Environment," is divided into two parts. Part 1 deals with land, and Part 2 deals with environment and natural resources. Part 1 of Chapter 5, articles 60 – 68, describes the principles of land policy. Land should be held, used and managed in a manner that is equitable, efficient, productive and sustainable and in accordance with security of land rights, sound conservation and protection of ecologically sensitive areas.[22] These principles must be implemented through a national land policy reviewed regularly by the national government and through legislation.[23]

4.3 Land Tenure System in Kenya

Land tenure in Kenya is classified as public, community or private.[24] Public land consists of government forests (other than those "lawfully held, managed or used by specific communities as community forest, grazing areas or shrines"[25]), government game reserves, water catchment areas, national parks, government animal sanctuaries and specially protected areas.[26] The National Land Commission will manage public land.[27] Community land includes land that is "lawfully held, managed or used by specific communities as community forest, grazing areas or shrines," and "ancestral lands and lands traditionally occupied by hunter-gatherer communities."[28] Rights are also held through traditional African systems, and rights that derive from the English system introduced and maintained through laws enacted by colonial and then the national parliament. The former is loosely known as customary tenure bound through traditional rules (customary law). The latter body of law is referred to as statutory tenure, secured and expressed through national law, in various Act of parliament e.g. Land Act 2012, Land Registration Act, 2012, Trust Land Act (cap 288) of the Laws of Kenya).

4.3.1 Customary Land Tenure

This refers to unwritten land ownership practices by certain communities under customary law. Kenya being a diverse country in terms of its ethnic composition has

[20] Constitution of Kenya. Id. at art. 40(5).
[21] Constitution of Kenya. Id. at art. 40(3).
[22] Id. at art. 60.
[23] Id. at art. 60(2).
[24] *Id.* at art. 61.
[25] *Id.* at art. 63(d)(i).
[26] *Id.* at art. 62(g).
[27] *Id.* at arts. 62(3), 67(2)s (a).
[28] *Id.* at art. 63(d)(i) and (ii).

multiple customary tenure systems, which vary mainly due to different agricultural practices, climatic conditions and cultural practices. However most customary tenure systems exhibit number of similar characteristics as follows: First, individuals or groups by virtue of their membership in some social unit of production or political community have guaranteed rights of access to land and other natural resources. Individuals or families thus claim property rights by virtue of their affiliation to the group.

4.3.2 Freehold Tenure

This tenure confers the greatest interest in land called absolute right of ownership or possession of land for an indefinite period of time, or in perpetuity. The Land Registration Act, 2012, governs freehold land. The Act provides that the registration of a person as the proprietor of the land vests in that person the absolute ownership of that land together with all rights, privileges relating thereto. A freehold title generally has no restriction as to the use and occupation but in practice there are conditional freeholds, which restrict the use for say agricultural or ranching purposes only.

4.3.3 Leasehold Tenure

Leasehold is an interest in land for a definite term of years and may be granted by a freeholder usually subject to the payment of a fee or rent and is subject also to certain conditions which must be observed e.g. relating to developments and usage. Leases are also granted by the government for government land, the local authorities for trust land and by individuals or organizations owning freehold land. The maximum term of government leases granted in Kenya is 99 years for agricultural land and urban plots. There are few cases of 33 years leases granted by government in respect of urban trust lands. The local authorities have granted leases for 50 and 30 years as appropriate.

4.3.4 Public Tenure

This is where land owned by the Government for her own purpose and which includes unutilized or un-alienated government land reserved for future use by the Government itself or may be available to the general public for various uses. The land is administered under the Land Act 2012 (LA). These lands were vested in the president and who has, normally exercised this power through the Commissioner of Lands, to allocate or make grants of any estates, interests or rights in or over un-alienated government land. However the new constitution grants those rights to the National Land Commission (NLC) which is governed by the National Land Commission Act, 2012 that specifies the role of NLC as:

- *To identify public land, prepare and keep a database of all public land, which shall be geo-referenced and authenticated by the statutory body responsible for survey;*

- *Evaluate all parcels of public land based on land capability classification, land resources mapping consideration, overall potential for use, and resource evaluation data for land use planning; and*
- *Acquire land for public purposes*
- *Solve land disputes and deal with historical land injustices*
- *Share data with the public and relevant institutions in order to discharge their respective functions and powers under this Act; or*
- *May require the land to be used for specified purposes and subject to such conditions, covenants, encumbrances or reservations as are specified in the relevant order or other instrument*[29].

Categories of government land include forest reserves, other government reserves, alienated and un-alienated government land, national parks, townships and other urban centers and open water bodies.' The Lands Act does not contain any notion of trusteeship by government of the land to her people.

4.3.5 Public Resources on Public Land

Notwithstanding the fore going, it is a common law doctrine to the effect that common property resources such as rivers, forests and parks are held by the state in trust for the general public. Consequently, the state cannot alienate these resources or use them in a way detrimental to public interest. This is the doctrine that would ensure that public land cannot be alienated or committed to waste to the detriment of public interest. It is the case that the statutory frameworks for land ownership in Kenya is heavily influenced by common law jurisprudence on land ownership-the owner's rights includes the rights of use and abuse. In Kenya however, the development of physical planning legislation has vested in the state the cumulative rights of other landowners. The regulatory power is referred to as police power.

4.4 Land Act, 2012

The Land Act 30("LA") is the Kenya's framework legislation regulating compulsory acquisition of land (i.e. land, houses, easements etc.). The LA was adopted on 2nd May 2012 and provides for sustainable administration and management of land and land based resources including compulsory acquisition.

4.5 Land Acquisition Process

4.5.1.1 Proof That Compulsory Possession Is For Public Good

It is very explicit in the Land Act, 2012, Section 107, that whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110 of Land Act 2012, the possession of the land must be necessary for public purpose or public interest, such as, in the interests of public defence, public safety, public order, public morality, public health, urban and

[29] National Land Commission Act, 2012, Section II, article 5(1)
[30] Land Act, 2012.

planning, or the development or utilization of any property in such manner as to promote the public benefit. Irrigation and drainage are explicitly identified as qualifying for land acquisition as public utility and the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having right over the property, and so certifies in writing, possession of such land may be taken.

4.5.1.2 Respective Government Agency Or Cabinet Must Seek Approval Of NLC

The respective Cabinet Secretary or Government agency or the County Executive Committee Member must submit a request for acquisition of private land to the NLC to acquire the land on its behalf. The Commission will prescribe a criteria and guidelines to be adhered to by the acquiring authorities in the acquisition of land. It is important to note that if the NLC is constituted prior to conclusion of land acquisition, it could prescribe criteria and guidelines necessitating variations or revisions to the current RAP. Similar, the Commission has powers to reject a request of an acquiring authority, to undertake an acquisition if it establishes that the request does not meet the requirements prescribed.

4.5.1.3 Inspection Of Land To Be Acquired

NLC may physically ascertain or satisfy itself whether the intended land is suitable for the public purpose, which the applying authority intends to use as specified. If it certifies that indeed the land is required for public purpose, it shall express the satisfaction in writing and serve necessary notices to land owners and or approve the request made by acquiring authority intending to acquire land.

4.5.1.4 Publication Of Notice Of Intention To Acquire

Upon approval, NLC shall publish a notice of intention to acquire the land in the *Kenya Gazette and County Gazette.*[31] It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar[32] The courts have strictly interpreted this provision, requiring that the notice include the description of the land, indicate the public purpose for which the land is being acquired and state the name of the acquiring public body.[33] NLC shall ensure that the provisions are included in her notice.

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[31] The *Kenya Gazette* is the official government journal in Kenya published by the Government Printing Press.

[32] Land Act, 2012, 107

[33] Government of Kenya 1994. Coastal Aquaculture Limited v. The Commissioner of Lands and Settlement and the Minister of Lands and Settlements. Mombasa H.C. Misc. Appl., No. 55 of 1994, http://www.kenyalaw.org/CaseSearch/case_download.php?go=971152641514545848404 89&link=, accessed May 25, 2011.

This ruling was upheld by the Court of Appeal. Coastal Aquaculture Limited v. the Commissioner of Lands and Settlement and the Minister of Lands and Settlements. Nairobi. No. 252 of 1996, http://www.kenyalaw.org/CaseSearch/view_preview1.php?link=4918623703602552991063 4, accessed May 25, 2011.

The Land Registrar shall then make entry in the master register on the intention to acquire as the office responsible for survey, at both national and county level, geo-references the land intended for acquisition.

4.5.1.5 Serve The Notice Of Inquiry

Thirty days after the publication of the Notice of Intention to Acquire, NLC will schedule a hearing for public inquiry. NLC must publish notice of this meeting in the *Kenya Gazette and County gazette 15 days before the inquiry meeting* and serve the notice on every person interested in the land to be acquired. Such notice must instruct owner of land to deliver to the NLC, no later than the date of the inquiry, a written claim for compensation.[34]

4.5.1.6 Holding Of A Public Hearing

NLC then convenes a public hearing not earlier than 30 days after publication of the Notice of Intention to Acquire. On the date of the hearing, NLC must conduct a full inquiry to determine the number of individuals who have legitimate claims on the land, the land value and the amount of compensation payable to each legitimate claimant.[35] Besides, at the hearing, the Commission shall— make full inquiry into and determine who are the persons interested in the land; and receive written claims of compensation from those interested in the land. For the purposes of an inquiry, the Commission shall have all the powers of the Court to summon and examine witnesses, including the persons interested in the land, to administer oaths and affirmations and to compel the production and delivery to the Commission (NLC) of documents of title to the land.

The public body for whose purposes the land is being acquired, and every person interested in the land, is entitled to be heard, to produce evidence and to call and to question witnesses at an inquiry. It will also provide opportunity to land owners to hear the justification of the public authority in laying claims to acquire the land.

4.5.1.7 Valuation Of The Land

Part III of the Land Act 2012, section 113 (2a) states that "the Commission shall determine the value of land with conclusive evidence of (i) the size of land to be acquired; (ii) the value, in the opinion of the Commission, of the land; (iii) the amount of compensation payable, whether the owners of land have or have not appeared at the inquiry." This can be interpreted that NLC must determine the value of the land accordingly and pay appropriate just compensation in accordance with the principles and formulae that it will develop. Nonetheless, just compensation[36] could also be interpreted as market rate. The final award on the

[34] Land Act, 2012 (112).
[35] *Id.* at article 112.
[36] Schedule explaining 'just compensation' has not been assessed and released by NLC. The Land Act 2012 say NLC should develop the schedule.

value of the land shall be determined by NLC and shall not be invalidated by reason of discrepancy, which may be found to exist in the area.

Matters to be considered in determining compensation:
The market value of the property, which is determined at the date of the publication of the acquisition notice must be considered.[37] Determination of the value has to take into consideration the conditions of the title and the regulations that classify the land use e.g. agricultural, residential, commercial or industrial.

Increased market value is disregarded when:

- It is accrued by improvements made within two years before the date of the publication of the acquisition notice, unless it is proved that such improvement was made in good faith and not in contemplation of the proceedings for compulsory acquisition.
- It is accrued by land use contrary to the law or detrimental to the health of the occupiers of the premises or public health.
- Any damages sustained or likely to be sustained by reason of severing such land from other land owned by the claimant.
- Any damage sustained or likely to be sustained if the acquisition of the land had negative effects on other property owned by the claimant.
- Reasonable expenses, if as a consequence of the acquisition, the claimant was compelled to change his residence or place of business (i.e., compensation for disruption to the claimant's life).
- Any damage from loss of profits over the land occurring between the date of the publication of the acquisition notice and the date the NLC takes possession of the land.[38]

Matters not to be considered in determining compensation:

- The degree of urgency, which has led to the acquisition.
- Any disinclination of the person's interest to part with the land.
- Damages sustained by the claimant, which will not represent a good cause of action.
- Damages, which are likely to be caused to the land after the publication of the acquisition notice or as a consequence of the future, land use.
- Increased land value accrued by its future use.
- Any development at the time of acquisition notice, unless these improvements were necessary for maintaining the land.[39]

[37] *Id.* at article 112 and article 111.
[38] Schedule 2 governing compensation 2000.
[39] Schedule 3 governing compensation for compulsory acquisition.

4.5.1.8 Award Of Compensation

The Land Act does not stipulate that compensation must be in the form of money only. Under the Land Act 2012 section 117, the State can award a grant of land in lieu of money compensation ("land for land"), provided the value of the land awarded does not exceed the value of the money compensation that would have been allowable.[40]The law could be interpreted that any dispossessed person shall be awarded the market value of the land.[41] The new law is silent on relocation support or disturbance allowance support.

Upon the conclusion of the inquiry, and once the NLC has determined the amount of compensation, NLC will prepare and serves a written award of compensation to each legitimate claimant.[42]NLC will publish these awards, which will be considered "final and conclusive evidence" of the area of the land to be acquired, the value of the land and the amount payable as compensation.[43] Land Act, Section 115 further stipulates that an award shall not be invalidated by reason only of a discrepancy between the area specified in the award and the actual area of the land. Compensation cannot include attorney's fees, costs of obtaining advice, and costs incurred in preparing and submitting written claims.

4.5.1.9 Payment Of Compensation

A notice of award and offer of compensation shall be served to each person by the Commission. Section 120 provides that "first offer compensation shall be paid promptly" to all persons interested in land.[44] Section 119 provides a different condition and states that the NLC "as soon as practicable" will pay such compensation.[45] Where such amount is not paid on or before the taking of the land, the NLC must pay interest on the awarded amount at the market rate yearly, calculated from the date the State takes possession until the date of the payment.[46]

In cases of dispute, the Commission may at any time pay the amount of the compensation into a special compensation account held by the Commission, notifying owner of land accordingly. If the amount of any compensation awarded is not paid, the Commission shall on or before the taking of possession of the land, open a special account into which the Commission shall pay interest on the amount awarded at the rate prevailing bank rates from the time of taking possession until the time of payment.

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[40] *Land Act*, 117.
[41] *Land Act*, Schedule
[42] *Land Act*, 115
[43] *Land Act*, 115
[44] *Land Act*, This language reflects the language of the Kenya Constitution, 1963.
[45] *Land Act*, 119
[46] *Constitution of Kenya, article 162*

4.5.1.10 Transfer Of Possession And Ownership To The State

Once first offer payment has been awarded, the NLC will serves notice to landowners in the property indicating the date the Government will take possession. Upon taking possession of land, the commission shall ensure payment of just compensation in full. When this has been done, NLC removes the ownership of private land from the register of private ownership and the land is vested in the national or county Government as public land free from any encumbrances.[47]

On the other side also, the Commission has also the power to obtain temporary occupation of land. However, the commission shall as soon as is practicable, before taking possession, pay full and just compensation to all persons interested in the land.

In cases of where there is an urgent necessity for the acquisition of land, and it would be contrary to the public interest for the acquisition to be delayed by following the normal procedures of compulsory acquisition under this Act, the Commission may take possession of uncultivated or pasture or arable land upon the expiration of fifteen days from the date of publication of the notice of intention to acquire.

On the expiration of that time NLC shall, notwithstanding that no award has been made, take possession of that land. If the documents evidencing title to the land acquired have not been previously delivered, the Commission shall, in writing, require the person having possession of the documents of title to deliver them to the Registrar, and thereupon that person shall forthwith deliver the documents to the Registrar.

On receipt of the documents of title, the Registrar shall— cancel the title documents if the whole of the land comprised in the documents has been acquired; if only part of the land comprised in the documents has been acquired, the Registrar shall register the resultant parcels and cause to be issued, to the parties, title documents in respect of the resultant parcels. If the documents are not forthcoming, the Registrar will cause an entry to be made in the register recording the acquisition of the land under this Act.

4.5.1.11 Opportunity For Appeal

The Kenya Constitution establishes Environment and Land Court[48]. Article 162 of the constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavor to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the

[47] *Land Act, 115 and 116*
[48] Land Act 2012, Section128

constitution. Section 20, of the Environment and Land Court Act, 2011 empowers the Environment and Land Court, on its own motion, or on application of the parties to a dispute, to direct the application of alternative dispute resolution (ADR), including traditional dispute resolution mechanisms.

Any person whose land has been compulsorily acquired may petition the Environment and Land Court for redress with respect to:

- *The determination of such person's right over the land;*
- *The amount offered in compensation; and*
- *The amount offered in compensation for damages for temporary dispossession in the case of the Government's withdrawal of its acquisition of the land.*[49]
- *Parties will pay fees as determined by Environment and Land Court or the court may choose to waive them completely or in part on grounds of financial hardship.*[50]

4.6 Children and Orphans Provision of Land Possession

The Land Act 2012, Part III, section 2751 recognizes the capacity of a child as being capable of holding title to land. However this can only happen through a trustee and such a child shall be in the same position as an adult with regard to child's liability and obligation to the land.

4.7 The Valuers Act

Valuation of land is a critical aspect of compulsory acquisition practice and compensation. The National Land Commission based on land valuation determined by registered valuers will make compensation awards. Besides, the Valuers Act[52] establishes the Valuers Registration Board, which regulates the activities and practice of registered valuers. All valuers must be registered with the Board to practice in Kenya. The Board shall keep and maintain the names of registered valuers, which shall include the date of entry in the register; the address of the person registered the qualification of the person and any other relevant particular that the Board may find necessary.

As of March 2011, there were 285 registered valuers in Kenya.[53] The Valuers Act does not provide for a description of the valuation procedures and methods. KENHA'S RAP team has made use of the services of registered valuers who are approved by Valuers Registration Board.

Under the Valuers Act, professional misconduct of registered valuer will include:

[49] *Land Acquisition Act.* at article 29(7).
[50] *Land Acquisition Act* at article 43.
[51] "A child shall be capable of holding title to land through a trustee and such child be in the same position as an adult with regard to the child's liability and obligations to the land".
[52] The Valuers Act, Chapter 532, http://www.kenyalaw.org/kenyalaw/klr_app/frames.php, accessed May 25, 2011.
[53] Government of Kenya, Kenya Gazette notice no. 2892, March 18, 2011. Registered and Practicing Valuers.

- False or incorrect entry in the register;
- False or misleading statement caused by omission or suppression of a material fact;[54] and
- The acceptance of "any professional valuation work which involves the giving or receiving of discounts or commissions."[55]

In case of professional misconduct, the registered valuer is guilty of an offense punishable with a fine (not exceeding Ksh.10, 000) and/or imprisonment for three years. Fees for land valuation in case of compulsory acquisition are established based on the value of the property as "the first Kshs 400,000 at 1 per cent. Residue at 0.5 per cent"[56] and are paid by those who requested the valuation.

4.8 Comparative Analysis of World Bank Op 4.12 & Kenyan Resettlement Laws

Table 22 outlines World Bank OP. 4.12 policy on involuntary resettlement and compares them to the Kenyan legislation on the same. Recommendations are made on the existing gaps of the Kenyan laws. Where there is a difference between Kenyan law and OP 4.12, the higher standard shall prevail.

[54] The Valuers Act, § 24 and Legal Notice no. 32.
[55] *Land Act 2012, article 128*.
[56] *Legal Notice 32*.

Table 24. Comparative Analysis of World Bank OP 4.12 and Government of Kenya requirements including measures to address gaps

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
GENERAL REQUIREMENTS			
World Bank OP4.12 has overall policy objectives, requiring that: 1. Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives. 2. Resettlement programs should be sustainable, include meaningful consultation with affected parties, and provide benefits to the affected parties. 3. Displaced persons should be assisted in improving livelihoods etc., or at least restoring them to previous levels.	1. According to Kenyan Legislation, involuntary resettlement may occur as a result of projects implemented in public interest. 2. The Land Act, 2012 Act outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance procedures. 3. The Land Act 2012 guarantees the right to fair and just compensation in case of relocation.	1. The Land Act does not stipulate that resettlement should be avoided wherever possible; on the contrary, as long as a project is for public interest, involuntary resettlement is considered to be inevitable. 2. Same as the World Bank 3. Just and fair compensation as outlined in the Land Act 2012 is not clear and can only be determined by NLC, which can be subjective. It is does not talk about improving livelihood or restoring them to pre-project status.	1. For KENHA RAP, ensure that resettlement issues are considered at the design stage of the project in order to avoid/minimize resettlement. Implement World Bank OP 4.12 policy - displaced should be assisted in improving their livelihood to pre-project status.

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
PROCESS REQUIREMENTS			
Consultation: Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs	The Land Act outlines procedures for consultation with affected population by the NLC and grievance management procedures.	Same as World Bank	Implement consultation procedures as outlined in both Kenyan legislation and World Bank.
Grievance: For physical resettlement, appropriate and accessible grievance mechanism will be established.	Land Act 2012 clearly outline the steps and process for grievance redress that includes alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through Environmental and Land Court	Kenyan legislation meets OP4.12 requirements.	N/A
Eligibility Criteria *Defined as:* (a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country); (b) those who do not have formal legal rights to land at the time the census begins 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 resettlement plan (see Annex 10 A, para. 7(f)); and19	The Land Act 2012 provides that written and unwritten official or customary land rights are recognized as valid land right. The Law provides that people eligible for compensation are those holding land tenure rights Land Act also recognizes those who have interest or some claim in the land such pastoralist or who use the land for their livelihood. The constitution recognizes 'occupants of land even if they do not have titles' and payment made in good faith to those occupants of land. However, this does not include those who illegally acquired land	Kenya's Land Law defines eligibility as both formal (legal) and informal (customary) owners of expropriated land. However, it does not specifically recognize all users of the land to be compensated. The constitution of Kenya on the other hand recognizes 'occupants of land' who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.	Ensure ALL users (including illegal squatters, laborers, rights of access) of affected lands are included in the census survey or are paid

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
(c) those who have no recognizable legal right or claim to the land they are occupying *To determine eligibility:* Carry out resettlement census. Cut off date for eligibility is the day when the census begins.	Land Act 2012 provides for census through NLC inspection and valuation process	Same as World Bank	Implement cut-off procedures as outlined in the RPF and Kenyan Law
Measures: Preference should be given to land based resettlement strategies for displaced persons whose livelihoods are land-based. Cash based compensation should only be made where (a) land taken for the project is a small fraction of the affected asset and the residual is economically viable; (b) active markets for lost assets exist and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. World Bank OP4.12 Article 6(a) requires that displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable	Legislation provides for land for land compensation but the Land Act 2012 does not state whether preference should granted to land to land compensation. Land Act 2012 appears to prefer mode of compensation by the Government to the affected population. Land Act talks of prompt, just compensation before the acquisition of land. However, interpretation of just compensation is yet to be clearly outlined through a specific	Land for Land provided for in the Land Act based on agreement by the PAP. Cash based compensation seems to be the preferred mode of awarding compensation to the affected population by Government of Kenya 'Just compensation' as stipulated in the Land Act not yet specifically defined.	Ensure that all alternative options are considered before providing cash compensation Use World Bank OP4.12 procedures in determining form of compensation Implement prompt and effective compensation at full replacement cost for the losses of the assets.

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
directly to the project. If physical relocation is an impact, displaced persons must be provided with assistance during relocation and residential housing, housing sites and/or agricultural sites to at least equivalent standards as the previous site. Replacement cost does not take depreciation into account. In terms of valuing assets, if the residual of the asset being taken is not economically viable, compensation and assistance must be provided as if the entire asset had been taken. Compensation and other assistance required for relocation should be determined prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required	schedule defining just compensation have not been put in place. Attorney's fees, cost of obtaining advice or cost incurred in preparing and making written claim not in the Land Act other than 'just compensation' The Act is does not out rightly stipulate assistance for relocation but we can interpret that relocation cost will be included in just compensation.	OP 4.12 provides related land transaction fees. Land Act not clear on this. OP4.12 requires that displacement must not occur before all necessary measures for resettlement are in place, i.e., measures over and above simple compensation	Implement World Bank policy. Ensure that ALL resettlement options are agreed on with PAPs and put in place BEFORE displacement of affected persons.
Valuation: With regard to land and structures, "replacement cost" 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	Valuation is covered by the Land Act 2012 and stipulates, as already mentioned, that the affected person receive just compensation from NLC, as determined by National Land Commission. Valuers Act stipulates that a residual amount of 0.5% of the total valuation of an asset is expected to pay the valuer.	Though one could argue that there is some form of consistency between the Kenyan Law and World Bank OP.4.12, interpretation of 'just compensation' has not been defined. Interpretation of just compensation not clear	Apply the World Bank OP4.12 valuation measures, as outlined in Section 6, in order to fully value all affected assets in a consistent manner. Apply World Bank OP4.12 on valuation and compensation measures.

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
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. 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 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.	Land Act 2012 talks of just compensation for the lost assets but it is not specific of the exact amount or procedures on the same. The Land Act 2012 stipulates just compensation.	Interpretation of just compensation not clear.	Apply World Bank OP4.12 on valuation and compensation procedures.
Monitor Adequate monitoring and evaluation of activities to be undertaken.	According to Land Act can be undertaken County Land Boards.	Both Kenyan Law and World Bank policy advocates for Monitoring and Evaluation	Implement as prescribed in the World Bank OP4.12 and Kenyan Law.

4.9 Comparative Analysis of World Bank OP 4.12 & Kenya's Requirements Relevant to the Process

Table 25. Comparative Analysis of World Bank OP 4.12 and Kenya's requirements Relevant to the Process

Category of PAPs and Type of Lost Assets	Kenyan Law	World Bank OP4.12
Land Owners	Fair and just compensation which could be in form of cash compensation or Land for Land	Recommends land-for-land compensation. Other compensation is at replacement cost
Land /Structure Tenants	Constitution says that 'occupants of land' entitled to some level of pay in good faith. Land Act stipulates that they are entitled to some compensation based on the amount of rights they hold upon land under relevant laws. However, those who acquired land illegally not entitled to any.	PAPs are entitled to some form of compensation whatever the legal/illegal recognition of their occupancy.
Land Users	Land Act not clear on Land Users although in some cases they can receive some form of compensation depending on the determination by NLC	Entitled to compensation for crops and investments made on the land; livelihood must be restored to at least pre-project levels.
Owners of Temporary Buildings	The constitution of Kenyan respects the right to private property and in case of compulsory acquisition, just compensation must be granted to the owner for the loss temporary buildings.	Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.
Owners of Permanent buildings –Business Owners	The constitution of Kenyan respects the right to private property and in case of compulsory acquisition, just compensation must be granted to the owner for the permanent building	Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.
Perennial Crops	Compensation for the loss of crops	As per specifications of this RPF, once approved by the Bank and disclosed at the Bank info shop,

Road Side Vendors	Not specific on livelihood. The constitution says some pay maybe made in good faith	Compensation and Livelihood restoration to pre-displacement level.

CHAPTER FIVE

5 PROJECT DISPLACEMENT IMPACTS

5.1 Minimizing Displacement and Social Impacts

Efforts have been made to align the road within the government owned road reserve land so as to avoid or minimize relocation and therefore resettlement and disturbances arising from land acquisition in line with the World Bank OP 4.12. Additional measures taken or steps to be taken to reduce impact include:

- All those affected by the project (physically or economically displaced) will be fully compensated before project commencement.

5.2 Impact on Land: The Project-Affected Area

Road construction and rehabilition activities will lead to land acquisition and will in effect have adverse impacts on private land owners and business structures (enterprises) hence leading to physical and economic displacement.

5.3 Impacts On People And Livelihoods

384 Project Affected Households will lose their livelihoods as a result of the project. The PAPs include structure owners (landlords) who rent out their properties for income; business people (tenants) who use existing structures to run income-generating activities and mobile roadside vendors found along the road corridor especially in major towns.

A comprehensive census of Project-Affected People has been carried during the preparation of this RAP. This census has included:

5.3.1 Census Survey

Census Methodology

A full census of all the PAPs along project corridor was conducted as part of review and udpate of this RAP. This census has included:

- The identifictaion and inventory of all the **residential** and **business structures** including **institutions** in the affected communities
- The inventory of all trees in the Project-Affected area, including their measurement, description of standing crops if any, identification of stakeholders (owners, tenants, sharecroppers, as appropriate),
- The census of Project-Affected People, including their personal details like identification numbers; age; area of domicile; type of loss (land, business or residential), occupation among others using a socio-economic questionnaire,

- The identification of disabled and sick people, child headed, and women headed households who may be categorized as vulnerable.

The census and socio- economic survey of the PAPs was done using a semi-structured household questionnaire. The questionnaire covered the households' baseline information on incomes and expenditures, occupational and livelihood pattern, use of resources, arrangements for use of common property, social organization, leadership patterns, community organizations, and cultural parameters. Photographs of the PAPs were taken (those present during the census survey) including the GPS coordinates of structures affected.

5.3.2 Overview of the Results of the Census

There will be impacts related to land take resulting from the rehabilitation of the Kitale-Lesseru-Marich Pass road corridor. Affected land includes private and public land (physical displacement), and economic displacement of several businesses along the road reserve and in the major town centres. Land take will also lead to loss of structures, and income and will result in the permanent change of land use and the termination of the present use of the landowners where road will be re-aligned as part of the rehabilitation.

In order to improve motorability on the road, interchanges have been proposed. The first interchange will be at Lesseru (also known as Maili Tisa) will affect several temporary structures constructed on the Ministry of Defense land. The Kitale interchanges will affect a private landowner, Weaver Bird High School, AIC Nuru Church and Ark Celebration Centre both located on the outskirts of Kitale town.

Table 26. Summary: Project Impacts in terms of land take

Description	Area (Acres)	
Land Acquisition		
Government of Kenya	3.53	
Private land	80.62	
Total	**84.15**	

PROJECT AFFECTED PERSONS

Project affected persons (PAPs) are individuals whose assets may be lost and/or affected, including land, property, other assets, livelihoods, and/or access to natural and/or economic resources as a result of activities under the Project. The project will physically displace (permanently) PAPs who currently own structures in the proposed project area while another set of households will be economically displaced as a result of losing business enterprises. Also, land will be acquired from both public and private institutions/individuals for the proposed road project.

Table 27 Summary of Category of PAP

Affected Centres	Business	Institutional	Property	Tenants	Land	Mobile

	Structures	Structures	Owners/Landlords		Holders	Road Vendors
Matunda	45		23	22		
Soy	16		10	6		
Moi's Bridge	5		2	3		
Kamakut	8		1	7		
Nangili	8		1	7		
Nabusaka	3		3	3		
Fafarol	62		17	45		
Kibomet/Naisambu	30		12	18		
Taito	11		7	4		
Aruba	21		10	11		
Kongoni	3		5	14		
Maili Saba	19		1	2		
Kipsaina	32		12	20		
Kesegon	38		32	6		
Simatwet	5		4	1		
Total	**384**		**140**	**169**		**75**

A total of 384 Project Affected Households, 11 public and communal institutions will be affected by the proposed road project. Of this number 16 PAPs will need to be permanently relocated because they are out of the ROW and will permanently loose land and structures on legally owned land. The remaining PAPs (368) are within the GoK's ROW and will be temporarily displaced until the market centres to be constructed under the project are built after which they will be relocated.

From the new census, a total of **75** new PAPs were registered and comprised mainly mobile roadside vendors who have no permanent location and migrate from one centre to the other. This category of PAPs was not included in the entitlement matrix during the preparation of original RAP and was not enumerated.

The road routing also cuts across the major centres highlighted in table above and hence the number of PAPs who mainly have businesses on the road reserve. The number however increases with inclusion of mobile roadside vendors who are all the same not resident in one particular centre and move from one centre to another frequently.

5.4 Impact on Residential and Commercial Structures

A number of commercial structures (businesses) are affected by the proposed project and include among others;

- Hardware
- Computer shops
- Salons
- Agro vets
- Tailoring shops

- Welding shops
- Mpesa shops
- Posho mills
- Butcheries
- Hotels
- Boutiques
- Vegetable stores
- Carpentry Shops

Affected businesses were described and documented during the field surveys in February 2013 and was validated during the review and updated in this RAP comprising names of owners and names of tenants of business premises and GPS locations.

Type of housing: Households within the project site had an average of 2 buildings constructed within the homestead, which included residential houses (owned by 100% of the households), and either kitchen (76%) latrine/bathroom (100%), livestock pens (40%) or stores (12%), with a variation in the types of walling material and roofing material. The most common types of building materials used were earth/mud and stones as the walling and iron sheets as roofing materials respectively for residential houses and commercial structures.

Photograph Plate 1 and 2 presents different types of residential structures observed in the Project-Affected Area. None of the affected structures has any modern features such as an inside bathroom or toilet, or running water and more generally the vast majority of houses are made only from local materials, including locally extracted earth or clay for walls without cement or plastering, local timber for the structure.

Usual construction techniques include (**see Photograph Plate 1**):

- mud and wattle, based on a structure of vertical and horizontal wooden poles filled in with mud,

Most of the households have no latrines within their homesteads. This human defecation habits on the farms and uncultivated pieces of land were evident, which is a health hazard incase the community members. Ancillary structures include:

- Pit latrines
- Kitchens (when they exist, which is not common, they consist of a few second-hand iron sheets intended to protect the fire from the wind),
- Racks and sheds of various shapes and kinds, usually made of salvaged timber of poor quality.

5.5 Impact on Public and Community Infrastructure

5.5.1 Public and Community Buildings

5.5.1.1 Graveyards

There are no private or public graveyards within the project site that could be adversely affected.

5.5.1.2 Schools

There are several schools (primary, secondary and colleges) around the project site but are not going to be directly affected by the project in anyway.

5.6 Impact on Cultural Sites

There are no cultural sites like shrines etc. in the project sites

5.7 Summary: Categorization of Project Affected People

Based on the above impact assessment, the following categorization of Project-Affected People is used in further sections of this RAP:

5.7.1 PAPs Losing Land:

These could be permanent residents, also customary/official owners of agricultural land. People in this category are at the same time:

- Encroachers who have become permanent residents of the area/owners of their residence in most instances,
- Owners of agricultural land through official land tenure arrangement,

5.7.2 PAPs Losing Business Structures and Income:

These include:

- PAPs undertaking road side vending activities (with permanent or mobile structures) on the road reserve set aside for the rehabilitation and expansion of roads(encroachers by being on ROW)
- Tenants who are running businesses in temporary or permanent structures and paying rent(encroachers by renting structures on ROW)
- Mobile roadside vendors with no structures but ply their trade along the project corridor

5.7.3 PAPs Losing Trees/Crops:

The project will lead to loss of trees along the project corridor and owned by project-affected persons. There are no crops that will be affected as a result of the project.

5.8 Other Impacts On Project Affected People

5.8.1 HIV/AIDS

Secondary data show that the HIV prevalence in the Uasin Gishu County stood at 4.5 per cent in 2012, having reduced from 7.4 per cent in 2007, while the HIV

prevalence rate for Trans Nzoia County was 5.3% in 2012 having declined from 7% in 2002. In West Pokot County, the HIV prevalence rate in 2008 was 3.6 per cent, among expectant mothers the prevalence rate stood at 2.5 per cent. HIV/AIDs prevalence is very low in these Counties compared to other Counties in Kenya but with the intrusion into the area by people from different cultures, the behavioral patterns of the community. Other sexually transmitted diseases will likely be reported in the area during construction as a result of social interactions.

Steps will be taken by the executing agency so that

1. Contractors sensitize their workers and other service providers to the project on the prevalence and risks of casual sex. The sensitization campaigns will be extended to the community at large.
2. The contractor will ensure that the workers are trained and encouraged to observe the local culture
3. The contractor will be bound to institute HIV/AIDS awareness and prevention campaigns amongst his workers
4. The executing agency will work closely with other agencies dealing with HIV/AIDS in the general area of the project in order to sensitize the community at large.

CHAPTER SIX

6 STRATEGY FOR RESETTLEMENTCOMPENSATION

6.1 Justification for RAP Review and Update

In February 2013, KENHA engaged a consulting firm to conduct a feasibility study for the Lesseru-Marich Pass road and included the preparation of a Resettlement Action Plan. However, in December 2014, in order to comply with Bank's policies, a review and update of the RAP was determined to be necessary for 2 reasons:

1. Bank policies for Category A and B projects require safeguard instruments (ESIA, RAP) etc be prepared by independent entities separate from those preparing feasibility and design studies for projects
2. There has been a relatively long timelag since the original RAP was prepared and the situation is likely to have changed on the ground hence the need to validate the original RAP

Process of First Census

The process for undertaking the first census based on the review of the original RAP was sound to the following extent and was undertaken in the following ways:

- Conducted public consultations/awareness creation;
- Registered the affected persons by name and family details;
- Gathered demographic information on social-economic activities of the affected families;
- Recognized susceptible Project Affected Persons (PAPs) including women-headed household, physically and mentally challenged, the aged, income below poverty line and those losing more than the economic threshold of their land through acquisition/negotiation.
- Conducted inventory of all assets to be affected or damaged by the project including details on land ownership and extent of land loss due to the land acquisition/negotiate is, actual land ownership, and not only in terms of land records.
- Prized the affected assets at full replacement value and determining any supplementary payments such as the unit price lists and itemized breakdowns of compensation offers and participation;
- Established cut off date for the first census was 23rd February 2013

Inadequacies with RAP

However, the RAP contained some gaps, which the review and update of the RAP sought to bridge and included;

- The original RAP did not consider roadside traders in Moi's Bridge and Soy due to their mobile nature. According to the original RAP the reason why roadside traders (vendors) were omitted from entitlement is because most traders in the affected project zones are 'mobile' with temporary structures. Most of the affected roadside vendors along the road reserve are traders who are always looking for lucrative markets which take place in different areas on different days of the week. The traders move from one market to the other depending on market days especially between Soy and Moi's Bridge. This category were not considered for entitlement as PAPs which contravenes the OP. 4.12 principles.

Methodology of Second Census

The second census was conducted in December 2014 as part of the review, update and validation of the original RAP. During this second census survey, all the PAPs along the project corridor were enumerated through a process that involved reviewing the census data from the first RAP and validating it by visiting each and every PAP and verifying the information through administration of a questionnaires (**See Annex**).

This census information collected included:

- The identification and inventory of all the **residential** and **business structures** including **institutions** in the project area affected by the project
- The inventory of all trees in the Project-Affected area, including their description of standing crops if any, identification of stakeholders (owners, tenants, sharecroppers, as appropriate),
- The census of Project-Affected People, including their personal details like **identification numbers**; **age; area of domicile; type of loss** (land, business or residential), **occupation** among others using a socio-economic questionnaire,
- The identification of disabled and sick people, child headed, and women headed households who may be categorized as vulnerable.

Accordingly as a result of the second census, a slight difference in the total number of PAPs enumerated during the first census and the census conducted during the review and update of the RAP was realized. Even though there were no changes for PAPs who would lose land, the PAPs who would lose business and structures increased by **75** and this is attributed to the fact that over the period, even though a cut off date was established, especially roadside traders who are mobile and lack of mechanism to monitor end enforce new entrants from setting up shop post the cut off date.

6.2 Key Principles

The key principles committed upon by KENHA in this RAP are the following:

- All the PAPs who will be physically displaced and own residential property along the project corridor will not receive any compensation for land and structure ownership
- Both physically-displaced people and Economically-displaced people will be compensated for their losses of livelihood,
- KENHA will assist PAPs' in restoring their affected livelihoods, and will provide transitional assistance as necessary as long as livelihoods are not restored to their previous level,
- PAPs and host communities will be informed and consulted during the whole course of RAP development, implementation and evaluation.
- Resettlement and compensation of Project-Affected People will be carried out in compliance with Kenya's legislation and World Bank's Policies and Procedures on involuntary resettlement.
- The RAP implementation and outcomes will be monitored and evaluated as part of a transparent process,
- The vast majority of Project-Affected People derive their livelihood from vending products along the project corridor even though they have no legal title on the land. They will be offered a livelihood restoration allowance including the provision of moving allowance.

6.3 Conditions of Eligibility for Compensation

6.3.1 Cut-Off Date

The Cut- Off Date established during the preparation of the original RAP, which was deemed to be the date at which the census of affected people and affected assets was completed, was **25th February 2013**. However, in view of the fact that a repeat census was undertaken in December 2014, a new cut off date was established i.e. **31st December 2014** hence the original Cut off Date was voided.

6.3.2 Eligibility

Assets, including structures and fields, that were surveyed in the Project-Affected Area by the Cut-Off Date are eligible for compensation. People residing in the Project-Affected Area by the Cut-Off Date are eligible for compensation even if they have no legal tenure (encroachers).

6.4 Entitlements

The Entitlement Matrix describes compensation and related assistance for each category of affected PAP. It is presented in **Table 24** hereunder.

Table 28. Entitlement Matrix

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
AGRICULTURAL LAND	**TITLED LAND**: Land held under a registered title deed	Registered land (usually a physical person – one case in the Project-Affected Area) – INDIVIDUAL	Hold a registered land that was registered with relevant Authorities prior to the Cut-Off Date	Replacement of lost land by agricultural land of similar potential under similar tenure arrangements with formal registration in replacement land with the relevant land authorities; or, – Cash compensation for land or non- cash compensation of land (land for land), taking into account market values for land Cash compensation of all immoveable developments on the affected land, such as structures, etc.… - See below "Structures" , taking into account market values for structures and materials Cash compensation of standing crops – See below "Crops"
	UNTITLED LAND: Land held under customary ownership,	Customary land owner (legally an	Hold, prior to the Cut-Off	Replacement of lost land by agricultural land of similar

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
	and not registered. Customary land owners are those that own land from ancestral inheritance	unregistered), whether resident or non-resident– INDIVIDUAL	Date, an unregistered, customary land and be recognized as such	potential under similar customary tenure arrangements; or Cash compensation for land or non- cash compensation of land (land for land), taking into account market values for land Cash compensation of all immoveable developments on the affected land, etc.… - See below "Structures", taking into account market values for materials Cash compensation of standing crops – See below "Crops"
	RENTED LAND: Land rights obtained temporarily as per a customary rental agreement	Tenant as recognized by the customary landowner and customary authorities whether resident or non-resident– INDIVIDUAL	Occupy land prior to the Cut-Off date as per a rental agreement recognized by the land owner and customary authorities	No compensation for the land itself Cash compensation to the owner of immoveable developments established by the owner and to the tenant of immoveable developments that were established by the tenant, such as structures, canals, soil improvement, etc.… -

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
				See below "Structures", taking into account market values for materials Cash compensation of standing crops – See below "Crops"
Category A: Permanent residents, also customary holders of agricultural land		Be recognized by local traditional authorities and the relevant resettlement committee as a permanent resident and a customary holders of agricultural land located in the Project-Affected Area at the cut-off date		- Resettlement house of similar or better quality on a resettlement plot (best practice) AND or cash compensation of the lost house at full replacement value, taking into account market values for housing - Replacement of lost land by agricultural land of similar potential under similar tenure arrangements near the resettlement site – No cash compensation of land if the household does not choose resettlement - Cash compensation of all immoveable developments on the affected agricultural land, such as structures, canals, soil improvement, etc.…,

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
				taking into account market values for materials - Cash compensation of standing perennial crops at replacement value and of non-perennial crops at market value - Moving allowance if the household vacates the Project-Affected Area at a given date - Livelihood restoration package
B: Permanent residents and tenants or sharecroppers of agricultural land		Be recognized by local traditional authorities as a non-permanent resident in the Project-Affected Area and as a customary land holder of agricultural land located in the Project-Affected Area for more than one year		- Cash compensation of the lost non-permanent house at full replacement value, taking into account market values for housing - Replacement of lost land by agricultural land of similar potential under similar customary tenure arrangements anywhere in the Area - Cash compensation of all immoveable developments on the affected agricultural land, such as structures, canals, soil improvement, etc.…, taking into account

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
				market values for materials - Cash compensation of standing perennial crops at replacement value and of non-perennial crops at market value - Moving allowance if the household vacates the Project-Affected Area at a given date - Livelihood restoration package
RESIDENTIAL LAND	**UNTITLED LAND**: Land held under customary ownership and not registered	Customary land owner (legally an unregistered owner) – INDIVIDUAL	Hold, prior to the Cut-Off Date, an unregistered, customary land and be recognized as such by local customary authorities	Replacement of lost residential land by resettlement residential land of similar size with formal recognition of ownership of the resettlement plot by the relevant administrative authorities; or, Cash compensation for land or non- cash compensation of land (land for land), taking into account market values for land Cash compensation of all immoveable developments on the affected land, such as structures, wells, etc.…

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
				- See below "Structures", taking into account market values for materials
STRUCTURES	**RESIDENTIAL HOUSES**: Inhabitable houses used as a permanent residence	Owner – HOUSEHOLD	Be the locally recognized owner of an inhabitable house permanently used as a residence	Resettlement house of similar or better quality on a resettlement plot or Cash compensation of the lost house per Kenyan law at full replacement value, taking into account market values for housing
	NON RESIDENTIAL STRUCTURES: Non inhabitable house or other structure of any design	Owner - INDIVIDUAL	Be the locally recognized owner of a non residential structure	Cash compensation at full replacement value, taking into account market values for structure and materials
BUSINESS OWNERS INCLUDING ROADSIDE VENDORS (Squatters/Encroachers on ROW)	PAPS who own all types of structures (permanent or temporary) for businesses on GOK's ROW and are hence squatters/encroachers Structures (Permanent and Semi-permanent Buildings, Manyattas Disruption of Various Private Businesses	Compensation for the entire structure at replacement cost as determined by the concerned appraisal committee without deduction for salvaged building materials.		Restorative compensation in accordance with the land Act. Restorative compensation includes disturbance allowance, severance and injurious affection Disturbance allowance is 15% of the market value of the cost of construction of affected structures

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
	Mobile vendors who sell wares along the road corridor specifically in major centres but with no structures (permanent or temporary)			Compensation for lost income for up to a period of 12 months
CROPS	**STANDING NON PERENNIAL CROPS**	Owner of the crop – INDIVIDUAL	Be the recognized owner of a standing crop and be unable to harvest it prior to land occupation by project	Cash compensation at full replacement value
	STANDING PERENNIAL CROPS	Owner of the crop – INDIVIDUAL	Be the recognized owner of a standing perennial crop	Cash compensation at full replacement value

6.5.1 Moving Allowance and Moving Assistance

The PAPs will be given cash as part of moving allowance assistance and allowance out of the proposed site for rehabilitation of the road. All the business owners, those renting premises and those with institution will be provided with an additional 15% already factored in the budget to cover moving related efforts to new locations.

6.5.2 Salvaging

PAPs will be allowed to salvage any materials in the structures they own at the current village. These materials include iron sheets, poles, nails, windows and other components.

6.6 Cash Compensation

6.6.1 General

The term 'cash' is used in this RAP to denote payments in currency. Experience in sub-Saharan Africa indicates a high risk potential with large, lump-sum cash payments to parties who have little experience with money management. While KENHA shall provide compensation in cash consistent with the local law requirements, the project will also include a number of additional benefits that are not represented in the cash compensation package. These additional, non-monetary benefits are intended to mitigate resettlement risks recognized under the involuntary resettlement procedures for the bank, but not Kenyan law. Though not legally required, the incremental costs of these benefits will be borne by the project so as to assure compliance with the project's stated commitment to follow the guidelines and recommendations of the World Bank, while complying with the local law requirement to provide cash compensation valued at real replacement value.

6.6.2 Structures

6.6.2.1 Residential and Business

Cash compensation of residential houses will apply to the following situations:

- PAPs in Categories A (residents of the Project-Affected Area and structure owners-landlords) who will be physically displaced
- PAPs who are tenants i.e. renting structures for running of their enterprises

The replacement value of structures has been investigated during the Socio-Economic Baseline Survey. Structures in the project corridor are not numerous and were valued on case-by-case basis. Replacement costs was calculated based on actual cost of construction/re-establishment of a structure of at least equal quality as the affected structure.

6.6.2.2 Non-Residential Structures

Non-residential structures include latrines, sheds and verandas of various kinds, dish racks, kitchens, etc. Except for pit latrines, these structures are usually almost entirely moveable, and as long as the owner will be able to salvage the materials, the loss will be very limited. The compensation at full replacement value is therefore mainly intended to cover the labor needed to dismantle and re-establish the structure elsewhere. Non-residential structures that would not fall in one of the above categories will be valued and compensated on a case by- case basis.

Churches

No church will be reconstructed by the project because there is no church that will be destroyed during land acquisition because there is no church or religious facility in the reservoir area.

Shrines and graves

There are no shrines or graves in the project area that was observed and that would warrant compensation.

6.6.3 Businesses Structures

A number of commercial structures (businesses) are affected by the proposed project and include;

- Hardware
- Computer shops
- Salons
- Agro vets
- Tailoring shops
- Welding shops
- Mpesa shops
- Posho mills
- Butcheries
- Hotels

Business structures in the project corridor were valued on case-by-case basis using the replacement cost method. Replacement costs was calculated based on actual cost of construction/re-establishment of a structure of at least equal quality as the affected structure.

6.6.4 Crops

Compensation for crops will be done on the basis of the requirements of Kenyan laws, which require that crops be valued based on the values provided by Ministry of Agriculture. However, there are no crops affected by the project along the project corridor with only trees affected and the valuation exercise is illustrated in 6.6.4.2 below.

6.6.4.1 Non-Perennial Crops

In situations where the farmer cannot be given sufficient notice to harvest his/her crop, compensation will be paid based on the market value of the non-perennial crop. These rates are based on the following data collected during the 2013 socio-economic baseline study when preparing this RAP:

- Average yields and prices for typical crops grown in the project area:
  - The individual crop yields used in this calculation represent "good harvests" as reported to the socioeconomic team in meetings in the villages,
  - Crop prices used in calculations were taken from results of the visits to the central market in along the project town

6.6.4.2 Perennial Crops

The calculation of the value of perennial crops for compensation is also based on the market rates and includes the type of crops, the age and size or area under which the crops are grown. These factors have been used as the basis for the calculation of perennial crop loss.

Compensation rates are factored for the following stages of tree development:
- Seedling,
- Young, not productive,
- Young productive,
- Mature.

The calculation of the full replacement value considers not only of the product of the crop over one year, but also the cost of re-establishing the crop (seedlings, soil preparation, fertilizers, others), as well as the lost income during the period needed to re-establish the crop. Compensation rates will be calculated in compliance with the full replacement value principle, based on the following: If:

V: Average market value of the produce of one tree for one year
D: Average period of time required to re-establish the tree to an adult production level, in years
CP: Cost of planting (seedling, soil preparation, initial fertilization)
CL: Cost of the labor required to maintain the crop during the period of time needed to re-establish it to its previous production level.

The compensation amount C for one tree is determined by application of the following formula:

C = V x D + CP + CL

6.6.5 Rate Update and Market Value Monitoring

Compensation rates for crops will be updated on a yearly basis based on a fresh market survey at "lean" season (January) and after harvest (May). The market survey will include price monitoring in the project area, confirmed by interviews with potential farmers.

6.6.6 Money Management Awareness

For most PAPs, the cash compensation they will receive from the project will represent an amount of cash far beyond any that they ever handled before. Experience of similar situations in Africa indicates that rural compensatees are particularly vulnerable to crooks and thieves (and quite ironically to termites), and also to misuse and mismanagement of this sudden influx of cash. Cash may be used on short term spending (particularly alcohol and commercial sex where male household heads are concerned), which will eventually leave the household in its entirety in hardship worse than they experienced before compensation. Land for land is not being considered because existing land is still owned in Trust under the Trust Land Act and the processing of issuing titles to a select few is bureaucratic and likely to cause tension among the local communities who still lack title deeds.

Although such problems cannot be avoided entirely, creating better awareness on money management can to a certain extent mitigate them. Any PAP receiving cash compensation will receive a one-day course on money management delivered by an organization with experience in similar matters, with the following objectives:

- How to secure cash,
- How to avoid misuse and mismanagement,
- Household savings and expenditures plan,
- Benefit of having the money in a bank account.

6.7 Livelihood Restoration

6.7.1 Eligibility

Project-Affected Households falling in categories A (physically displaced PAPs) and category B (economically displaced PAPs) are eligible to the livelihood restoration packages proposed, in reason of one such package per household.

These packages are the following:

- Employment,
- Training to non-farming income-generating activities, and related business support.

A Social Assessment is being undertaken for this project in order to determine PAPS priorities with regard to livelihood restoration, including building roadside amenities accessible from the road. The social assessment also identified way to improve livelihoods of women and youth in the following ways:

In order to ensure the equal distribution of Project benefits to women, and to safeguard the rights of women in all aspects of the Project, women's participation will be secured by ensuring that women enjoy increased access via the improved markets, and social infrastructure and services. Attention will be given to markets at the border, rest stops (service centers), and export facilitating zones by providing safe and enhanced access to the market places, which will benefit more the rural women who represent the majority engaged in informal cross-border trade. The project has assessed specific demands of pastoralist women and based on the expressed interest of the women habitants along the corridor the project will develop a pastoralist road side market that provides basic facilities to process and market products of the pastoralist community.

6.8 Transitional Assistance

The Project construction schedule currently envisages that much of the Project-Affected Area will have to be vacated in April 2016, and PAPs within these areas will have to move by this time. A transitional allowance will be given to the following category of PAPs namely:

1. Business Owners
2. Tenants who have established enterprises

Those who are running businesses will be provided with 12 months of allowance for loss of income from the different businesses that they operate. Those who are renting structures (landlords) will be provided with 6 months' rent for the loss of income as part of the transitional allowance before they can identify alternative places to establish new structures.

6.9 Compensation Management and Associated Procedures

6.9.1 Database

A database of PAPs will be established for purposes of compensation management. This database will be designed from the beginning to allow not only to manage compensation during the active phase of resettlement and compensation, but also to carry out further monitoring of households. It will therefore include files of affected assets to allow compensation management, and files of households to allow further socio-economic monitoring, with appropriate relationships between each other. All relevant census and socio-economic information related to both affected assets and affected households will be entered into this database.

6.9.2 Delivery of Entitlements

Once a given affected household has selected compensation and livelihood restoration options, the household head and KENHA will sign a comprehensive compensation agreement. This compensation agreement will clearly spell out commitments of both parties, i.e. the following:

- For KENHA: commitment to deliver and/or pay compensation and livelihood restoration packages at certain contractual times and according to certain contractual modalities.

- For the affected household: commitment to vacate agreed land at a date agreed upon by both parties, with financial incentives attached to the compliance with commitment. Further to the all-encompassing compensation agreements, receipts and certificates of delivery will be signed by both parties upon delivery of any of the components of the overall entitlement.

CHAPTER SEVEN

7 VULNERABLE PEOPLE

7.1 Identification of Vulnerable People

Vulnerable people, as defined by the World Bank guidelines are people who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status may be more adversely affected by resettlement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits. Vulnerable people potentially eligible for specific assistance under this Resettlement Action Plan are those who are affected by the Project land acquisition, compensation and resettlement activities.

Vulnerable people include, but are not limited to:

- Disabled persons, whether mentally or physically;
- Seriously ill people, particularly people living with HIV/AIDS and other illnesses;
- The elderly, particularly when they live alone;
- Households whose heads are children;
- Households whose heads are female and who live with limited resources;
- Households whose heads have no or very limited resources; and
- Widows and orphans.

The socio-economic survey results show that one person or 10.5 % of the PAPs are old people (over 70 years old), 3 persons are disabled or 1 % while 4% are orphans. Consultation meetings with existing community development programs came up with agreement that this group will benefit from the livelihoods improvement facilities offered by these programs and a closer monitoring for implementation will be done by all stakeholders.

All those people will benefit from the livelihoods improvement measures from the mentioned existing community development programs as per consultation and agreement done between the project and the concerned development program management authorities in the site.

KENHA will be compelled to assist these vulnerable people in so far as they are affected by the displacement and resettlement process as stipulated by the World Bank procedures for resettlement. Such assistance may include the following activities:

- Identification of vulnerable people and identification of the cause and impacts of their vulnerability, either through direct interviews by a Project social worker or through the community; this step is critical because often vulnerable people do not participate in community meetings, and their disability/vulnerability may remain unknown;
- Identification of required assistance at the various stages of the process: negotiation, compensation, moving;
- Implementation of the measures necessary to assist the vulnerable person; and
- Monitoring and continuation of assistance after resettlement and/or compensation, if required, and/or identification of those entities, whether Governmental or not, that could sustain the Project's assistance beyond its period of activity.

Assistance may take the following forms, depending upon vulnerable persons' requests and needs:

- Assistance in the compensation payment procedure (e.g., specifically explain the process and procedures, make sure that documents are well understood);
- Assistance in the post payment period to secure the compensation money and reduce risks of misuse/robbery;
- Assistance in moving: providing vehicle, driver and assistance at the moving stage, assist the person in identifying his/her resettlement plot;
- Assistance during the post-resettlement period, particularly if the solidarity networks that the vulnerable person was relying on have been affected: food support, health monitoring, etc.; and
- Health care if required at critical periods specifically for the physically challenged, particularly the moving and transition periods.

7.2 Process

A Resettlement Committee will be established and this committee will have to play a role in the identification of vulnerable people and the definition of assistance activities. The following process will take place:

- Advertisement of project's intention to provide specific assistance for vulnerable people,
- Designation of a sub-committee, within each of the Resettlement Committee, to handle issues related with vulnerable persons, with in addition to community members and one representative,
- Identification by the sub-committee of vulnerable persons requiring assistance, through applications by the vulnerable persons themselves and through identification by social networks in the villages,

- Identification of assistance measures on a case by case basis, with the following process:
    a. Review of each case by KENHA's Environment and Social specialist with one sub-committee member, including a visit at home and a detailed interview,
    b. Discussion on required assistance measures between the two individuals above and the vulnerable person,
    c. Report to the sub-committee on proposed assistance measures,
    d. Review and decision by the sub-committee,
    e. Implementation of assistance measures,
    f. Monitoring.

CHAPTER EIGHT

8 GRIEVANCE MANAGEMENT & REDRESS

8.1 Likely Types of Grievances and Disputes

In practice, grievances and disputes that are most likely during the implementation of a resettlement program are the following:

- Misidentification of assets or mistakes in valuing them;
- Disputes over plot limits, either between the affected person and the Project, or between two neighbors;
- Dispute over the ownership of a given asset (two individuals claim to be the owner of this asset);
- Disagreement over the valuation of a plot or other asset;
- Successions, divorces, and other family issues, resulting in disputes between heirs and other family members, over ownership or ownership shares for a given asset;
- Disagreement over resettlement measures, for instance on the location of the resettlement site, on the type or standing of the proposed housing, or over the characteristics of the resettlement plot; and
- Disputed ownership of a business (for instance where the owner and the operator are different persons), which gives rise to conflicts over the compensation sharing arrangements.

8.2 Management Mechanism

Overview

It often appears that many grievances derive from misunderstandings of the Project policy, or result from neighbor conflicts, which can usually be solved through adequate mediation using customary rules. Most grievances can be settled with additional explanation efforts and some mediation using customary disputes settlement mechanisms:

- Through explanations (for instance explain in detail how the Project calculated the complainant's compensation and that the same rules apply to all); or

- Through arbitration, resorting to elders or individuals well regarded by the community and external to it.

In contrast, resorting to the judicial system often results in long delays before a case is processed, may result in significant expenses to the complainant, and requires a complex mechanism, involving experts and lawyers, which can fall well beyond the complainant's control, and be counter productive to him/her.

8.3 National Land Commission Grievance Mechanism

The Land Act 2012 and National Land Commission Act 2012 obligate the NLC to manage grievances and disputes related to resettlement or land amicably. NLC will be expected to arbitrate or negotiate with PAPs or landowners that have any grievances concerning their compensation. The cascading structures they put in place are also expected to take up this responsibility.

8.4 Structures for Grievance Management

This RAP proposes that the SCRCC, LRCCs and VRCC provide this function on a transitional basis until NLC is fully operational and clear structures defined.

SCRCC/LRCCs/VRCC structures will act as mechanism of grievance management. SCRCC will be based at the sub County level while LRCCs will be based in each location. The VRCC and LRCCs will be the first points of contact in grievance management system.

These committees will seek to resolve PAPs issues quickly in order to expedite the receipt of entitlements, without resorting to expensive and time-consuming legal process in the Environment and Land Court[57] or high court that may delay the implementation of the project. Appeals to the court will only be occasioned if the grievance procedure fails to provide a result.

8.5 Process Procedures of Lodging Complaints

- SCRCC /LRCCs/VRCCs will inform PAPs of their losses and entitlement.
- If satisfied, the PAP claims resettlement payment directly from NLC[58]. If dissatisfied or the PAP does not clearly understand the entitlement/any aspect of the resettlement plan, s/he approaches the LRCC for clarification.
- The LRCC makes a note and explains the unclear issues to the PAP in accordance with the RAP. If the issue(s) are resolved, the PAP collects the payment from the paying authority, NLC[59]. If not resolved, PAP moves to the next step.
- PAP will fill a specifically pre-designed complaint form and append his or her signature and formally submit it to LRCC office; or LRCC documents the complaint on behalf of the PAP. The LRCC members will assist those who cannot fill up the forms.
- A copy is maintained by LRCC and another copy passed to SCRCC.
- LRCC attempts to find a solution through arbitration, explaining, settling, or facilitating consensus dialogue.

[57] This is court that is proposed by the Constitution of Kenya 2010 to deal with resettlement and land disputes
[58] NLC is official mandated organization that makes compensation award under the Kenyan laws
[59] Same comment as footnote 71

- If not successful LRCC assists PAP to fill a complaints form appended with his/her signature and formally submits to the SCRCC.
- The DRCC holds a session with the aggrieved PAP and minutes recorded.
- SCRCC attempts to find a solution through arbitration, explaining, settling, or facilitating consensus dialogue. If resolved, SCRCC approves and the PAP collects his/her entitlements from NLC.
- If deemed necessary by the SCRCC, the case will be re-investigated and necessary corrective measure undertaken. ***Figure 2*** below show schematically how the grievances will be addressed.
- If not resolved, the complainant can seek redress in Environment and Land Court or register his/her case in any High Court in Kenya. The Land and Environment court deals specifically with land and environment related disputes of which resettlement and valuation are part. The legal option will only act as avenue of last resort and will be sought after all other redress mediums have been exploited and exhausted.

The Project thus will put in place an extra-judicial mechanism for managing grievances and disputes arising from the resettlement process based on explanation and mediation by third parties. Each of the affected persons will be able to trigger this mechanism, while still being able to resort to the judicial system. Procedures relevant to this amicable mechanism are detailed below. It will include three different levels.

- Registration by KENHA of the complaint, grievance or dispute;
- Processing by KENHA of the grievance or dispute until closure is established based on evidence that acceptable action was taken; and
- In the event where the complainant is not satisfied with action taken by KENHA as a result of the complaint KENHA, an amicable mediation can be triggered involving a mediation committee independent from the Project.

8.5.1 Grievance Registration and Monitoring

KENHA will establish a register of grievances, which will be available at the following locations:

- Community Liaison Officer in Project Office,
- Construction Site.

Figure 5 Implementation Arrangements

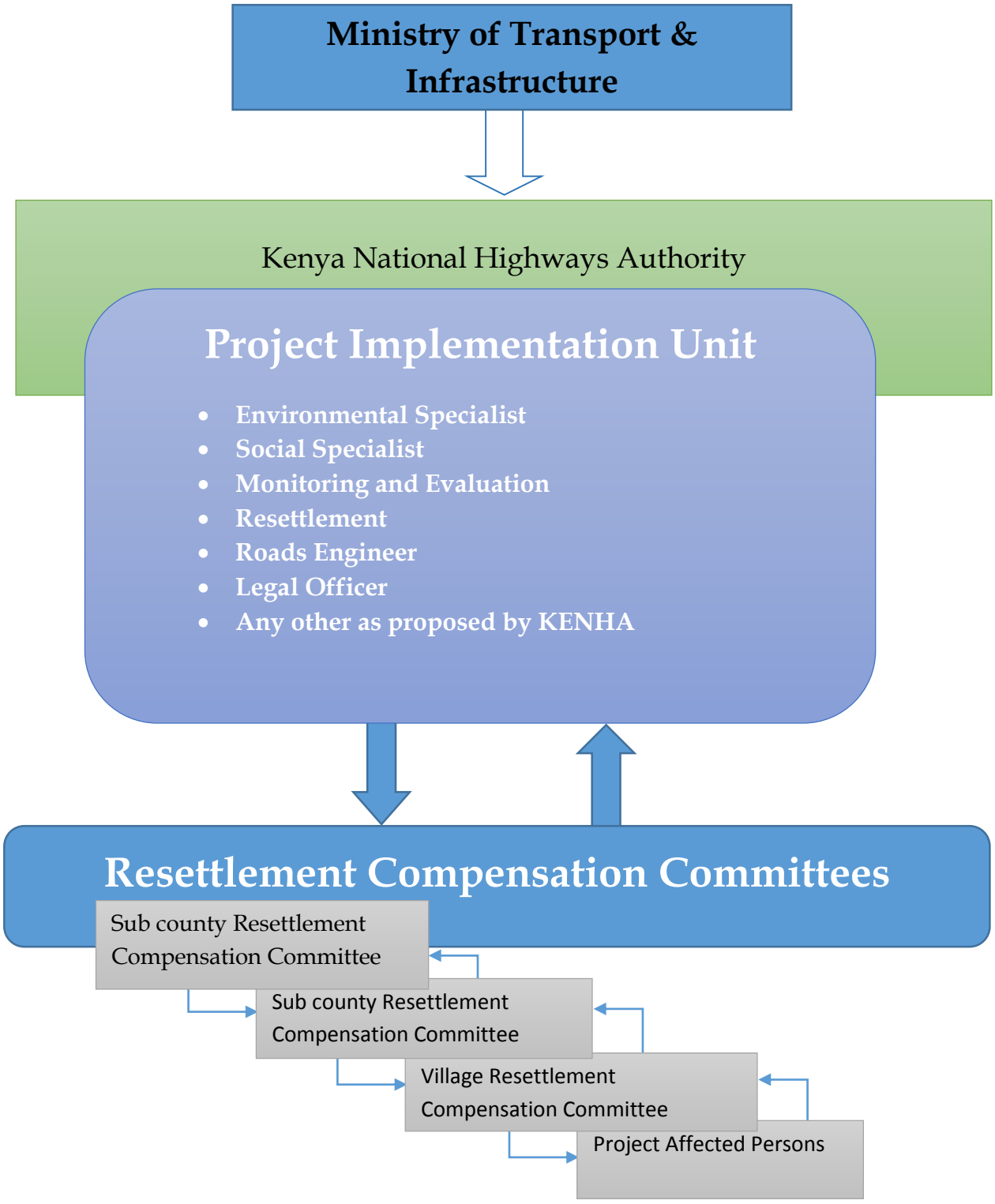
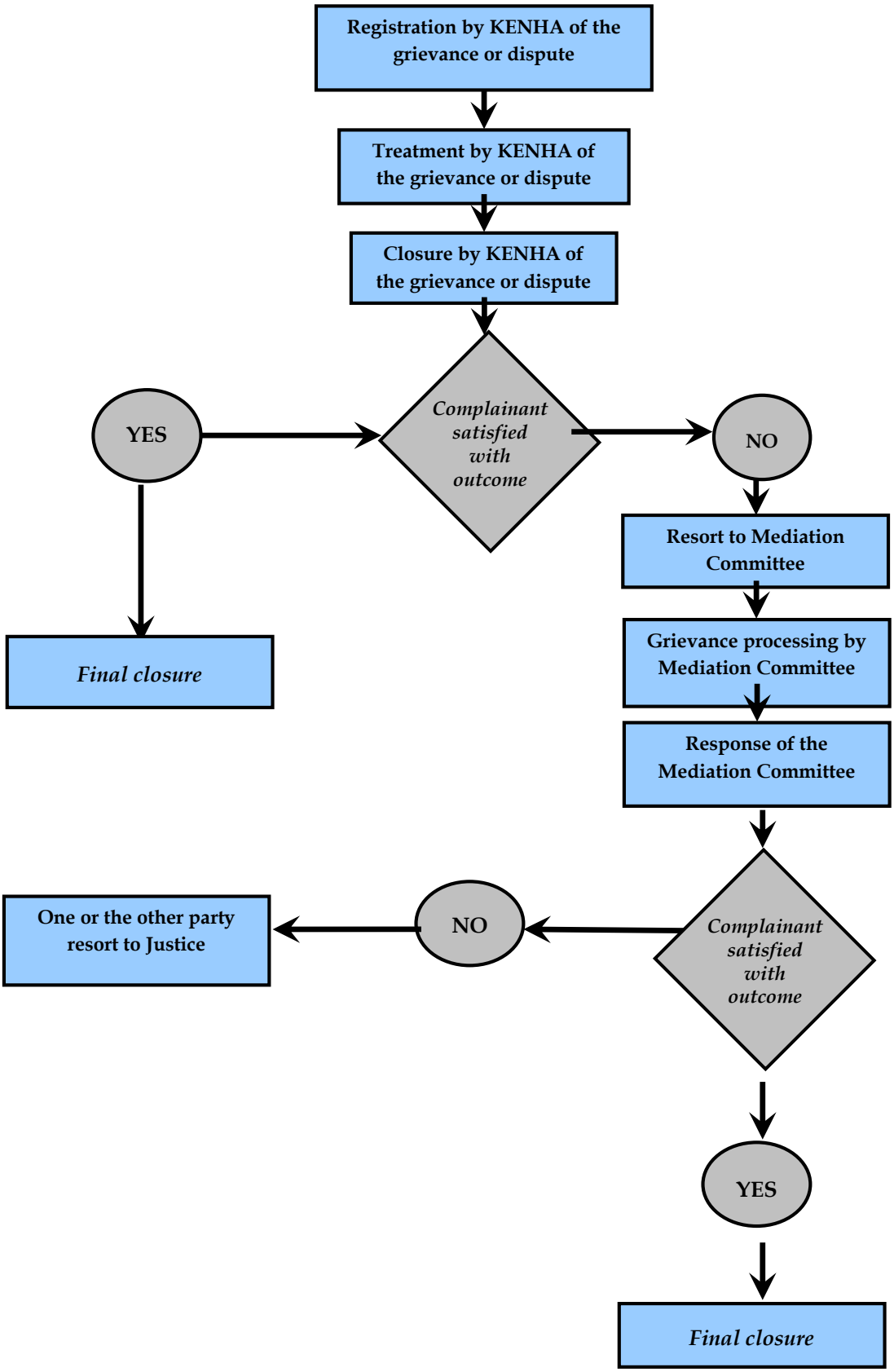


Figure 6. Grievance / Dispute Management Mechanism



The existence of this register, as well as procedures to lodge a complaint (where, when, etc.), will also be broadly advertised by KENHA. The register will be established as of the commencement of resettlement and compensation activities. For each grievance, a grievance file will be opened, including the following elements:

- Initial grievance sheet (including the description of the grievance), with an acknowledgement of receipt handed back to the complainant when the complaint is registered;
- Grievance monitoring sheet, mentioning actions taken (investigation, corrective measures); and
- Closure sheet, one copy of which will be handed to the complainant after he/she has agreed to the resolution and signed-off.

Complaint closure does not necessarily mean that the complainant is happy with action taken (KENHA may decide that the complaint is not founded, and that the RAP principles have been complied with). Closure means that the complainant agrees that action has been taken without necessarily being happy with the outcome.

8.5.1.1 Mediation Committee – Amicable Resolution Mechanism

Mediation Committee

Complaints that cannot be closed to the complainant's satisfaction will be handed over to a mediation committee that will include the following individuals:

- One representative of the local Administration;
- One KENHA representative acting as an observer;
- Three representatives of the affected people, including at least one woman, chosen from the Resettlement Committees and/or amongst community based organizations, elders, customary authorities,
- One representative of an NGO or of a religious organization present in the field in the concerned area and well regarded by the population.

The mediation committee will meet as needed, depending on registered complaints and disputes.

Processing

After a complaint or dispute has been registered, KENHA will prepare the technical background to the complaint (for instance, the proposed compensation amount, the list of meetings and interviews with the complainant, a description of the exact reason of the dispute, etc.) for consideration by the mediation committee.

The complainant(s) will be invited before the mediation committee, which will mediate and attempt to propose a solution acceptable to both parties (KENHA and

complainant). If need be, other meetings will be held and the committee may resort to one of its members to arbitrate in a less formal framework than meetings, if appropriate.

If reached, the agreement will be sanctioned by a settlement agreement signed by the parties, and the chair of the mediation committee will be responsible for monitoring the implementation of this agreement, which will include all references to the applicable local law provisions.

Grievances resolution are encouraged to be resolved at the village level, as they are aware of and involved in the whole process. If not resolved the high court (land and environment court) remain an avenue for voicing and resolving these complaints as is provided for by the Constitution of Kenya (CoK).

CHAPTER NINE

9 MONITORING AND COMPLETION AUDIT

9.1 General Objectives of Monitoring

Monitoring is a key component of the Resettlement Action Plan and is an integral part of KENHA's responsibility and obligations. It has the following general objectives:

- Monitoring of resettlement and compensation progress, of specific situations of economic or social difficulties arising from the implementation of the compensation and resettlement process, and of the compliance of the actual implementation with objectives and methods as defined by World Bank Principles, Rwandese regulations and this RAP;

- Audit of the completion of the resettlement program, through and assessment of the short- mid- and long-term impacts of the compensation and resettlement program on affected households, their incomes and standards of living, the environment, local capacities, housing, etc.

Monitoring allows to correct implementation methods "in real time" during Project implementation, and also to check whether general objectives have been met and whether the resettlement and compensation program can be deemed complete. Monitoring and auditing include an internal tier and an external tier.

9.2 Internal Monitoring

9.2.1 Objectives

Monitoring will address the following aspects:

- Social and economic monitoring: follow-up of the status of PAPs, cost of housing in the displacement area, potential land speculation, environmental and health situation, livelihood restoration including agriculture, small businesses, employment and other activities;
- Monitoring of vulnerable people;
- Technical monitoring: supervision of infrastructure and housing construction where relevant, commissioning and testing of the technical components of the resettlement housing; and
- Grievances and grievance management system.

9.2.2 Indicators and Frequency of Monitoring

During the active phase of resettlement and compensation, the following key progress indicators will be measured internally by KENHA on a quarterly basis:

- Numbers of households and individuals affected by Project activities;
- Numbers of households and individuals displaced as a result of Project activities;
- Numbers of structures taken possession of by PAPs;
- Grievances (open, closed); and
- Amounts of compensation paid per category (structures, land, crops, others).

A brief quarterly internal monitoring report will be prepared on this basis. It will be publicly disclosed. In addition, simple socio-economic parameters will be established and monitored annually for a sample of about 20% of PAPs, for instance the following:

- Average monetary income, and total income including self-consumption;
- Breakdown of household expenditures;
- Surface area of land holdings,
- Crops and estimated or observed yields,
- Number of unemployed people; and
- Number of children at school.

Every two years, the socio-economic quality of life index will also be measured and calculated to allow comparisons. This will require socioeconomic surveys to be administered once every two years for 3 years on a sample of about 20% of PAPs.

9.3 External Monitoring

KENHA will hire a suitably qualified external social auditor with significant experience in resettlement to carry out two reviews annually with reviews focusing on the assessment of compliance with social commitments contained in Kenyan legislation, in the World Bank Principles, in this Resettlement Action Plan(s), in the ESIA and its attached action plans, and in the Social Management Plan.

Objectives of these six-monthly reviews are as follows:

- To assess overall compliance with the RAP and other social commitments made in the Environmental and Social documentation,
- To verify that measures to restore or enhance Project-Affected Peoples' quality of life and livelihood are being implemented and to assess their effectiveness,
- To assess the extent to which the quality of life and livelihoods of affected communities are being restored in an appropriate manner.

Beyond commitments identified in this Resettlement Action Plan, this review will also assess overall compliance with other mitigation measures to address non resettlement-related social impacts described in the ESIA, the SMP and the Contractor Plans. The types of commitments that will be verified by the external monitoring expert include the following:

- Pollution prevention - dust and noise management in communities,
- Community safety - awareness raising programs in communities on communicable diseases; community awareness of project traffic routes and traffic safety briefing,
- Infrastructure and services - reinstatement of damaged infrastructure and compensation process; and roads shared with the public are maintained in reasonable condition
- Community liaison - community awareness of project activities; complaints procedures; camp rules; recruitment process; project traffic speed limits; pre-warning of blasting, noisy activities and other planned disruptions; procurement process and regular community meetings and access to community liaison officers,
- Grievance management – follow up of grievances reported; accessibility of Community Liaison Officers; community awareness of complaints procedures and complaints close out.

External monitoring reports will be prepared independently by the reviewer and released to the lenders and to the public depending) after review by KENHA for factual accuracy.

9.4 Resettlement Completion Audit

The purpose of the Completion Audit is to verify that the project has complied with resettlement commitments defined by the RAP, and more generally if compliance with World Bank procedures on involuntary resettlement is warranted. Reference documents for the Completion Audit are the following:

- This Resettlement Action Plan,
- Kenyan laws as they are described in Section 4 of this RAP,
- Reference policies contained in World Bank procedures related to involuntary resettlement.

The Completion Audit has the following specific objectives:

- General assessment of the implementation of the RAP against the objectives and methods set forth in the RAP,
- Assessment of compliance of implementation with laws, regulations and safeguard policies;

- Assessment of the fairness, adequacy and promptness of the compensation and resettlement procedures as implemented;
- Evaluation of the impact of the compensation and resettlement program on livelihood restoration, measured through incomes and standards of living, with an emphasis on the "no worse-off if not betteroff" requirement; and
- Identification of potential corrective actions necessary to mitigate the negative impacts of the program, if any, and to enhance its positive impacts.

The Completion Audit will be based on documents and materials generated by internal and external monitoring. In addition, auditors will make their own assessments, surveys and interviews in the field and with Project-Affected- People.

CHAPTER TEN

10 PUBLIC CONSULTATIONS AND DISCLOSURE

The overall goal of consultation and stakeholder engagement is to establish an on-going, accessible and constructive dialogue with potentially affected parties and other interested organizations and individuals, so that their views and concerns can be taken into account in decisions about the Project in accordance with international good practice.

In line with the relevant international requirements, consultation with and participation of affected communities and individuals are key elements of the RAP development and -implementation process. One essential aspect of this approach is the establishment of a robust process to redress the grievances of affected people (see above). Consultation with the affected population and with officials of local government, civil society and other representatives of the affected population is essential in order to achieve an in-depth understanding of types and extents of Project impacts as well as of required measures for mitigation and enhancement (livelihood restoration measures).

10.1 Previous Consultation and Reflection in the Planning Process

Consultation with affected communities started even before the on-set of the RAP preparation, this was especially in February 2013, when the design of the Project was final enough to allow the disclosure of a clearly identified and delineated footprint, which made it possible to give residents a clear indication of the impacts.

Public consultations were held primarily during the following periods;

1. During the development of the Environmental and Social Impact Assessment (ESIA)-2013
2. During the preparation of Feasibility Study report in 2013
3. During the preparation of the RAP in 2013

In 2013, during the development of designs and conducting of feasibility study, a comprehensive government stakeholder consultation process was developed in order to engage as soon as possible with government authorities in obtaining their views, advice and participation in defining the socio-economic and environmental impacts of the project and the most adequate mitigation measures to apply. This was also a particularly important step in terms of gaining a better understanding of resettlement impacts.

Public meetings were held at pre-selected sites along the project route, these included:

a. Lesseru/Maili Tisa;
b. Soy;
c. Nangili;
d. Matunda;
e. Moi's Bridge;
f. Kitale;
g. Maili Saba;
h. Kibomet/Saint Marys
i. Makutano;
j. Sakat;
k. Lounon;
l. Chepareria;
m. Chepkoniswo;
n. Sebit;
o. Ortum; and
p. Marich Pass

Generally, from the engagement, it come out clear that proposed upgrading project is welcome, as it would improve transport and communication links within the area/region and will be beneficial for the local economy. Listed in the table below are the major/key issues raised by the public during the consultative meetings:

Table 29. Major/Key issues raised by the public during the 1st consultative Meetings

Issues	Responses
When is the road construction expected to start?	No time given. However, construction will start once the final engineering design is done and finances for the construction are available, this may take at most 3 years. Local leaders will be notified before construction starts.
Will the local people be considered for employment?	The contractor(s) will be asked to give the local people first priority in employment of skilled and unskilled labour
Who is entitled to compensation?	Those who were earning a living or own property (land and structures) along the project corridor as on 25th February 2013 (the fixed cut off date).
Why will the government compensate for this specific project and not other projects elsewhere (e.g. the Langata demolitions)?	The design phase of the projected is funded by World Bank; hence it must a bid by the bank's guidelines on evictions and resettlement.
How much will be the compensation?	A registered valuer will visit the affected parties to cost / determine the amount to be paid as compensation. However, those dissatisfied with the value given will be free to appeal in court.
Will compensation be given before construction starts? Will a vacate notice given.	Yes, compensation will be given before road construction starts. A humble notice will be given for the affected parties to vacate before construction starts.
Will the road retain the current dangerous route at Kamatira Hills?	Yes. However, there will be some realignment at Kamatira Forest section to reduce the road grades.

Where will the road construction materials be sourced?	The road design engineers have identified suitable construction materials sources in the area, owners of the material sites will be compensated by the contractor(s)
Will those people who have voluntarily removed / demolished their structures which were in the road reserve be compensated?	Yes, if the structures had not been demolished by 25th February 2013 (the fixed cutoff date).
What measures will be in place to protect the local people from environmental pollution and safety during the construction period.	An EIA Study has been undertaken and has captured the concerns of local people. Appropriate mitigation measures (e.g. dust suppression, speed limits, provisions of deviations, etc.) have been recommended.

10.2 Second Round Of Consultations Held In December 2014

In December 2014, consultations with affected communities in project were performed as part of the review and update of the RAP. Consultations were conducted after preparatory meetings with authorities of County and administration and the PAPs along the project corridor.

Community consultations were carried out to assure broad based, uniform awareness and understanding of the forthcoming road improvement project. To achieve this goal, larger settlement or towns were identified and smaller settlements were combined for efficiency; thereafter, local and or civil leaders were asked to convene meetings of people within their areas at agreed-upon dates and times.

The project was described for the attendees, underscoring the social and economic benefits of an improved road to residents in the service. The maps upon which affected buildings, structures and other properties had been highlighted were circulated to community members in each consultation for their inspection and discussion. In the course of the fieldwork, photographs for affected buildings, structures and other properties in Marich Pass, were taken and recorded by the consultant's land and property valuer.

Constituted at the sub-location level, two important compensation related committees – the compensation committee, which directs and monitors the process of compensation payments to PAPs and the grievance committee, which seeks to negotiate contested aspects of compensation related to the road improvements project – were described at each consultation by the consultant's sociologist. The compensation committee is to be composed of representative from KeNHA.

- Representative from Kenya National Highways Authority (KENHA)
- National Land Commissions
- County Land Board
- National Administration
- County Administration

- Non-Governmental Organization with local representation.
- Community Leaders
- Community Leaders – elders, religious and traditional alike
- Women groups
- Youth groups.

Member of each committee were selected by the communities attending the consultation. The names and affiliation of members are found in the community attendance list. The report briefly reviews the proceedings of a consultation session in each respective community, culminating in a list of issues and concerns specific to that community. These lists share in common many issues and concerns, however, they do reflect some differences between communities about particular issues. A list of attendees at all consultations is appended to the report as Appendix.

In the main, the objectives of consultation held during the period in December 2014 with communities to be affected by improvement of the Lesseru–Marich Pass road were threefold:

- To inform the affected public about the purpose of the forthcoming road project.
- To discuss more specifically the realignment and ROW expansion planned to the existing Lesseru–Marich Pass road and their consequence to occupants located in these lands.
- To solicit the issues and concerns from the affected communities about the forthcoming road improvement project
- To inform them the reason for updating the RAP report

The consultation were held at following location illusatrated in **Table 29** below:

Table 30 Consultations with Project Affected PAPs

Location	Venue	Date	Number of Participants
Chepareria Post Office	Chepareria Post Office	9th December 2014	**37**
Chepareria-Sebit	Parua location	7th December 2014	**27**
Marich	Marich Shopping Centre		**11**
Kapenguria-Kamatira	Kamatira Shopping Centre	8th December 2014	**10**
Kamatira-Kipkarus			**45**
Psigirio-Mmagei	Makutano Dispensary	8th December 2014	**37**
Sebit Shopping Centre	Sebit Shopping Centre	9th December 2014	**51**
Waitaluk	Waitaluk Shopping Centre	5th December 2014	**32**
Sirende	Sirende Shopping Centre	5th December 2014	**25**
Matisi	Matisi Shopping Centre	5th December 2014	**50**
Sinyereri-Kwanza	Sinyereri-Kwanza		**38**
Sitatunga -Kasaigat	Sitatunga -Kasaigat	6th December 2014	**28**
Total			**391**

Settlements situated along the road are indicated to give perspective to the location of the communities consulted and to the issues and concerns voiced by the people attending the consultation. In instances where settlement

10.2.1 PROCEEDINGS OF COMMUNITY CONSULTATIONS

Sirende – Waitaluk

The area is referred to as Waitaluk and Sirende. Currently the stretch is in poor state with prevalent potholes at Waitaluk - Sirende stretch. The state of the road also greatly contributes to frequent wear and tear of vehicles. County Ward Administrators and District Officer - Sirende, mobilized the community members on 3rd December 2014. The meeting was held at the District Officer's office ground. The attendees were 60 in numbers. After informing the gathering about the planned road construction, the consultation team explained that the new road would be realigned following the existing road, where warranted to improve road safety and increase travel speeds. To clarify the consequence of the forthcoming realignments on the existing building, structures and properties in the ROW, the attendees were provided with the air photos on which ROW and buildings, structures and properties with it were mapped and outlined in red.

The table below shows the key issues and responses during the consultation period.

Table 31 Issues and Concerns at Waitaluk - Sirende

Community Issues and Concerns	Consultation Team Responses
How will private land be compensated and what will be process of compensation?	All affected person will have their any of their lost land valued and captured in the entitlement in a Resettlement Action Plan (RAP). The approved list for compensation will then be published in the local dailies by The National Land Commission (NLC) and thereafter if no contentions arise as to the ownership, payment will be made. Those with or without title deeds will also be compensated provided they have the relevant documentation to prove ownership. Payment will then be made after valuation and based on market value.
What process would be used to identify those that would be compensated and at what value?	Anybody impacted by the project will qualify for fair and just compensation based on market rates of land.
I have planted my trees on public land at Lord Keringet after Maili Saba.	First and foremost, you will be granted time to harvest all your trees, the trees will be valued and you will be compensated for them.

Will you compensate for loss of trees on public land too?	
What is the correct size of road and will compensation be done on affected persons whose land would be encroached by the expansion of the road.	The road size on Waitaluk – Sirende is 60metres wide and any encroachment outside the 60metres into private land will be fully, fairly and justly compensated.
What is the legitimacy of previous surveys done without their community involvement?	Due to the magnitude of the project it was not possible to involve everyone and the reason the forum is held today. The government will deal with individual landowners during compensation and that GPS coordinates will be used during surveying for accuracy. Consultations will be on-going through Resettlement Committee that have been formed. They will carry the consultation between the contractor, the Government and community.
They have been many accidents in the some section of the roads. There is need to erect bumps in notorious areas to curb further accidents. These areas include: a) Sirende Primary b) Friends Secondary c) St. Johns Secondary d) Lamp Lighter Primary e) Machungwa Primary f) Machungwa Secondary g) Sieyenga	Bumps were considered on various sections of the road during the design stage. We will verify if the following additional sections can be considered - Sirende Primary, Friends Secondary, St. Johns Secondary, Lamp Lighter Secondary, Machungwa primary, Machungwa secondary and Sieyenga
KENHA should consider providing culverts in sections diverting into villages or other rural roads or homestead. The following sections are suggested: a) Karara – road to Karara b) Moi's Bridge (Kapkoi secondary schooks c) Friends Secondary d) St. Johns Secondary e) Lamp Lighter Primary f) Machungwa Primary g) Machungwa Secondary	The design has ensured that culverts are placed at every entrance or diversion to public schools. For safety purposes, the contractor will verify the need of culverts at Sirende Primary, Friends Secondary, St. Johns Secondary, Lamp Lighter Secondary, Machungwa primary, Machungwa secondary.

The following section was proposed for a road bus parking space for unloading and loading passengers and goods. The sections suggested include a) Junction Kapikoi b) Junction of Korara. c) Sienga d) Kwa Muthoni	The section will be considered during design review for bus parking space.
When will compensation be made?	Compensation will be done just before the project commences.
How will locals benefits from employment opportunities offered by the project?	It is Government policy to ensure that the locals benefit from employment opportunity provided by the project particularly unskilled labour, which will be sourced locally.

In addition to the issues and concerns enumerated above, the following general comments were made about the road which, in its present degraded condition of the road. The participants thought the road would:

- *Improve transportation and mobility due to increased number and availability of motor vehicles.*
- *Improve business and trade opportunities between counties*
- *Open up trade with South Sudan enabling regional trade.*
- *Attract investment in Trans Nzoia County.*

Matisi – Hospital Ward - Kitale Town,

Kitale is an agricultural town along Lesseru – Marich Pass road. It has an elevation of around 1,900 metres. Its population is 106,187 as of 2009 census. It is the administrative centre of Trans-Nzoia County. The meeting opened with a word of prayer from Irene Nang'ole, the Ward Administrator of Matisia. The consultant explained the reason for convening the meeting and thanked the community members who were in attendance for creating time to discuss the impact of the project. It emerged from the meeting that majority of the people in attendance had plots adjacent to the road and had developed them. Others had business entities while others feared they would be affected as a result of diversions that would be created during construction. The community in attendance was from Hospital, Matisi, Bidii wards. The community concerns are outlined in the table below:

Table 32 Issues and Concerns - Matisi

Community Issues and Concerns	Consultation Team Responses

How will valuation be done?	All affected immovable property or asset will be valued at market rates and compensated for by Government.
How will people settling on land without title deeds be compensated and whether those on government land will qualify for the same?	Anybody impacted by the project will qualify for fair and just compensation based on market rates of land. Efforts will be made to establish to exact ownership of the land from Land Department. However those on Government land would not be compensated but will be given some livelihood support
What is the correct size of road and will compensation be done on affected persons whose land would be encroached by the expansion of the road.	The road size on Kitale town – Hospital ward is 40metres wide and any encroachment outside the 40metres into private land will be fully, fairly and justly compensated.
What is the legality of compulsory land acquisition	The Constitution of Kenya 2010 and Lands Act 2012 vested powers of Compulsory Acquisition on the government – NLC in particular, to compulsorily acquire land for development with just and fair compensation at market rates.
Why were consultations not been done during the design stages?	Consultations were held during the design stages and we have minutes and attendance list to prove that they were done. KENHA takes consultations seriously and must undertake consultation at every stage of any road project.
The economy of the population is largely dependent on small-scale businesses including boda bodas (passenger motor cycles) and there is need to incorporate them on the design to reduce the number of accidents.	More space will be created on the pavements and the road in town widened to facilitate boda boda motorcyclists. The design has factored this plus pedestrians use where necessary.
The road drainage system should not flood people farms as is the current design since this would negatively affect our farms	The feasibility study has factored in the whole aspect of the road drainage system and where possible avoided flooding individual farms. All drainage water will be directed to the rivers by-passing the roads. The link roads will also be tarmacked to some extent especially those that lead to public utilities.
Our youth should benefit from employment opportunities offered by the project	The project will provide opportunity for employment and small community procurements to the locals. Each road section will have opportunity for recruitment of the local youths. The contractors will lease with the chief for specific arrangements on this.

When will compensation be made?	Compensation will be done just before the project commences which could be next year.
How will locals benefits from employment opportunities offered by the project?	The Government will ensure that locals benefit from employment opportunity provided by the project particularly unskilled labour will be sourced locally.

In addition to the issues and concerns enumerated above the following were general comments about the road:

- The community was supportive of the road construction
- They believe road will ease transport between different counties along the road
- Trade between communities in Kenya and South Sudan will be enhanced with more imports and exports expected.
- Improved road will enhance development of urban centres
- The road construction should begin immediately since it is long overdue.

Maili Saba – Sitatunga - Sinyereri – Kwanza

The area is comprises of two regions separated by the highway. The stretch from Sinyereri - Maili Saba has potholes patched with soil by the locals and is also in a dilapidated state. It is with this in mind that the community would like the road construction process be expedited to facilitate easy transport and movement of goods. The meeting covered Maili Saba, Sitatunga, Sinyereri and Kwanza locations. The consultant explained the reason for convening the meeting as SS-EARTDFP and thanked the community members who were in attendance for creating time to discuss the impact of the proposed project. The chief of the area also took time to give a brief history of the project and the expected impact as a result of its execution.

Table 33 Issues and Concerns - Maili Saba

Community Issues and Concerns	Consultation Team Responses
What will be the mode of payment free of corruption?	KENHA will make payments through National Land Commission (NLC). Payments will be made payments to Project Affected Persons' (PAPS) bank accounts. This is expected to limit cases of corruption.
Will Government factor in a disturbance allowance due to inconveniences caused by resettlement?	Yes. Disturbance allowance of 15% of total valuation of assets will be factored in the compensation package to settle inconveniences caused by resettlement process.
What process would be used to identify those that would be compensated and at what value?	Anybody impacted by the project will qualify for fair and just compensation based on market rates of land.

What is the correct size of road and will compensation be done on affected persons whose land would be encroached by the expansion of the road.	The road size on Sinyereri – Kwanza section is 40 metres wide and any encroachment outside the 40 metres into private land will be fully, fairly and justly compensated.
Shall we continue to be involved even during the survey?	Survey work has actually been done and the community has been involved all along. During actual compensation the community will continue to be involved through Resettlement Committees already established.
KENHA should consider erecting bumps in the following areas to curb accidents especially those related to pedestrians: a) Sirikwa b) Milima Primary school, c) Kesogon centre d) Rehema Primary School e) Kipsaina Market (PAG) f) Satellite	Bumps have been considered on various sections of the road during the design stage. We will verify if the following additional sections can be considered during design review.
An underpass bridge should also be constructed at Sinyereri Bridge to allow rare antelopes (Sitatungas) to cross.	Proper road signs particularly those intended to improve safety and protection of rare Sitatunga antelope species will be erected. A proposal for Underpass Bridge will also be made for consideration during design review.
Proper road signs (preferably those made of other materials other than metal) should be erected at relevant points with security lights stationed in every market area.	Proper road sign will be made at relevant points to enhance road safety using appropriate materials that does invite theft.
Is it possible to construct shades at every bus stage?	Shades are not within the mandate of KENHA but the County Government at respective points.
KENHA should consider providing culverts in sections diverting into villages or other rural roads or homestead.	The design has ensured that culverts are placed at every entrance or diversion to public schools. Other additional culverts will be made at the recommendation of the community.
When will compensation be made?	Compensation will be done just before the project commences.

How will locals benefits from employment and business opportunities offered by the project?	The Government will ensure that locals benefit from employment opportunity provided by the project particularly unskilled labour will be sourced locally.

The community appreciated the consultative forums and requested the government to update them regularly on progress made as they would be central to the success or failure of the project. Other general comments made during the meeting included:

- The community were in support of the project and welcomed fully the rehabilitation of the road.
- There was a feeling that the road would enable faster communication and movement of goods.
- The road will also open up other small roads.

Psigirio – Makutano

The consultation meeting was held in 8th December 2014. The County Government and Chief helped in the mobilization of the community participants. The chief welcomed the members present and thanked them for attending the meeting though it was a market day. The community members in turn expressed their support to have the road construction process expedited. Those that would be affected and had knowledge of encroaching the road willingly accepted to move to pave way for the construction process. Participants present were mainly from Psigirio – Makutano stretch of the highway.

Table 34 Issues and Concerns - Psigirio - Makutano

Community Issues and Concerns	Consultation Team Responses
What will be the mode of payment free of corruption?	KENHA will make payments through National Land Commission (NLC). Payments will be made payments to Project Affected Persons' (PAPS) bank accounts. This is expected to limit cases of corruption.
Will compensation be fair and how will you evaluate fairness of compensation?	Compensation will be fair since it will be based on current market rates. The law says just and fair compensation.
How shall we know that we are project-affected persons?	The project follows the current ROW. Those within the ROW will have to move and where we have new alignment or adjustments, just and fair compensation will surely be made. Project Affected persons have already been informed of the same.
What is the correct size of road and will compensation be done on affected persons whose land will be	The road size on Psigirio – Makutano section is 60 metres wide and any encroachment outside the

encroached by the expansion of the road.	60 metres into private land will be fully, fairly and justly compensated.
It was important that ablution blocks be constructed for the road users to avoid travelers using the forests to relive themselves. This always infringes on our culture and will not be entertained by the locals. The contractor should also respect the culture and norms of the community.	The contractor will be requested to ensure that ablution facilities are put in place in all project sites areas to ensure that the environment where we have construction is not polluted.
There is also need to erect bumps in the following areas to curb accidents especially those related to pedestrians: a) Bondeni – Kamwotyny centre b) Murkwijit centre c) Tarau juction	Bumps were considered on various sections of the road during the design stage. We will verify if the following additional sections can be considered during design review. The design has also considered comprehensively the issue of road signs.
KENHA should consider providing culverts in sections diverting into villages or other rural roads or homestead.	The design has ensured that culverts are placed at every entrance or diversion to public schools. Other additional culverts will be made at the recommendation of the community.
We have had previous road sign stolen by people in business of scrap metals?	Proper road signs (Preferably those made of other materials other than metal) will be erected at relevant points especially cattle and children's crossings with security lights stationed in every market area.
How shall the project ensure the safety of our livestock?	Proper road signs indicating drivers to be careful will be erected at relevant points especially where we have cattle and children's crossings.
Shades should also be constructed in every stage especially at Kamwotiyny, chief's place, Tartar junction and Rumaita stage.	Shades construction is the responsibility of County Government and not KENHA.
When will compensation be made?	Compensation will be done just before the project commences.
How will locals benefits from employment and business opportunities offered by the project?	The Government will ensure that locals benefit from employment opportunity provided by the project particularly unskilled labour will be sourced locally.

Generally, most of the community members (98%) at Psigirio were in full support of the project and welcomed fully the rehabilitation of the road to improve communication and movements of people and goods.

- The community appreciated the consultative forums and requested the government to update them regularly on progress made as they would be central to the success or failure of the project.
- The community were very excited about the forthcoming road, advising that it should start soon.

Sebit Consultation Meeting

The chief welcomed the members present and thanked them for attending the meeting. He welcomed the construction of the road on behalf of the community. KENHA consultant explained the reason for convening the meeting – the scope of SS-EARTTDFP and the importance of their consultations and thanked the community members who were in attendance for creating time to discuss the impact of the SS-EARTTDFP proposed project. Community members in attendance were those living along Sebit stretch of the Lesseru – Marich Pass highway.

Table 35 Sebit Consultation Meetings

Community Issues and Concerns	Consultation Team Responses
What will be the mode of payment during compensation?	KENHA will make payments through National Land Commission (NLC). Payments will be made payments to Project Affected Persons' (PAPS) bank accounts. This is expected to limit cases of corruption.
Is it possible to get road survey maps for the area and place it with the local chief for verification?	The survey maps will be provided by KENHA and County Land Board through the Chief's office for Project Affected Persons (PAPs) to ascertain their land and boundaries.
Will encroachment outside the 60 metres be compensated?	Yes. Any encroachment outside Government 60 metres width will be fully, fairly and justly compensated for any lost asset as a result of road construction.
What process will be used to identify those that will be compensated and at what value?	Anybody impacted by the project will qualify for fair and just compensation based on market rates of land.
What is the correct width size of road and will compensation be done on affected persons whose land would be encroached by the expansion of the road.	The road size on Sebit - Chepareria section is 60 metres wide and any encroachment outside the 60 metres into private land will be fully, fairly and justly compensated.
It was important that ablution blocks be constructed for the road users to	The contractor will be requested to ensure that ablution facilities are put in place in all project

avoid travelers using the forests for the same. This infringes on our culture.	sites areas to ensure that the environment where we have construction is not polluted.
KENHA should consider erecting bumps in Sebit shopping centre, cattle dips and schools. Proper road signs preferably those made of other materials other than metal should be erected at relevant points especially cattle and children's crossings with security lights stationed in every market area.	Bumps were considered on various sections of the road during the design stage. We will verify if the following additional sections can be considered during design review. he design has also considered comprehensively the issue of road signs.
Will there be compensation for animals killed by speeding vehicles after road construction?	No. This is between the speeding driver and the owner of the animals. Or the insurance company that has insured the vehicle. However, in notorious sections where we have frequent animal accidents, speed bumps will placed to reduce speed.
KENHA should consider providing culverts in sections diverting into villages or other rural roads or homestead.	The design has ensured that culverts are placed at every entrance or diversion to public schools. Other additional culverts will be made at the recommendation of the community.
When will compensation be made?	Compensation will be done just before the project commences.
How will locals benefits from employment and business opportunities offered by the project?	The Government will ensure that locals benefit from employment opportunity provided by the project particularly unskilled labour will be sourced locally.

The community appreciated the consultative forums and requested the government to update them regularly on progress made toward the construction of the roads. Other general comments made during the meeting included:

- The community were in support of the project and welcomed fully the rehabilitation of the road.
- They insisted that each section should draw workers from communities coming from those area.
- There was a feeling that the road would enable faster communication and movement of goods in the region.

Kamatira – Chepareria Trading Centre

The chief welcomed the members present and thanked them for attending the meeting. The consultant explained the reason for convening the meeting – the scope of SS-EARTTDFP and the importance of their consultations and thanked the

community members who were in attendance for creating time to discuss the impact of the SS-EARTTDFP proposed project. Community members living along *Makutano – Kamatira - partly Chepareria* stretch of the Lesseru – Marich Pass highway were in attendance. The following were the concerns raised by the community along the stretch.

Table 36 Kamatira Consultation Meeting

Community Issues and Concerns	Consultation Team Responses
How will Project Affected Persons (PAPs) be compensated fairly for their land?	Compensation will be fair since it will be based on current market rates. The law says just and fair compensation.
Is it possible to get the maps for the area and place it with the local chief for verification?	Yes, it is possible to get maps for the area. The maps will be placed at the chief's place for easy accessibility.
What is the correct size of road between Kamatira-Chepareria?	The road size on Kamatira – Sebit section is 50 metres wide and any encroachment outside the 50 metres into private land will be fully, fairly and justly compensated.
We would ablution facilities be constructed for the road users to avoid travelers using the forests to relieve themselves?	As per the design of the project the contractor will ensure toilets are constructed for workers working on the road project.
We have cultural trees at Bendera, will the project facilitate the cutting and transfer of this tree?	The project will facilitate the cost of transfer of cultural trees from Bendera to the site of choice of the community. All the accompanying costs will be met by the project.
The current design of the Kamatira stretch is a death trap as the design has many flaws especially going downhill. Many accidents have occurred at the sport as a result of the poor design. The government should redesign the stretch. There is need to erect bumps in the following areas to curb accidents especially those related to pedestrians: a) Karas b) Tunnel at Ng'ombe Moja and St. Mary's c) Kamatira Shopping Centre d) Tandana e) Soko Mjinga f) Yang'at and Kabesi	The Kamatira stretch will be re-designed and diverted. The Government is aware about the many accidents on the stretch and that is why it has re-designed the section. Bumps have also been considered on various sections of the road during the design stage. We will verify if the following additional sections can be considered during design review.
KENHA should consider providing culverts in sections diverting into	The design has ensured that culverts are placed at every entrance or diversion to public schools.

villages or other rural roads or homestead.	Other additional culverts will be made at the recommendation of the community.
There has been theft of previous road signs placed on the road? How do you plan to save our roads?	Proper road signs made of other materials other than metal will be erected at relevant points.
Will shades be provided at the following areas Karas, Kamatira, Tantana, Bendera and St. Marys There is also need for a roundabout at Lelan	Shades are not within the mandate of KENHA but of the County Government
How will our cattle and children be protected from the speeding cars?	There will be road signs indicating to the speeding drivers the need to slow down due to presence of large number of livestock in the area.
When will compensation be made?	Compensation will be done just before the project commences.
How will local benefits from employment and business opportunities offered by the project?	The Government will ensure that locals benefit from employment opportunity provided by the project particularly unskilled labour will be sourced locally.

The locals also insisted that that contracts of manageable items should be awarded to them as well as manual jobs and technical ones where possible. Other comments made during the meeting include:

- The contractor should be put to task to ensure that he observes and respects labour their rights.
- The community appreciated the consultation forums and requested the government to update them regularly on progress made.
- Most of the community members in attendance at Chepareria Market were in full support of the project and welcomed fully the rehabilitation of the road to improve communication and movements of people but most importantly the Kamatira stretch.

Chepareria – Chepkornizo – Morpus Consultation Meetings

The attendants were mobilized from Chepareria, Chepkornizwo, Morbus, Kambi Kuku and partly Chepareria. The chief (Gabriel) welcomed the members present and thanked them for attending the meeting. He welcomed the construction of the road on behalf of the community. The consultant explained the reason for convening the meeting – the scope of SS-EARTTDFP and the importance of their consultations and thanked the community members who were in attendance for creating time to discuss the impact of the proposed project.

Table 37 Chepareria - Chepkornizo - Morpus Consultation Meeting

Community Issues and Concerns	Consultation Team Responses

How will Project Affected Persons (PAPs) be compensated fairly for their land?	Compensation will be fair since it will be based on current market rates. The law says just and fair compensation.
Is it possible to get the maps for the area and place it with the local chief for verification?	Yes, it is possible to get maps for the area. The maps will be placed at the chief's place for easy accessibility.
How shall we know that we are project-affected persons?	The project follows the current ROW. Those within the ROW will have to move and where we have new alignment or deviations from ROW, just and fair compensation will surely be made. Project Affected persons have already been informed of the same.
What is the correct size of road between Chepareria-Sebit and will compensation be done on affected persons whose land would be encroached by the expansion of the road.	The road size on Chepareria – Sebit section is 60 metres wide and any encroachment outside the 60 metres into private land will be fully, fairly and justly compensated. In Chepkornizwo, Morbus, Kambi Kuku and Chepareria the ROW is 50 metres wide
It was important that ablution blocks be constructed for the road users to avoid travelers using the forests for the same.	The contractor will be requested to ensure that ablution facilities are put in place in all project sites areas to ensure that the environment where we have construction is not polluted.
There is also need to erect bumps in the following areas to curb accidents especially those related to pedestrians: a) Kapkatanyan b) Mongorion Junction c) Kodoso Junction d) Orusho Junction e) Chepkomizo centre f) Talon Academy and Ng'ing'in g) Chepareria health centre h) St. Cecilia and Cherubai i) Sikowo and Jerusalem Academy	Bumps were considered on various sections of the road during the design stage. We will verify if the following additional sections can be considered during design review. The design has also considered comprehensively the issue of road signs.
KENHA should consider providing culverts in sections diverting into villages or other rural roads or homestead.	The design has ensured that culverts are placed at every entrance or diversion to public schools. Other additional culverts will be made at the recommendation of the community.
There has been theft of previous road signs placed on the road? How do you plan to save our roads?	Proper road signs made of other materials other than metal) will be erected at relevant points.
How will our cattle and children be protected from the speeding cars?	There will be road signs indicating to the drivers of the need to slow down due to presence of large number of cattle and children's crossings

When is construction expected to begin?	Once the design review has been finalized, compensation made and procurement completed for the contractor, then construction will begin immediately.
When will compensation be made?	Compensation will be done just before the project commences.
How will locals benefits from employment and business opportunities offered by the project?	The Government will ensure that locals benefit from employment opportunity provided by the project particularly unskilled labour will be sourced locally.

In addition to the issues and concerns enumerated above, the following general comments were made about the road:

- The road will provide employment in the community during construction.
- It will facilitate easy movement of farm produce and services between communities.
- The road will spur economic growth in West Pokot County.

Marich Pass

The chief welcomed the members present and thanked them for attending the meeting. He welcomed the construction of the road on behalf of the community. The consultant explained the reason for convening the meeting – the scope of SS-EARTTDFP and the importance of their consultations and thanked the community members who were in attendance for creating time to discuss the impact of the proposed project.

Table 38 Marich Pass

Community Issues and Concerns	Consultation Team Responses
What will be the mode of payment for entitlement package?	KENHA will make payments through National Land Commission (NLC). Payments will be made payments to Project Affected Persons' (PAPS) bank accounts.
Can we be assisted to get maps for the area at the local chief for verification?	Yes. The County Lands office has agreed to get the maps and place them at the chief's offices for reference.
What process would be used to identify those that would be compensated and at what value?	Anybody impacted by the project will qualify for fair and just compensation based on market rates of land.
What is the correct size of road at Marich Pass?	The road size on Marich Pass section is 60 metres wide and any encroachment outside the 60 metres into private land will be fully, fairly and justly compensated.
Shall we continue to be involved even during the survey?	Survey work has actually been done and the community has been involved all along. During

	actual compensation the community will continue to be involved through Resettlement Committees.
Will the road improve on the drift which are impassable during rainy season?	All drifts will be replaced by bridges.
KENHA should consider erecting bumps at the Marich Pass trading Centre, Sigor Junction, Police area and Coastal	Bumps were considered on various section of the road during the design stage. We will verify if the following additional sections can be considered during design review.
Toilets should be constructed during construction period to limit pollution of the environment.	Toilets are going to be constructed for workers along the roads to limit environmental pollution.
KENHA should consider providing culverts in sections diverting into villages or other rural roads or homestead.	The design has ensured that culverts are placed at every entrance or diversion to public schools. Other additional culverts will be made at the recommendation of the community.
When will compensation be made?	Compensation will be done just before the project commences.
How will locals benefits from employment and business opportunities offered by the project?	The Government will ensure that locals benefit from employment opportunity provided by the project particularly unskilled labour will be sourced locally.

The community appreciated the consultative forums and requested the government to update them regularly on progress made as they would be central to the success or failure of the project. Most of the community members (98%) at Marich Pass were in full support of the project and welcomed fully the rehabilitation of the road to improve communication and movements of people and goods.

10.2.1.1 Inventory Of Affected Assets

Affected local communities were visited in order document the affected assets (=land plots and structures) in a participatory manner. Village leaders, resettlement committees and affected households participated in the process.

Affected people were invited to community meetings; in the course of the meetings the household heads confirmed/updated the information provided by the leaders on their land plots and added information on the most important crops they had cultivated over the past three years;

Self-validation visits were also carried out in the villages in order to validate assets, which will be affected due to the construction of the Project.

Furthermore, residents, who will be affected by loss of residential structures, were asked if they wished to participate in a resettlement program implemented by the Project, with the respective entitlements or if they would prefer cash compensation for their lost assets and then manage the relocation on their own. Without any exception, all affected people opted for the cash compensation and self-resettlement.

10.2.1.2 Information On PAPs

In the context of the consultations, communities were provided with updated information about the Project in the frame of community meetings. Participants were invited to ask questions and received direct response.

- Participants entirely appreciated the new Project.
- PAPs in expressed doubt on the compensation process being able to meet the benefits associated with land use.
- The most frequent questions from people affected by the project were related to the amount of compensation they would receive for the loss of production from land and when this compensation would be disbursed. People were concerned about if and how they would be able to gain access to alternative land, once their land plots would be not available for cultivation any more.
- People in the villages asked to know whether they would be considered for jobs when the construction exercise starts.

10.2.1.3 Consultations On The RAP Compensation Approach

County and Local authorities and resettlement committees were consulted on the compensation approach in order to obtain their endorsement:

- Compensation for loss of income from land
- Compensation for loss of residential structure
- Compensation for loss of business structure

The consulted local authorities and resettlement committees endorsed the compensation approach and confirmed their agreement with their signatures. The cut-off dates were also acknowledged.

10.2.1.4 Key Informant Interviews

Structured interviews were conducted with the local resettlement committees to better understand issues of land use and to gain an understanding of what would be important to consider for livelihood restoration. The respective information was integrated into the main RAP text, especially into the identification of livelihood restoration measures and into the baseline information about land use of affected communities.

Main issues addressed in the interviews were

- Most important crops on land and related yields
- Use of production from land (household consumption, market sale)

- Range of income from market sale of land production
- Assistance measures and compensation

10.2.2CONSULTATIONS IN THE CONTEXT OF RAP DISCLOSURE

The RAP report will be disclosed in the website of the Turkana and West Pokot County Governments, KENHA, MOTI and World Bank to allow the public and stakeholders to consult the documents for final feedback. Publications will be in English.

Hard copies of the RAP will be placed in public areas (Uasin Gishu, Trans Nzoia and West Pokot County headquarters, MOTI Headquarters and KENHA Head office) to allow for public consultation.

The disclosure process of the RAP will be accompanied by the consultation of affected communities in order to obtain their views and concerns on the overall approach and program of the RAP. A disclosure program, comprising:

- Consultation events during disclosure will be held on site in the affected villages and be made accessible for all affected people, including vulnerable groups.
- During the consultation events, concerns will be recorded and questions will be answered. PAP will be informed on the availability of the full versions of the RAP at the sub County and County offices.
- Focus group discussions in order to obtain views and concerns will be implemented in each of the affected communities
- Public information events for presentation and explanation of the RAP, and
- The County Governments as well as the local resettlement committees of the affected communities will support the performance of the disclosure consultation program.
- The disclosure process will be explained and the RAP executive summary will be presented and explained. Hard copies will be available for the PAP.

10.2.3CONSULTATIONS IN THE CONTEXT OF COMPENSATION AGREEMENTS

After disclosure and approval of the RAP, affected communities will be consulted again to assess their level of satisfaction and agreement with the proposed compensation scheme. According to the documented preferences of PAP affected by physical displacement, there will be no resettlement program in the Project context, as all PAP prefers cash compensation and self-resettlement. Therefore, this RAP does not include provisions for consultations with host communities at resettlement sites.

10.2.4CONSULTATION DURING RAP IMPLEMENTATION

During RAP implementation, KENHA will be responsible for the planning and performance of regular consultation with affected communities, covering the different groups of PAP, including vulnerable people. Key elements of consultation during RAP implementation are:

- Continuous information of the affected population and other project stakeholders about Project progress and upcoming relevant activities;
- Continuous update of stakeholder list of the RAP;
- Provide accessibility for affected people; establish capacity/availability for quick response to consultation needs expressed by PAP (i.e. constructions related concerns).
- Public consultation events in the context of the RAP monitoring program;
- Routine consultation of local resettlement committees in the context of the RAP monitoring program;
- Special consideration of vulnerable people, organize the identification of and the individual participatory needs assessment with vulnerable persons (see chapter above);

CHAPTER ELEVEN

11 IMPLEMENTATION OF THE RAP

11.1 Implementation Arrangements

Compliance with social commitments contained in this document will be under the responsibility of the Environmental and Social Unit of KENHA that will report to the Project Coordinator. The Environmental and Social Unit of KENHA will be responsible for securing and maintaining the project's social license to operate, which during the project's construction phase will entail the following areas of oversight and responsibility:

Oversee and provide quality assurance on the following

- Resettlement action planning and execution
- Community relations
- Socio-economic impact assessment
- Implementation of social aspects of recruitment and procurement policies
- Development and execution of additional needed policies for all operational areas of responsibility
-

A supervising consultant (firm) will be recruited to supervise the construction activities and the supervising consultant will also recruit an environmental and social specialist including engineers to oversee the construction activities.

11.1.1 Ministry of Transport and Infrastructure

The Project is owned by the Government of Kenya through the Ministry of Transport and Infrastructure and shall be responsible for mobilization of financing from The National Treasury (NT) for this RAP. MOTI will request The National Treasury to allocate funds for this RAP and will thereafter give the funds to NLC to compensate all the identified PAPs.

11.1.2 Project Implementing Unit –KENHA

KENHA will serve as project implementing unit (PIU) for the RAP, with a team dedicated to carrying out the respective activities, and coordinating with the County and National Government. This team will be from the Environment and Social Interest Unit that already exists within KENHA and has wide experience in RAP implementation. With regard to the implementation of the RAP, KENHA has the following responsibilities

11.1.3 Communication and Coordination

- Communication and cooperation with County administrations as key actors with implementation of livelihood restoration programs
- Communication and cooperation with local resettlement committees as key actors with implementation processes (i.e. compensation process, monitoring, identification of vulnerable people)
- Communication and cooperation with the institutions involved in the compensation process and into training measures for affected people:
- Overall coordination with national and county government and with local authorities and funding agency with regard to the Project's social and environmental issues

11.1.4 Management of RAP Implementation

- Ensure and monitor overall social and environmental due diligence within RAP implementation (national requirements, lenders requirements)
- RAP Key Implementation Processes
  - Oversee and coordinate compensation process
  - Operate Grievance Mechanism
  - Operate Monitoring
- Design of overall training plan for RAP implementation staff, oversee and coordinate implementation of plan
- Manage staff recruitment processes and contracting processes of external service providers

11.1.4.1 Change Management

Communicate necessary changes of approach, particularly where substantial and material changes to the RAP might be envisioned or necessary (i.e. as consequence of monitoring results) to KENHA (see below) for final decision-making.

11.1.4.2 Capacity Building

Facilitate and guide capacity building for authorities on different levels with regard to due diligence of Project management and due consideration of environmental and social safeguards

The Environmental and Social Unit of KENHA will serve as the primary point of contact between communities of the project affected area and the project, and will have the following primary areas of responsibility inter alia:

- Liaise with County and Sub County government with regard to local community liaison and issues and in consultation with appropriate KENHA personnel
- Log and respond to grievances lodged by members of the community

- Organize and facilitate compensation payment actions
- Obtain prior written permission from community leaders/affected members for any intended damage to any infrastructure, crops or land as a result of construction and compensation to be paid.

11.2 Liaison with the Government of Kenya

The project is owned by the Government of Kenya through the Ministry of Transport and Infrastructure who jointly with KENHA. MOTI shall be responsible for mobilization of financing from The National Treasury for this RAP. MOTI will request The National Treasury to allocate funds for this RAP and will thereafter give the funds to NLC to compensate all the identified PAPs.

11.3 Roles Related to Implementation Arrangements

The overall coordination of the implementation of the RAP will be provided by jointly by KENHA, which will oversee all resettlement planning and coordinate all issues relating to the compensation. Given the importance of the activities under the various sub-components, KENHA will collaborate with the County and Government falling within the project area in coordination and implementation.

KENHA will be also responsible for implementation of the RAP. Other roles will include;

- Constitute the SCRCC and LRCCs and provide their operational budget;
- Collect all the needed documentation for compensation;
- Make funding request from MOTI to undertake compensation of the PAPs;
- Compile all the grievances and document for future reference
- Send copies of all the documents to the MOTI;

Besides this, KENHA will have overall responsibility of monitoring and evaluation of the resettlement process. Specialist consultants will support the KENHA, including: an M&E consultant to collect data to transfer to KENHA, which will be responsible for overall project M&E; and a social/environmental safeguards specialist for implementation of the RAP and Environmental and Social Management Plan (ESMP), working under the supervision of KENHA.

(a) Public Participation with the PAPs

This will initiate the compensation process as part of an ongoing process that would have started at the planning stages when the technical designs are being developed and at the land selection/screening stage. The process therefore seeks the involvement of PAPs in a participatory approach from the beginning.

(b) Notification of land resource holders

In cases where there is clearly no identified owner or user, the respective local authorities and leaders will notify the community leaders and representatives who will help to identify and locate the land users. These leaders and representatives will also be charged with the responsibility of notifying their members about the established cut-off date and its significance. The users will be informed through formal notification in writing and by verbal notification delivered in the presence of the all the relevant stakeholders.

(c) Agreement on Compensation and Preparation of Contracts
All types of compensation will be clearly explained to the individual and households involved. NLC jointly with the client will draw contracts listing all property and land being surrendered, and the types of compensation selected. The compensation contract and the grievance redress mechanisms will be read aloud in the presence of the affected party and the Local Community Elder prior to signing.

(e) Compensation Payments
All handing over of property such as land and buildings and compensation payments will be made in the presence of the affected party, KENHA staff, County Government representatives and local administration, representative of the PAPs and the community local leaders.

11.3.1 Resettlement Committees

The resettlement committees are partners on the village level for RAP implementation, especially for:

- Compensation process: witness of exit survey with technical asset valuation by official valuers and final compensation agreements with households;
- Involvement into the grievance mechanism on the village level
- Involvement into monitoring procedures, especially in monitoring of land dynamics, of progress of livelihood restoration measures and of compensation disbursement
- Identification of vulnerable people on the household level, information of PIU on special concerns of vulnerable people in their community, organize meetings and with and visits of vulnerable people

KENHA's Environment and Social Interest staff shall regularly meet and consult with local resettlement committees on site in the affected villages.

11.3.1.1 Composition Of Resettlement Committees

- Village Leader
- Project Affected Persons

- Assistant Chiefs, who support the locational Chief and Government in managing local community disputes in village units, will form membership of the team.
- Female PAP, elected by women PAPs, will represent women and children related issues as regards resettlement and compensations
- Youth representative, elected by youths, will represent youth related concerns
- Vulnerable persons representative, will deal and represent vulnerable persons issues
- Business representative, will represent business people concerns
- County Ward Administrator
- Land officer
- KENHA

Membership to committees will be elected by each category of PAPs except the locational Chief and assistant chiefs who will automatic members of the team by virtue of their positions. Each village committee will elect their chairperson and a secretary. The roles of will include among others the following:

- Assist the effective working of RAP consultants in validation and updating of the RAP after the detailed design study is completed
- Conducting extensive public awareness and consultations with the affected people.
- Coordinate activities between the various organizations involved in relocation;
- Ensure that all the PAPs in their locality are informed about the content of the RAP.
- Ensure that the concerns of vulnerable persons such as the disabled, widowed women, orphaned children affected by the sub project are addressed.
- Facilitate conflict resolution and addressing grievances; and
- Guide and monitor the implementation of relocation;
- Help ensure that local concerns raised by PAPs as regards resettlement and compensation are promptly addressed.
- Help the vulnerable during the compensation and restoration for their livelihoods
- Monitor the disbursement of funds;

Provide support and assistance to vulnerable groups.

- Resolve manageable disputes that may arise relating to resettlement and compensation process. If it is unable to resolve, help refer such grievances to the next level as described in the grievance redress mechanism.
- Validate inventories of PAPs and affected assets;

This committee meets on a regular basis (as determined by the needs of the project) to ensure that resettlement activities are appropriately designed and executed. A representative elected to act as the Project Liaison Officer acts as the key contact with PAPs and therefore facilitate implementation of consultation, public participation and grievance mechanisms.

11.4 IMPLEMENTATION SCHEDULE

The project is divided into three phases.

- **Phase 1**-Preconstruction period (Y0): Start of RAP implementation (i.e. compensation for assets affected by construction, start of livelihood restoration measures for affected people);
- **Phase 2**–Construction period (Y1– Y2): continuation of RAP implementation (i.e. compensation for loss of land resulting from project operation, start of livelihood restoration measures for affected land users);
- **Phase 3** –Commissioning and start of Project operation (Y3): continuation of RAP implementation;
- **After Phase 3 –** Y3–: completion of RAP implementation.

11.4.1 Institutional Roles in Compensation

11.4.1.1 National Level Implementing Agencies

National Land Commission

The National Land Commission (NLC) is an independent constitutional agency that has statutory powers to undertake compulsory acquisition of private or community land for public purposes or public interest. It performs these functions on behalf of the national government and county governments. The specific powers and functions of the NLC are set out in the National Land Commission Act 2012, and the Land Act 2012.

Key roles of NLC in the implementation of this RAP will include:

- *Provide approval to request made by* KENHA *to acquire land for the project;*
- *Notify landholders in writing of the intention to acquire land;*
- *Assist in resolving disputes related to compensation;*
- *Acquire land on behalf of* KENHA*;*
- *Undertake public consultation on intended acquisition;*
- *Undertake actual payment of entitlement awards to PAPs*

11.4.1.2 Sub County Level Implementing Agencies

Sub County Resettlement Compensation Committee

In accordance with the RPF and to assist the smooth implementation of the RAP, Sub County Resettlement Compensation Committee (SCRCC) will be established at the sub County level to ensure participatory and transparent implementation of the RAP.

The SCRCC will not engage in land acquisition or compensation, as this remains the prerogative of the NLC. KENHA will help constitute the SCRCC with the help of the NLC and Land Offices at the level and the District Commissioner. SCRCC will help Resettlement Compensation Committee carry out their mandates efficiently; particularly, ensuring effective communication between NLC with the affected communities. Members to SCRCC will include representation from the following agencies;

- *The District Administration representative, who in this case will be the District Commissioner and will provide the much needed community mobilization, and support the project in the process of resettlement. The District Commissioner will chair the DRCC that will be established.*
- *A representative of* KENHA *as the implementing agency implementing the Project.*
- *District Land Survey Officer to help with survey works and demarcation of land to be acquired.*
- *The District Gender and Social Development Officer who will be responsible for livelihood restoration programs.*
- *The District Lands Registrar Office will help with validation and verification of the documentation provided by the affected persons.*
- *LRCCs PAPs representative introduced by the Location Resettlement and Compensation Committee – act as voice for the PAPs.*
- *NGOs and CBOs locally active in relevant fields to ensure PAPs are assisted throughout the RAP implementation and help with the livelihood restoration, information dissemination, among other things.*

PAPs will elect their representative to SCRCC while the Social and Gender Officer will identify an active NGO/CBO in the project area.

The SCRCC will have the following specific responsibilities as regard implementation of the RAP:

- *Ensuring effective flow of information between* KENHA *and PAPs*
- *Coordinate Locational Resettlement and Compensation Committees (LRCCs), validate inventories of PAPs and affected assets;*
- *Guide and monitor the implementation of relocation*
- *Coordinate activities between the various organizations involved in relocation*
- *Facilitate grievance and conflict resolution*
- *Assist with the livelihood restoration activities.*

11.4.1.3 Local Implementing Agencies

Resettlement and Compensation Committees

Since Sub County is fairly large, further decentralized resettlement units will be formed in each location of the project affected area. Locational Resettlement and Compensation Committees (LRCCs), based in each administrative location affected by the project will be established. KENHA will constitute the LRCCs with the assistance of local administration. The LRCCs will work under guidance and coordination of SCRCC. LRCCs will be formed two to three weeks after the formation of the SCRCC. Their membership will comprise of the following:

- *The locational Chief, who is the Government administrative representative at the locational unit and who deals with community disputes will represent the Government in LRCC*
- *Assistant Chiefs, who support the locational Chief and Government in managing local community disputes in village units, will form membership of the team.*
- *Female PAP, elected by women PAPs, will represent women and children related issues as regards resettlement and compensations*
- *Youth representative, elected by youths, will represent youth related concerns in the LRCCs*
- *Vulnerable persons representative, will deal and represent vulnerable persons issues in the LRCC.*
- *Business representative, will represent business people concerns*

Membership to LRCCs will be elected by each category of PAPs except the locational Chief and assistant chiefs who will automatic members of the team by virtue of their positions. Each LRCC will elect their chairperson and a secretary. The roles of LRCCs will include among others the following:

- *Conducting extensive public awareness and consultations with the affected people.*
- *Help ensure that local concerns raised by PAPs as regards resettlement and compensation among others are promptly addressed by relevant authorities.*
- *Assist the effective working of RAP consultants in validation and updating of the RAP after the detailed design study is completed*
- *Resolve manageable disputes that may arise relating to resettlement and compensation process. If it is unable to resolve, help refer such grievances to the SCRCC.*
- *Ensure that the concerns of vulnerable persons such as the disabled, widowed women, orphaned children affected by the sub project are addressed.*
- *Help the vulnerable during the compensation and restoration for their livelihoods*

- *Ensure that all the PAPs in their locality are informed about the content of the RAP.*
- *Validate inventories of PAPs and affected assets;*
- *Monitor the disbursement of funds;*
- *Guide and monitor the implementation of relocation;*
- *Coordinate activities between the various organizations involved in relocation;*
- *Facilitate conflict resolution and addressing grievances; and*
- *Provide support and assistance to vulnerable groups.*

This committee meets on a regular basis (as determined by the needs of the project) to ensure that resettlement activities are appropriately designed and executed. A representative elected to act as the Project Liaison Officer acts as the key contact with PAPs and therefore facilitate implementation of consultation, public participation and grievance mechanisms.

11.5 Budget

Based on the Land Act and OP.4.12, the RAP consulting team came up with cost estimates for the RAP. As mentioned earlier, it is important to note that the Land Act does not expressly include costs related to relocation. However, for this RAP, a 15% Statutory Allowance and 20% disturbance and relocation assistance was included to the budget. The relocation assistance will cater for economic, social and physical disturbance caused to a PAP.

It was noted that the major source of livelihood along the road reserve was businesses and as such, the affected will lose their source of livelihood during the implementation of the project. Assuming that that may take about one year, the loss expected for those operating business (tenants) and 6 months for structure owners (land lords).

It was also assumed that the field survey had an error term of about 20% since some of the affected were not well informed, we add 20% on the estimated value to get the total value of land, structures, trees and business. An addition of 15% statutory/disturbance fee is added totaling. The breakdown of the value estimates is provided in the appendix, and summarized on the table below:

Table 39. Breakdown of the Value Estimates

Item	Approx. Value (Kshs)	Addition (20%)	Estimated Total Value (Kshs)	15% Statutory allowance	Total Value (Kshs)
Structures Values	235,516,233	4,710,324	240,226,557	36,033,983	276,260,540
Land Values	45,712,370	9,142,474	54,854,844	8,228,226	63,083,070
Tree Values	2,001,500	400,300	2,401,800	360,270	2,762,070

One year loss in livelihood (businesses)	82,592,800	16,518,560	99,111,360	14,866,704	113,978,064
Sub-Total					**456,083,744**
Estimated expenses of KeNHA and Other Relevant Government Agencies					20,000,000
Estimated expenses of Uasin Gishu County CRAPC					10,000,000
Estimated expenses of Trans Nzoia County CRAPC					7,000,000
Estimated expenses of West Pokot County CRAPC					12,000,000
Financial Management Training & Counseling for PAPs					5,000,000
Sub-Total					**54,000,000**
Total					**510,083,744**
Miscellaneous Expenses (10%)					**51,008,374**
GRAND TOTAL					**561,092,118.4**

For land, the land value adopted was an average calculated value, based on the land yields. For the budget, the best estimates available at this time were considered. KENHA will finance, monitor and manage RAP implementation adaptively both during construction and operation by responding to any issues that may arise. Correspondingly, actual budget allocations to individual activities may change, or new activities may be added as necessary.

11.6 Implementation Schedule

Tables 37 and 38 present the RAP implementation schedule from the 1st stage of planning (currently on-going) to the 2nd stage of implementation.

Table 40. Breakdown of the Value Estimates

		MONTH 1				MONTH 2				MONTH 3				MONTH 4			
No.	**TASK NAME**	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
1.	**RAP FINALIZATION**																
2.	**Census Finalization**																
3.	Census Residences																
4.	Census Fields																
5.	Checks on Census																
6.	Release of Census results to communities																
7.	**Information Management System**																
8.	Consultant Mission																
9.	Inputing data into new data management system																
10.	**RESETTLEMENT DOCUMENTATION**																
11.	Submission of RAP to World Bank																
12.	Review by World Bank																
13.	Update of RAP to include preparation and consultation progress																
14.	Submission and release of updated RAP																

Table 41. RAP Implementation Schedule- 2nd Part - RAP Implementation

		DURATION IN WEEKS																	
No.	**TASK NAME**	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
15.	**RAP IMPLEMENTATION**																		
16.	**Cash Compensation**																		
17.	Payment of compensation for crops and Easement																		
18.	Payment of compensation for structures																		

APPENDIX

CONSULTATION MINUTES 2ND ROUND

MINUTES OF SS-EARTTDFP COMMUNITY MEETING HELD AT CHEPARERIA POST OFFICE ON TUESDAY 9TH DECEMBER 2014 AT 1000 HOURS

AGENDA

1. *Preliminary*
2. *Community concerns over proposed project*
3. *A.O.B*
4. *Adjournment*

MEMBERS PRESENT
(See attached lists)

WARDS/ LOCATION REPRESENTED
Community members living along Chepareria – Sebit stretch of the highway

Minute 01/12/14 Preliminary
The chief (Gabriel) welcomed the members present and thanked them for attending the meeting. He welcomed the construction of the road on behalf of the community. The consultant explained the reason for convening the meeting – the scope of SS-EARTTDFP and the importance of their consultations and thanked the community members who were in attendance for creating time to discuss the impact of the proposed project.

Minute 02/12/14 Community concerns over the proposed project
The community concerns can be classified into different categories:

Compensation
The members present emphasized on fair compensation for their land. They asked the government to assist them get maps for the area and place it with the local chief for verification. The land they had bought was subdivided to them by the defunct municipal council and hence the government should take responsibility for erroneous measurements and compensate the locals.

Feedback: *It was clarified that the roads width at their section was 60metres in width and any lost land would be captured in the entitlement of a Resettlement Action Plan (RAP). The approved list for compensation would first be presented for their approval at the chief's place and then published in the local dailies by The National Land Commission (NLC). Those with or without title deeds would be compensated provided they had the relevant documentation to prove ownership. Payment would be made after valuation based on market rates. .*

Road Measurements
There was contention on the correct size of the road. There was conflicting information with some survey maps showing the width of the road to be 50 meters while others showed it to be 60 meters. The community members sought to know the correct size and whether compensation would be done

on affected persons whose land would be encroached by the expansion of the road. The affected areas were Chepkornizwo, Morbus, Kambi Kuku and Chepareria.

Feedback: *The survey maps for Chepareria, Chepkornizwo, Morbus, Kambi Kuku and Chepareria will be verified to find the exact road width of the section. The map will also be shared to the community through the Chief's office in the area.*

Cultural values
The local requested that ablution blocks be constructed for the road users to avoid travelers using the forests for the same. This infringed on their culture and would not be welcomed by the locals. The contractor should also respect the culture and norms of the community.

Feedback: *Ablution blocks will be constructed for all construction workers who will be working on the road to limit environmental degradation and pollution in the area.*

Design of the road
There was need to erect bumps in the following areas to curb accidents especially those related to pedestrians:

a) Kapkatanyan
b) Mongorion Junction
c) Kodoso Junction
d) Orusho Junction
e) Chepkomizo centre
f) Talon Academy and Ng'ing'in
g) Chepareria health centre
h) St. Cecilia and Cherubai
i) Sikowo and Jerusalem Academy

Feedback: *Bumps are going to be considered for the suggested sections – Kapkatanyan, Mongorion junction, Kodoso junction, Orusho junction, Chepkomizo centres, Talon Academy and Ng'ing'in, Chepareria health centre, St. Cecilia, Sikowo and Jerusalem Academcy. Proper road signs preferably those made of other materials other than metal will also be considered at relevant points especially where livestock and children's frequently cross. Culverts will also be erected at all sections.*

Employment
The locals proposed that contracts of manageable items should be awarded to them as well as manual jobs and technical ones where possible. They also insisted that the contractors should treat workers in a dignified way especially the manual laborers. The contractor should be put to task on the provisions he will put in place to curb violating their rights.

Feedback: *The project will ensure that the benefits from the project as regards procurement and job opportunities are shared with the locals. Each section will provide opportunities for jobs to the youths in the area. The contractor will operate based on Kenyan Labour laws.*

Feedback
The community appreciated the capacity building forums and requested the government to update them regularly on progress made as they would be central to the success or failure of the project.

Minute 03/12/14 Community Support for proposed project

Generally, all the community members at Chepareria – Sebit road section were in support of the project and welcomed fully the rehabilitation of the road to improve communication, safety and movements of people and goods in the region.

Minute 04/12/14 A.O.B
There was no other business.

Adjournment
There being no other business the meeting ended at 1200 hours.

MINUTES OF SS-EARTTDFP COMMUNITY MEETING HELD AT KAMATIRA SHOPPING CENTRE ON MONDAY 8TH DECEMBER 2014 AT 1500 HOURS

AGENDAS

1. *Preliminary*
2. *Community concerns over proposed project*
3. *A.O.B*
4. *Adjournment*

MEMBERS PRESENT
(See attached lists)

WARDS/ LOCATION REPRESENTED
Community members living along *Makutano – Kamatira - Chepareria* stretch of the highway

Minute 01/12/14 Preliminary
The chief welcomed the members present and thanked them for attending the meeting. The consultant explained the reason for convening the meeting – the scope of SS-EARTTDFP and the importance of their consultations and thanked the community members who were in attendance for creating time to discuss the impact of the SS-EARTTDFP proposed project.

Minute 02/12/14 Community concerns over the proposed project
The community concerns can be classified into different categories:

Compensation
The members present emphasized on fair compensation for their land. They asked the government to assist them get maps for the area and place it with the local chief for verification. The land they had bought was subdivided to them by the defunct municipal council and hence the government should take responsibility for erroneous measurements and compensate the locals.
Feedback: *It was clarified by the consultant that any encroachment outside Government 60 metres width would be fully, fairly and justly compensated for any lost asset as a result of road construction*

Road Measurements
Residents insisted that that road reserve between Kamatira and Chepareria was of the width of 50 metres. The community members sought to know the correct size and whether compensation would be done too the affected persons whose land would be encroached by the expansion of the road.
Feedback: *It was clarified this section of the road was 50metres wide and any encroachment outside the 50metres into private land would be fully, fairly and justly compensated.*

Cultural values
The community insisted that ablution blocks be constructed for the road workers to avoid them using the forests for the same. This infringed on their culture and would not be accepted by the locals. The contractor should also respect the culture and norms of the community. It was observed that there existed sacred trees at Bendera and the community would not tolerate them being brought down without the correct cultural rites.

Feedback: *As per Environmental Impact Assessment (EIA) report, the contractor will ensure toilets are constructed for workers working on the road project. The project will facilitate the cost of transfer of cultural trees from Bendera to the site of choice. All the accompanying costs will be met by the project.*

Design of the road

The current design of the Kamatira stretch was a death trap as the design had many flaws especially going downhill. Many accidents had also occurred as a result of the same. The government should redesign the stretch. There was need to erect bumps in the following areas to curb accidents especially those related to pedestrians:

a) Karas
b) Tunnel at Ng'ombe Moja and St. Mary's
c) Kamatira Shopping Centre
d) Tandana
e) Soko Mjinga
f) Yang'at and Kabesi

Proper road signs (Preferably those made of other materials other than metal) should be erected at relevant points especially cattle and children's crossings with security lights stationed in every market area. Lowuno should be marked as a black spot. Shades should also be constructed in every stage especially at Karas, Kamatira, Tantana, Bendera and St. Marys. There is also need for a roundabout at Lelan.

Feedback: *The Kamatira road stretch to Chepareria Market will be re-designed so that accidents are limited. Bumps will also be considered and erected at appropriate points for the safety purposes. Proper road signs will also be placed on critical points to limit accidents on animals. .*

Employment

The locals were categorical that contracts of manageable items should be awarded to them as well as manual jobs and technical ones where possible. They also insisted that the contractors should respect workers rights especially the manual laborers to avoid exploitation. The contractor should be put to task on the provisions he will put in place to curb violating their rights.

Feedback: *The project will benefit the locals with opportunities of employment and small procurements offered by the contractor project.*

Feedback

The community appreciated the consultation forums and requested the government to update them regularly on progress made as they would be central to the success or failure of the project.

Minute 04/12/14 Community Support for proposed project

Most of the community members in attendance at Chepareria Market were in full support of the project and welcomed fully the rehabilitation of the road to improve communication and movements of people but most importantly the Kamatira stretch.

Minute 03/12/14 A.O.B

There was no other business.

Adjournment

There being no other business the meeting ended at 1700 hours.

MINUTES OF SS-EARTTDFP COMMUNITY MEETING HELD AT PSIGIRIO DISPENSARY ON MONDAY 8TH DECEMBER 2014 AT 1100 HOURS

AGENDAS

1. *Preliminary*
2. *Community concerns over proposed project*
3. *A.O.B*
4. *Adjournment*

MEMBERS PRESENT
(See attached lists)

WARDS/ LOCATION REPRESENTED
Community members living along Sinyereri – Makutano stretch of the highway

Minute 01/12/14 Preliminary
The chief welcomed the members present and thanked them for attending the meeting though it was a market day. The community members in turn expressed their desire to have the road construction process expedited and endorsed the construction. Those that would be affected and had knowledge of encroaching the road willingly accepted to move to pave way for the construction process.

Minute 02/12/14 Community concerns over the proposed project
The community concerns can be classified into different categories:

Compensation
The members present emphasized on fair compensation for their land and offered a gift of a cow to the government if the road would be done rehabilitated. They also insisted on early warning for those who had allegedly encroached on the road reserve to enable them plan in advance.

Feedback: *It was reported to the community that KENHA would compensate for any lost the land and capture the value and entitlement in a Resettlement Action Plan (RAP). The approved list for compensation would then be published in the local dailies by The National Land Commission (NLC) and thereafter if no contentions arise as to the ownership, entitlement value, payments would be made. Those with or without title deeds would also be compensated provided they had the relevant documentation to prove ownership. Payment would be made after valuation at market value.*

Road Measurements
A major contention point was on the use of the old road which had been encroached by the residents. They were not sure whether the road still belonged to the government as most people living in the area had bought land. There was contention on the correct size of the road. The community members sought to know the correct size and whether compensation would be done on affected persons whose land would be encroached by the expansion of the road.

Feedback: *It was clarified by the consultant that the documented width size of the road at this section was 60 metres wide and any encroachment outside the 60 metres wide would be justly and fairly compensated. The old road still belonged to Government.*

Consultation

It was imperative, the community members present agreed that they be involved in the actual survey of the land directly affected and they should be informed once the surveyors are on site especially when dealing with their property.

Feedback: *Consultation with the community will be going during pre-project phase, project implementation phase and post-project phase. Grievience Management committee will be informed on the same.*

Design of the road
The community members present insisted on construction of culverts where necessary and pleaded with the would be contractor to construct feeder roads for them as well as any community empowerment program such as building of schools and provision of water and hospitals. There was need to erect bumps in the following areas to curb accidents especially those related to pedestrians:

a) Bondeni – Kamwotyny centre
b) Murkwijit centre
c) Tarau juction

Proper road signs (Preferably those made of other materials other than metal) should be erected at relevant points especially cattle and children's crossings with security lights stationed in every market area. Shades should also be constructed in every stage especially at Kamwotiyny, chief's place, Tartar junction and Rumaita stage.
Feedback: *Culvert will be constructed at diversion sections of feeder roads and considerations for bumps at Bondeni – Kamwotyny centre, Murkwijit centre and Tarau junction will be undertaken by the contractor.*

Employment
The locals expressed interest in the jobs and contracts of manageable items such as manual jobs and technical ones where possible. They also insisted that the contractors pay them fairly when recruited to avoid exploitation. The contractor should be put to task on the provisions he will put in place to curb violating their rights.

Feedback: *The project will offer opportunities for for jobs and small contracts to locals in line with Kenyan labour laws. .*

Feedback
The community appreciated the consultative forums and requested the government to update them regularly on progress made as they would be central to the success or failure of the project.

Minute 03/12/14 Community Support for proposed project
Generally, most of the community members (98%) at Psigirio were in full support of the project and welcomed fully the rehabilitation of the road to improve communication and movements of people and goods.

Minute 03/12/14 A.O.B
There was no other business.

Adjournment
There being no other business the meeting ended at noon.

MINUTES OF SS- EARTTDFP COMMUNITY MEETING HELD AT SEBIT SHOPPING CENTRE ON TUESDAY 9TH DECEMBER 2014 AT 1400 HOURS

AGENDAS

1. *Preliminary*
2. *Community concerns over proposed project*
3. *A.O.B*
4. *Adjournment*

MEMBERS PRESENT
(See attached lists)

WARDS/ LOCATION REPRESENTED
Community members living along Sebit stretch of the highway

Minute 01/12/14 Preliminary
The chief welcomed the members present and thanked them for attending the meeting. He welcomed the construction of the road on behalf of the community. The consultant explained the reason for convening the meeting – the scope of SS-EARTTDFP and the importance of their consultations and thanked the community members who were in attendance for creating time to discuss the impact of the SS-EARTTDFP proposed project.

Minute 02/12/14 Community concerns over the proposed project
The community concerns can be classified into different categories:

Compensation
The members present emphasized on fair compensation for their land. They asked the government to assist them get maps for the area and place it with the local chief for verification. The land they had bought was subdivided to them by the defunct municipal council and hence the government should take responsibility for erroneous measurements and compensate the locals.

Feedback: *It was clarified by the consultant that any encroachment outside Government 60 metres width would be fully, fairly and justly compensated for any lost asset as a result of road construction.*

Road Measurements
There was contention on the correct size of the road. There was conflicting information with some survey maps showing the width of the road to be 40 meters while others showed it to be 60 meters. The community members sought to know the correct size and whether compensation would be done on affected persons whose land would be encroached by the expansion of the road.
Feedback: *It was clarified by the consultant that section was 40 metres and any encroachment outside Government 40 metres road width would be fully, fairly and justly made for any lost asset as a result of road construction*

Cultural values
It was important that ablution blocks be constructed for the road users to avoid travelers using the forests for the same. This infringed on their culture and would not be entertained by the locals. The contractor should also respect the culture and norms of the community.
Feedback: *The contractor will be requested to ensure that ablution facilities are put in place in all project sites areas to ensure that the environment where we have construction is not polluted. .*

Design of the road

There was suggestions to erect bumps in the following areas to curb accidents especially those related to pedestrians: *Sebit shopping centre, cattle dips and schools*. Proper road signs preferably those made of other materials other than metal should be erected at relevant points especially cattle and children's crossings with security lights stationed in every market area. Culverts should be erected at all junctions.

Feedback: *Proposals for bumps at Sebit shopping centre, cattle dips and schools will be presented to the Contractor for consideration. Proper road signs for community safety will also be erected preferably those made of other materials other than metal as metal is prone to theft. We will present to KENHA consideration for market lighting as a partnership with the County Government. Culverts should be erected at all junctions.*

Employment

The locals were categorical that contracts of manageable items should be awarded to them as well as manual jobs and technical ones where possible. They also insisted that the contractors should respect workers' rights especially the manual laborers to avoid exploitation. The contractor should ensure that he respects labour rights.

Feedback: *The project will provide opportunity for employment to the locals at each section and all labour laws of the country will be adhered to by the contractor.*

Feedback

The community appreciated the capacity building forums and requested the government to update them regularly on progress made as they would be central to the success or failure of the project.

Minute 03/12/14 Community Support for proposed project

Generally, most of the community members (98%) at Sebit section were in full support of the project and welcomed fully the rehabilitation of the road to improve communication and movements of people and goods.

Minute 04/12/14 A.O.B

There was no other business.

Adjournment

There being no other business the meeting ended at 1500 hours.

MINUTES OF SS-EARTTDFP COMMUNITY MEETING HELD AT COMMUNITY HALL ON SATURDAY 6TH DECEMBER 2014 AT 1000 HOURS

AGENDAS

1. *Preliminary*
2. *Community concerns over proposed project*
3. *A.O.B*
4. *Adjournment*

MEMBERS PRESENT

(See attached lists)

WARDS/ LOCATION REPRESENTED

1. Sinyereri Location
2. Kwanza Location

Minute 01/12/14 Preliminary

The meeting was opened with a word of prayer from Pastor Bernard. The consultant explained the reason for convening the meeting as SS-EARTDFP and thanked the community members who were in attendance for creating time to discuss the impact of the proposed project. The chief of the area also took time to give a brief history of the project and the expected impact as a result of its execution.

Minute 02/12/14 Community concerns over the proposed project

The area is comprises of two regions separated by the highway. The stretch from Sinyereri - Maili Saba has potholes patched with soil by the locals and is also in a dilapidated state. It is with this in mind that the community would like the road construction process be expedited to facilitate easy transport and movement of goods. The community fully supports the project. However, community concerns can be classified into different categories:

Compensation

Key among the concerns was the mode of payment and the sanctity of compensation devoid of corruption. It was paramount to the residents present that an independent, impartial and qualified valuer be sought by the government for the purposes of compensation. The community members also wanted the government to factor in a disturbance allowance due to inconveniences caused by resettlement and should also factor any developments made on any affected land. It was also agreed that any diversions that would be in use not on the survey maps be compensated.

Feedback: *It was clarified by the consultant that any encroachment would be fully, fairly and justly compensated for any lost assets as a result of road construction. Valuation will be undertaken by a Government registered valuer based on the current market rates. Compensation rate will include disturbance allowance occasioned by inconvenience caused.*

Road Measurements

There was contention on the correct size of the road. There was conflicting information with some survey maps showing the width of the road to be 40 meters while others showed it to be 60 meters. The community members sought to know the correct size and whether compensation would be done on affected persons whose land would be encroached by the expansion of the road. The community members also had a letter from the headquarters of KENHA clarifying that the size of the road was 40 meters in width.

Feedback: T*he consultant clarified that the right size of the road at this section was 40 metres wide and any encroachment outside the 40 metres wide would be justly and fairly compensated.*

Consultation
It was imperative, the community members present agreed that they be involved in the actual survey of the land directly affected and they should be informed once the surveyors are on site especially when dealing with their property.
Feedback: *The project will continually continue to involve the community in all field based activities particularly on the boundaries of the highway.*

Design of the road
The community members present emphasized on the need for proper designs in drainage to avoid flooding of one particular area. They also emphasized on the need to construct culverts in areas leading to people's property. There was also a need for government to explain to the community on whether the old surveyed road was still governments land as residents had encroached on it. There was need to erect bumps in the following areas to curb accidents especially those related to pedestrians:

a) Sirikwa
b) Milima Primary school, Kesogon centre
c) Rehema Primary School
d) Kipsaina Market (PAG)
e) Satellite

An underpass bridge should also be constructed at Sinyereri Bridge to allow antelopes (Sitatungas) to cross. Proper road signs (Preferably those made of other materials other than metal) should be erected at relevant points with security lights stationed in every market area. Shades should also be constructed in every stage.

Feedback: *The proposal for a road blocks at Sirikwa, Milima Primary school, Kesogon centre, Rehema primary school, Kipsaina Market, Satelite would be considered during the detailed design review of the road. Proper road signs particularly those intended to improve safety and protection of rare Sitatunga antelope species would also be erected. A proposal for Underpass Bridge would also be made to the contractor for consideration. Proper road sign will be made at relevant points.*

Employment
The locals were categorical that contracts of manageable items should be awarded to them as well as manual jobs and technical ones where possible. They also insisted that the contractors should respect workers rights especially the manual laborers to avoid exploitation. The contractor should be put to task on the provisions he will put in place to curb violating their rights.
Feedback: *The project will benefit the locals and locals will obviously benefit from employment and job opportunities offered by SS-EARTTDRP project.*

Feedback
The community appreciated the consultative forums and requested the government to update them regularly on progress made as they would be central to the success or failure of the project.

Minute 03/12/14 Community Support for proposed project
Generally, community members in-attendance were in support of the project and welcomed fully the rehabilitation of the road to improve communication, movements of people and goods.

Minute 04/12/14 A.O.B
There was no other business.

Adjournment
There being no other business the meeting ended at noon.

MINUTES OF SS-EARTTDFP COMMUNITY CONSULTATION MEETING HELD AT KAG CHURCH SIOYI ON FRIDAY 5TH DECEMBER 2014 AT 1400 HOURS

AGENDAS

1. *Preliminary*
2. *Community concerns over proposed project*
3. *A.O.B*
4. *Adjournment*

MEMBERS PRESENT

(See attached lists)

WARDS/ LOCATION REPRESENTED

1. Sitatunga Location
2. Kaisagat Location
3. Kibomet
4. Kwa Muthoni

Minute 01/12/14 Preliminary

The meeting was opened with a word of prayer from Wesley Maroko. The consultant explained the reason for convening the meeting specifically talking about the scope of SS-EARTTDFP and thanked the community members who were in attendance for creating time to discuss the impact of the proposed project.

Minute 02/12/14 Community concerns over the proposed project

The area is referred to as Maili Saba. Currently the stretch is in a dilapidated state with frequent accidents occurring along the Goseta Secondary to Moi University stretch. The state of the road also greatly contributes to frequent wear and tear of vehicles. The community concerns can be classified into different categories:

Compensation

Members present sought to know on how those living on public land would be compensated. They were also keen to know the process that would be used to identify those that would be compensated and at what value. The timing of compensation was also paramount on the members concerns.

Feedback: *It was clarified that anybody losing any asset as a result of the project would be compensated. KENHA through her consultants would value the land based on current market rates and submit the report to National Land Commission with entitlement rates. For public land it must be very clear that there was allocation to stay on the public land for one or an individual to be compensated. The approved list for compensation would then be published in the local dailies by The National Land Commission and thereafter if no contentions payment would be made. Those without title deeds would also be compensated provided they had the relevant documentation to prove ownership.*

Road Measurements

There was contention on the correct width size of the road. There was conflicting information with some survey maps showing the width of the road to be 40 meters while others showed it to be 60 meters. The community members sought to know the correct size and whether compensation would be done on affected persons whose land would be encroached by the expansion of the road.

Feedback: *It was clarified by the consultant that the correct width size in the area was 40 metres. Any encroachment outside the width size would be fully, fairly and justly compensated*

Consultation
Members present questioned the legitimacy of previous surveys done since they were not consulted or involved. It was also noted that the government should deal with individual land owners during compensation during surveying for accuracy. The members felt that more community consultations were necessary in order for the projects to benefit them.

Feedback: *Consultations would be on-going through Resettlement Committee that would be formed before, during, and after the project. However, due to the magnitude of the project it was not possible to involve everyone - the reason for the forum held. Individual losing any parcel of land will be fully compensated.*

Design of the road
There was need to erect bumps in the following areas to curb accidents especially those related to pedestrians:

a) PAG Amani to Jirongos
b) Goseta Secondary school to Moi University

Feedback: *For safety purposes, proposal for bumps at PAG Amani, Jirongos, Goseta Secondary and Moi University will be made to the contractor. .*

Employment
The locals proposed involvement in contracts of manageable items, manual jobs and simple technical ones where possible. They also insisted that the contractors should respect workers' rights especially the manual laborers to avoid exploitation.

Feedback: *KENHA will be keen on the contract with the contractor to ensure that locals benefit economically from the opportunities provided by the project. Through the chief, the youths will be recruited to work on the project.*

Feedback
The community appreciated the community consultations forums and requested the government to update them regularly on progress made as they would be central to the success or failure of the project.

Minute 03/12/14 Community Support for proposed project
Generally, all the community members present were in support of the project and welcomed fully the rehabilitation of the road to improve communication and movements of people and goods.

Minute 03/12/14 A.O.B
There was no other business.

Adjournment

There being no other business the meeting ended at noon.

MINUTES OF SS-EARTTDFP COMMUNITY CONSULTATION MEETING HELD AT DISTRICT OFFICER'S OFFICE ON FRIDAY 3RD DECEMBER 2014 AT 1400 HOURS

AGENDAS

1. *Preliminary*
2. *Community concerns over proposed project*
3. *A.O.B*
4. *Adjournment*

MEMBERS PRESENT

(See attached lists)

WARDS/ LOCATION REPRESENTED

1. *Wetaluk Location*
2. *Sirende Location*

Minute 01/12/14 Preliminary

The meeting was opened with a word of prayer from Joseph Kogo. The consultant explained the reason for convening the meeting – the scope of SS-EARTTDFP and the importance of their consultations and thanked the community members who were in attendance for creating time to discuss the impact of the proposed project.

Minute 02/12/14 Community concerns over the proposed project

The area is referred to as Wetaluk and Sirende. Currently the stretch is in poor state with prevalent potholes Wetaluk - Sirende stretch. The state of the road also greatly contributes to frequent wear and tear of vehicles. The community concerns can be classified into different categories:

Compensation

Members present sought to know on how private land would be compensated. They were also keen to know the process that would be used to identify those that would be compensated and at what value. The timing of compensation was also paramount on the members concerns.

Feedback: It was clarified that KENHA would value any lost land and capture the entitlement in a

Resettlement Action Plan (RAP). The approved list for compensation would then be published in the local dailies by The National Land Commission (NLC) and thereafter if no contentions arise as to the ownership, payment would be made. Those with or without title deeds would also be compensated provided they had the relevant documentation to prove ownership. Payment would be made after valuation on market value.

"I have planted my trees on public land at Lord Keringet after Maili Saba. Would you compensate for loss of trees on public land too.?"

Feedback: Yes, the loss of trees would also be compensated *according to the market rates.*

Road Measurements

The community members sought to know the correct size of road and whether compensation would be done on affected persons whose land would be encroached by the expansion of the road.

Feedback: *It was clarified the road was 60metres wide and any encroachment outside the 60metres into private land would be fully, fairly and justly compensated*

Consultation
Members present questioned the legitimacy of previous surveys done without their involvement since they were not consulted or involved. Members felt that more community consultations were necessary in order for the projects to take into consideration their concerns.

Feedback: Due to the magnitude of the project it was not possible to involve everyone and the reason for the forum held. It was also noted that the government would deal with individual land owners during compensation and that GPRS coordinates would be used during surveying for accuracy. Consultations would be on-going through Resettlement Committee that would be formed before, during the project, after the project.

Design of the road
There was need to erect bumps in the following areas to curb accidents especially those related to pedestrians:

a) Sirende Primary
b) Friends Secondary
c) St. Johns Secondary
d) Lamp Lighter Primary
e) Machungwa Primary
f) Machungwa Secondary
g) Sieyenga

Feedback: For safety purposes, the following areas will be proposed for consideration of the erection of bumps- Sirende Primary, Friends Secondary, St. Johns Secondary, Lamp Lighter Secondary, Machungwa primary, Machungwa secondary.

Culverts
It was proposed that design should also consider providing culverts in sections diverting into villages or other rural roads or homestead. The following sections were suggested

h) Karara – road to Karara
i) Moi's Bridge (Kapkoi secondary schooks
j) Friends Secondary
k) St. Johns Secondary
l) Lamp Lighter Primary
m) Machungwa Primary
n) Machungwa Secondary

Feedback: For safety purposes, culverts will be placed in Sirende Primary, Friends Secondary, St. Johns Secondary, Lamp Lighter Secondary, Machungwa primary, Machungwa secondary.

Road Bus Parking space on the road
The following sections were proposed for a road bus parking space for unloading and loading passengers and goods. The following sections were suggested

e) Junction Kapikoi
f) Junction of Korara.
g) Sienga
h) Kwa Muthoni

Feedback: *The section will be proposed to for construction of bus parking space.*

Employment
The locals were categorical that contracts of manageable items should be awarded to them as well as manual jobs and technical ones where possible. They also insisted that the contractor should respect workers rights especially the manual laborers to avoid exploitation. The contractor should be put to task on the provisions he will put in place to curb violating their rights.

Feedback: *KENHA will be keen on the contract with the contractor to ensure that locals benefit economically from the opportunities provided by the project.*

Feedback
The community appreciated the community consultations forums and requested the government to update them regularly on progress made as they would be central to the success or failure of the project.

Minute 03/12/14 Community Support for proposed project
Generally, all the community members at Wetaluk-Sirende section were in support of the project and welcomed fully the rehabilitation of the road to improve communication and movements of people and goods.

Minute 03/12/14 A.O.B
There was no other business.

Adjournment
There being no other business the meeting ended at noon.

LIST OF PARTICIPANTS